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(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 1997-98

(session year)

### Senate

(Assembly, Senate or Joint)

### Committee on Education...

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (December 2012)

## Senate

### Record of Committee Proceedings

#### Committee on Education

##### Assembly Bill 686

Relating to: compulsory school attendance, habitual truancy, the penalties for contributing to truancy, truancy planning committees and school district truancy plans.

By Representatives Olsen, Krusick, Ladwig, Ainsworth, Albers, Dobyms, 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.

February 12, 1998      Referred to committee on Education.

February 25, 1998      **PUBLIC HEARING HELD**

Present:      (7)      Senators C. Potter, Shibilski, Grobschmidt,  
Darling, Huelsman, Roessler and Fitzgerald.

Absent:      (1)      Senator Jauch.

##### Appearances for

- Senator Alberta Darling
- Senator Peggy Rosenzweig
- Representative Luther Olsen
- Representative Peggy Krusick
- Beth Lewis for DPI
- Jim Lynch for School Administrators Alliance
- Joe Quick for Madison Metropolitan School District

##### Appearances against

- Bob Andersen for Wisconsin Council on Children & Families
- Kathryn Kuhn for Milwaukee County
- Sarah Diedrick-Kasdorf for Wisconsin Counties Association

##### Appearances for Information Only

- Gina Pruski for State Public Defender
- Myra Edwards for Milwaukee Public Schools

##### Registrations for

- None.

##### Registrations against

- None.

March 11, 1998

**EXECUTIVE SESSION**

Present: (7) Senators C. Potter, Shibilski, Grobschmidt,  
Darling, Huelsman, Roessler and Fitzgerald.  
Absent: (1) Senator Jauch.

Moved by Senator Darling, seconded by Senator Grobschmidt, that  
**LRBs0578/2** be recommended for introduction and adoption.

Ayes: (7) Senator C. Potter, Shibilski, Grobschmidt,  
Darling, Huelsman, Roessler and Fitzgerald.  
Noes: (1) Senator Jauch (by polling).  
Absent: (0) None.

INTRODUCTION AND ADOPTION RECOMMENDED, Ayes 7,  
Noes 1, Absent 0

Moved by Senator Darling, seconded by Senator Grobschmidt, that  
**Assembly Bill 686** be recommended for concurrence as amended.

Ayes: (7) Senators C. Potter, Shibilski, Grobschmidt,  
Darling, Huelsman, Roessler and Fitzgerald.  
Noes: (1) Senator Jauch (by polling).  
Absent: (0) None.

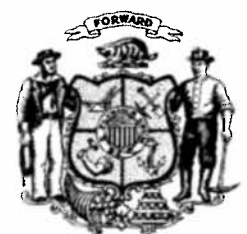
CONCURRENCE AS AMENDED RECOMMENDED, Ayes 7,  
Noes 1, Absent 0

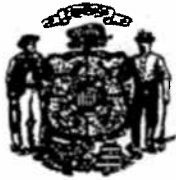
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Paul Rusk  
Committee Clerk



WISCONSIN STATE LEGISLATURE





# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

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REFERENCE FAX: (608) 266-5648

February 17, 1998

Ms. Sarah Diedrick  
Wisconsin Counties Association  
100 River Place  
Madison, WI 53716

Re: Engrossed 1997 Assembly Bill 686 — Secure Detention Option

Dear Sarah:

You have inquired whether under 1997 Assembly Bill 686, which among other things authorizes a juvenile court to impose secure detention on a juvenile who violates a habitual truancy dispositional order, the juvenile court must have the authorization of the county board before the juvenile court may use this sanction. After reviewing the bill and current law, it is my conclusion that the juvenile court may impose secure detention as a sanction without the authorization of the county board.

Specifically, SECTION 60m of the Engrossed Bill, which renumbers and amends s. 938.355 (6m) (a), stats., and SECTION 60p of the Engrossed Bill, which creates s. 938.355 (6m) (a) 1., stats., authorize the juvenile court to place in secure or nonsecure detention for not more than 10 days a juvenile who has violated his or her dispositional order, whether that order is based on a municipal habitual truancy ordinance violation or a finding that the juvenile is in need of protection or services based on habitual truancy.

Note that the Engrossed Bill does not authorize a municipal court to impose secure or nonsecure detention as a sanction for a habitual truancy dispositional order violation. Rather, SECTIONS 46 and 61m of the Engrossed Bill, which create ss. 938.17 (2) (i) and 938.355 (6m) (am), stats., require the municipal court to petition the juvenile court if the municipal court wishes that sanction to be imposed. If the juvenile court imposes secure or nonsecure detention as a sanction on the petition of a municipal court, the juvenile court must order the municipality of the municipal court to pay to the county the cost of providing that sanction. See ss. 938.17 (2) (i) 4m. and 938.355 (6m) (am) 2., stats., as created by the Engrossed Bill. This approach is similar to the approach used under current law with respect to the imposition of secure or nonsecure detention on a juvenile who violates a municipal ordinance dispositional order. See ss. 938.17 (2) (h) and 938.355 (6) (an), stats.

Nowhere, however, does the Engrossed Bill or current law require county board authorization before a juvenile court may impose secure or nonsecure detention as a sanction for a violation of an order. Current law does, however, require prior county board authorization before a juvenile court

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may impose secure detention as an original disposition. See s. 938.06 (5). Accordingly, if you want to require county board authorization before a juvenile court may impose secure or nonsecure detention as a sanction, then s. 938.06 (5) should be amended to include a reference to sanctions and ss. 938.355 (6) (d) 1. and (6m) (a) 1. should be amended to include language similar to s. 938.34 (3) (f) 3.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,

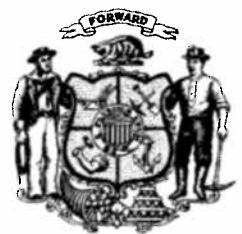


GMM:hmh

Gordon M. Malaise  
Senior Legislative Attorney  
(608) 266-9738



WISCONSIN STATE LEGISLATURE





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## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536  
Telephone (608) 266-1304  
Fax (608) 266-3830

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DATE: February 19, 1998  
TO: INTERESTED LEGISLATORS  
FROM: Jane R. Henkel, Deputy Director  
SUBJECT: 1997 Engrossed Assembly Bill 686, Relating to Compulsory School Attendance and Truancy (the Bill, as Passed by the Assembly)

This memorandum outlines the provisions of 1997 Engrossed Assembly Bill 686, relating to compulsory school attendance and truancy (the Bill, as passed by the Assembly).

1997 Assembly Bill 686 was introduced by Representative Olsen and others; cosponsored by Senator Darling and others. The Assembly passed the Bill, as amended by: Assembly Substitute Amendment 1; Assembly Amendments 1, 2, 3, 4 and 5 to the Substitute Amendment; and Assembly Amendment 1 to Assembly Amendment 1 to the Substitute Amendment. The Assembly's vote on passage of the Bill was Ayes, 74; Noes 22. The Bill was printed engrossed by direction of the Assembly chief clerk.

### 1. Planning and Truancy Plans

1997 Engrossed Assembly Bill 686 (hereinafter, "the Bill") requires each school board to review and, if appropriate, revise its truancy plan<sup>1</sup> at least once every two years. The Bill also requires the appointment of county truancy planning committees at least once every four years to make recommendations to school districts in the county on revisions to their truancy plans.

### 2. Truants Under the Age of Six Years

The Bill provides that, *if a school board adopts a resolution* so specifying, the person in control of a child under the age of six years who is attending a public school in that school

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1. 1987 Wisconsin Act 285 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. Under 1987 Wisconsin Act 285, each school board was required to adopt a truancy plan by September 1, 1989. [s. 118.162, Stats.]



district, including a prekindergarten program, must cause the child to continue to attend that school regularly during the full period and hours that the program in which the child is enrolled is in session. Thus, the truancy laws will apply to such children. This 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.

Under current law, what constitutes an "acceptable excuse" to be absent from school is determined by the school board. Thus, under the Bill, a school board could set different criteria for an "acceptable excuse" for prekindergarten or kindergarten pupils, than for pupils in grades 1 to 12.

### 3. Definition of "Habitual Truant"

The Bill amends the definition of "habitual truant," for the purposes of all statutes making use of that term<sup>2</sup> to mean a pupil who is absent without an acceptable excuse for part or all of five or more days on which school is held during a school semester.

Under current law, a "habitual truant" is a pupil who is absent from school without an acceptable excuse part or all of: (a) five or more days out of 10 consecutive days on which school is held during a school semester; or (b) 10 or more days on which school is held during a school semester. [ss. 49.26 (1) (a) 1., 118.163 (1) (b) and 938.02 (9m), Stats.]

### 4. Parental Notice and Meeting With School Officials

Under current law, when a pupil first meets the definition of "habitual truant," the school attendance officer must notify the pupil's parent or guardian by certified or registered mail. The notice must include a request that the parent or guardian meet with appropriate school personnel to discuss the child's truancy and 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. Current law does not place a time limit on the specified meeting date. [s. 118.16 (2) (cg), Stats.]

The Bill provides that:

a. The date for the meeting must be within *five 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 five school days.

b. If a meeting between the school personnel and parent or guardian is not *held* within *10 school days* after the date the notice is sent, the parent or guardian *may* be prosecuted for failing to cause the child to attend school regularly and municipal or juvenile court proceedings relating to the child may be initiated *without a meeting* between the parent or guardian and school personnel.

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2. Truancy, motor vehicle and Learnfare laws.

Item b., above, modifies the current law requirement that, before the parent or guardian may be prosecuted or proceedings relating to the child may be initiated, a school attendance officer must provide evidence that appropriate school personnel have, within the school year during which the truancy occurred: met with the child's parent or guardian; provided an opportunity for educational counseling; evaluated the child to determine whether learning problems may be a cause of the child's truancy; and evaluated the child to determine whether social problems may be a cause of the child's truancy.<sup>3</sup> [ss. 118.15 (5) (a), 118.16 (5), 938.125 (2), 938.13 (6) and 938.17 (2) (a) 1., Stats.]

### **5. Prosecution of Parent or Other Person in Control of the Child**

Under current law, a person who has a child under his or her control who fails to cause the child to attend school regularly is subject to the following sanctions:

a. The person may be fined not more than \$500 or imprisoned for not more than 30 days, or both. [s. 118.15 (5) (a), Stats.]

b. The person may be ordered to participate in counseling at his or her own expense. [s. 118.15 (5) (am), Stats.]

The Bill expands the sanctions as follows:

a. For a second or subsequent offense, the person may be fined not more than \$1,000 or imprisoned for not more than 90 days, or both. (The current law provisions on fine and imprisonment (\$500, 30 days or both) continue to apply for the first offense).

b. For a first or subsequent offense, the person may be required to perform community service work for a public agency or a nonprofit charitable organization, in lieu of a fine or imprisonment. Also, see item 7., below.

c. For a first or subsequent offense, the person may be ordered to attend school with his or her child.

Under both current law and the Bill, if the defendant proves that he or she is unable to comply with the law because of the disobedience of the child, the action must be dismissed and the child referred to juvenile court under ch. 48, Stats. [s. 118.15 (5) (a), Stats.; SECTIONS 7, 10 and 11 of the Bill.]

### **6. Dispositions for Habitual Truants**

The Bill expands the dispositions that may be made available under a municipal habitual truancy ordinance, and which are available in a proceeding involving a juvenile alleged to be in

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3. Under current law, educational counseling, evaluation for learning problems and evaluation for social problems are not required if school personnel are unable to carry out the activity due to the child's absences from school. School personnel are not required to meet with the child's parent or guardian if they have attempted to do so and receive no response or been refused.

need of protection or services based on habitual truancy, to include the following new dispositions:

- a. An order for the child to attend school.
- b. A forfeiture of not more than \$500 plus, if the juvenile is 14 years of age or older, costs. All or part of the forfeiture plus costs may be assessed against the child, the child's parents or guardian, or both.
- c. Any other reasonable conditions, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
- d. An order placing the juvenile under formal or informal supervision of an agency, the Department of Corrections (DOC), if the department approves, or a suitable adult, under conditions prescribed by the court including reasonable rules for the juvenile's conduct, designed for the physical, mental or moral well-being and behavior of the juvenile.
- e. An order for the child's parent, guardian or legal custodian to attend school with the child.
- f. An order for the child's parent, guardian or legal custodian to participate in counseling at his or her own expense. (Authorized, under the Bill, for a municipal court. A juvenile court which finds that a child has violated a municipal habitual truancy ordinance or is in need of protection or services based on habitual truancy already has this authority. See ss. 938.342 (1m) and 938.345 (2), Stats.)

Also, the Bill modifies current dispositions as follows:

- a. Extends the maximum period of suspension of the child's operating privilege from 90 days to one year.
- b. Provides that the costs of any counseling, supervised work program or other community service work ordered by the court may be assessed against the child, the child's parents or guardian, or both.

(Current dispositions are set forth in ss. 118.163 (2), 938.342 (1) and 938.345 (2), Stats.)

Also, see item 7., below.

### 7. Community Service Immunity

The Bill provides that any organization or agency acting in good faith, to which either a habitual truant or a person in control of a child who fails to cause the child to attend school regularly is assigned to a supervised work program or to perform community service work, shall be provided immunity from civil liability in excess of \$25,000 for acts or omissions by or impacting on the habitual truant or person in control.

### **8. Violation of Dispositional Order: Secure Detention**

The Bill expands the use of secure detention for a child who has been found to be habitually truant and, subsequently, violates a condition of his or her court-imposed dispositional order.

Under current law, if a child is found to have violated a municipal truancy ordinance either by a juvenile court or a municipal court and, subsequently, the child violates a condition of his or her dispositional order, one of the sanctions which may be imposed upon the child for violation of the condition is placement in a secure detention facility or the juvenile portion of a county jail that meets standards promulgated by the DOC for not more than 10 days with the provision of educational services consistent with his or her current course of study during the period of placement. [s. 938.355 (6) (a) and (d) 1. and (6m), Stats.] Before a municipal court may impose this sanction, however, the municipal court must petition the juvenile court to impose the sanction and, if the juvenile court imposes the sanction, it must order the municipality to pay to the county the costs of providing the sanction. [s. 938.355 (6) (an), Stats.]

This secure detention option is not available to a juvenile court which finds that a juvenile is in need of *protection or services* based on habitual truancy. [s. 938.355 (6) (a), Stats.]<sup>4</sup>

The Bill authorizes a juvenile court to use secure detention, for up to 10 days, for a juvenile found to be in need of protection or services based on habitual truancy who, subsequently, violates his or her dispositional order.

### **9. Truancy Ordinance Authority**

Under current law, the authority for municipalities to enact truancy ordinances is limited to "habitual truancy." Also, under current law, juvenile court jurisdiction over juveniles alleged to be in need of protection or services based on truancy is limited to "habitual truancy." [ss. 118.163 and 938.13 (6), Stats.]

The Bill authorizes a county, city, village or town to enact an ordinance prohibiting a person under 18 years of age from being "truant." Under the Bill:

#### **a. Key Definition**

"Truant" is defined to mean a pupil who is absent from school without an acceptable excuse for part or all of any day in which school is held, including a summer session.

#### **b. Concurrent Jurisdiction**

Juvenile courts have concurrent jurisdiction with municipal courts over juveniles who violate municipal truancy ordinances, except that: (1) juvenile court jurisdiction is limited to

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4. A juvenile court may, however, impose secure detention for a second or subsequent violation of the dispositional order under contempt procedures. [s. 938.355 (6g), Stats.]

juveniles who are under the age of 17 years; and (2) municipal court jurisdiction is limited to violations of truancy ordinances by juveniles age 12 years or older.

*Note:* Municipal courts may exercise jurisdiction over juveniles who violate *habitual truancy* ordinances regardless of the juvenile's age but, under s. 938.17 (2) (a) 1. and the Bill, municipal court jurisdiction for violations of *truancy* ordinances would be limited to juveniles age 12 years or older.

### c. Dispositions

A municipal truancy ordinance shall specify which of the following dispositions are available to the municipal or juvenile court:

(1) An order to attend school.

(2) A forfeiture of not more than \$50, or a forfeiture of not more than \$100 for any second or subsequent violation committed within 12 months of a previous violation, plus, if the child is 14 years of age or older, costs. All or part of the forfeiture plus costs may be assessed against the child or the child's parents or guardian, or both.

## 10. Scope of County Ordinances

The Bill provides that a truancy ordinance, habitual truancy ordinance or dropout ordinance enacted by a county is applicable and may be enforced in any 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 such an ordinance.

Under current law, a county habitual truancy ordinance or a dropout ordinance is not applicable in a city, village or town which has enacted such an ordinance. [s. 118.163 (3), Stats.]

## 11. Directory Data

### a. Notice Requirements

The Wisconsin Pupil Records Law requires confidential treatment of pupil records, with specified exceptions. One of those exceptions relates to "directory data" which is defined to include a pupil's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, *dates of attendance*, degrees and awards received and the name of the school most recently previously attended. [s. 118.125 (1) (b), Stats.]

Under the Wisconsin Pupil Records Law, directory data *may* be disclosed to any person if the school has: (1) notified the parent, legal guardian or guardian ad litem of the categories of information it has designated as directory data with respect to each pupil; and (2) allowed 14 days for the pupil's parent, legal guardian or guardian ad litem to inform the school that all or part of the directory data may not be released without his or her consent. [s. 118.125 (1) (j),

Stats.] However, there are certain circumstances under which a school district *must* release directory data if: (1) the school has notified the parent, legal guardian or guardian ad litem of the information that it has designated its directory data with respect to any pupil; (2) the school has allowed 14 days for the parent, legal guardian or guardian ad litem to inform the school that such information may not be released without his or her prior consent; and (3) the parent, legal guardian or guardian ad litem has not so informed the school. [s. 118.125 (2) (j), Stats.]

The Bill amends each of these provisions to require that, in addition to allowing 14 days for the parent, legal guardian or guardian ad litem to inform the school that all or part of the directory data may not be released without prior consent, the school *must have informed the parent*, legal guardian or guardian ad litem that he or she has 14 days to inform the school that all or part of the directory data may not be released without his or her prior consent.

**b. Release to City Attorney for Attendance Enforcement**

Under current law, if a notice and opportunity to object, described above, have been provided, then the school district clerk or his or her designee, upon request, shall provide directory data pertaining to a pupil to any representative of a law enforcement agency, district attorney, corporation council, county social or human services department or court for the purpose of enforcing that pupil's attendance, investigating alleged criminal or delinquent activity by the pupil or responding to a health or safety emergency. [s. 118.125 (2) (j) 3., Stats.]

The Bill expands this provision to also require disclosure, upon request, to a *city attorney*.

**12. Names of Dropouts (Operating Privileges)**

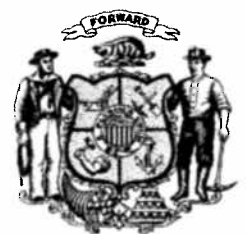
The Bill authorizes a court (municipal or circuit court) to order a school district to provide to the court a list of all dropouts known to the school district who reside in the county in which the circuit court is located or the municipality in which the municipal court is located. Upon request, the Department of Transportation must assist the court in determining which dropouts have operating privileges. (Under current law, municipalities may enact ordinances suspending the operating privileges of dropouts. Municipal and circuit courts have concurrent jurisdiction over children who violate the ordinances. [ss. 118.163 (2m) and 938.17 (2), Stats.]

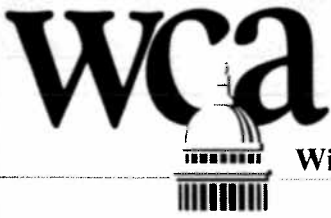
Also, the Bill creates an exception to the confidentiality requirements of the Pupil Records Law to require school districts to provide names of dropouts to a court in response to such a request.

JRH:ksm:rv:lah:kjf;wu;lah



WISCONSIN STATE LEGISLATURE





MEMORANDUM

TO: Honorable Members of the Senate Committee on Education

FROM: Sarah Diedrick-Kasdorf, Legislative Associate *SK*  
Kathryn Kuhn, Milwaukee County Intergovernmental Relations *KK*

DATE: February 25, 1998

SUBJECT: Assembly Bill 686 – Truancy

The Wisconsin Counties Association and Milwaukee County oppose Assembly Bill 686, as adopted by the Assembly, relating to truancy. Specifically, we oppose those provisions of the bill, which provide for the use of secure detention for habitual truants.

Counties across the state have differing viewpoints regarding the appropriateness of secure detention for juveniles who have not been adjudicated delinquent. However, counties uniformly have concerns regarding the costs associated with secure detention as well as concerns regarding space utilization.

Many counties do not have space available in their secure detention facilities to hold habitual truants. If the judiciary is given the ability to place truants in secure detention, bed space may not be available when it is needed to hold juveniles who have committed or have allegedly committed delinquent acts. Many counties are currently forced to create additional dispositional alternatives to secure and nonsecure detention because of overcrowding. Placing truants in these settings will only serve to further overburden an already taxed system. Additionally, although the bill provides for payment by a municipality who petitions the juvenile court for the imposition of sanctions, there are many costs not reimbursed in the bill, such as transportation, etc.

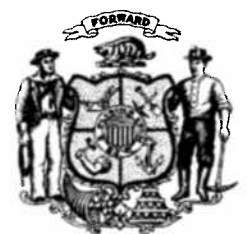
We respectfully request that Assembly Bill 686 be amended to allow the use of secure detention for habitual truants at the discretion of the county board. The language we are proposing mirrors the language placed in the juvenile code during its revision which provides for the use of secure detention as a dispositional alternative at county option. If Assembly Bill 686 is amended as suggested, the Wisconsin Counties Association and Milwaukee County will remove their objection to the bill.

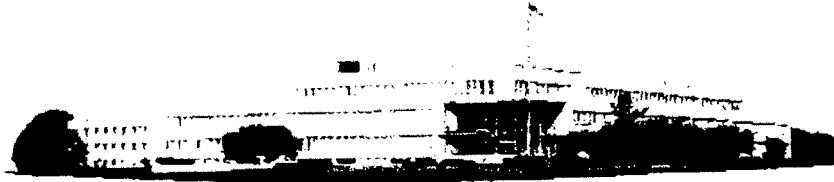
Thank you for considering our comments.





# WISCONSIN STATE LEGISLATURE



**WAUKESHA COUNTY**

*515 West Moreland Boulevard  
Waukesha, Wisconsin 53188-2428*

*County Board Office*

*Phone: (414) 548-7002  
Fax: (414) 548-7005*

February 25, 1998

TO: Senator Calvin Potter, Chair  
Members of the Senate Committee on Education

FR: Dave Krahn  
Legislative Assistant

RE: **Assembly Bill 686 - Compulsory School Attendance**

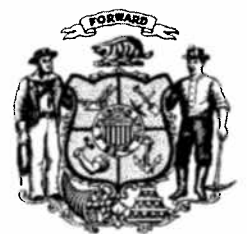
Truancy is indeed a problem which AB 686 attempts to address in a number of ways. We do not quarrel with the thrust of the bill, however we are very concerned with that portion of the bill which would allow placement of habitual truants in secure detention. These truant youths would occupy bed space which should be reserved for delinquent youths who are a danger to the public.

**Waukesha County urges you to support an amendment to Assembly Bill 686 which would require county board authorization before a juvenile court may impose secure or nonsecure detention as a sanction for a violation of a dispositional order regarding habitual truancy.**

Thank you for your consideration.



WISCONSIN STATE LEGISLATURE





State of Wisconsin  
Department of Public Instruction

Mailing Address: P.O. Box 7841, Madison, WI 53707-7841  
125 South Webster Street, Madison, WI 53702  
(608) 266-3390 TDD (608) 267-2427 FAX (608) 267-1052  
Internet Address: [www.state.wi.us/agencies/dpi](http://www.state.wi.us/agencies/dpi)

John T. Benson  
State Superintendent

Steven B. Dold  
Deputy State Superintendent

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**1997 ASSEMBLY BILL 686**  
**Testimony for the Senate Education Committee**  
**February 25, 1998**

Good morning, Chairperson Potter and committee members, I am Beth Lewis, an Education Consultant and I am testifying on behalf of State Superintendent John Benson and the Department of Public Instruction. We appreciate the opportunity to provide testimony that supports this bill and identifies some areas of concern.

The Department of Public Instruction has been pleased to work with members of the truancy subcommittee in an effort to confront the truancy problem. The department is supportive of dealing strongly with truancy provided that measures are taken to address those problems that cause truancy.

As such the department recognizes that the engrossed version of Assembly Bill 686 represents a continuum response from local community planning to sanctions for failure to obey court orders. Elements of this bill serve to increase interagency collaboration, facilitate parent-school partnerships and hold both parents and students accountable for the student's continued failure to attend school.

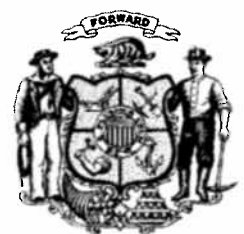
The department would like to work together with this committee and other stakeholders to resolve the few concerns that exist about Assembly Bill 686. Those concerns from the department's viewpoint include:

- Truants Under the Age of Six Concern exists about extending the definition of habitual truant to children under the age of six but we will defer to local control on this issue.
- Redefining Habitual Truancy While the department supports the streamlining of the definition, we would like to offer caution that if all or part of five days is adopted as the standard for unexcused absences, that school districts should take this into consideration in developing or reviewing local policies for excused absences under §118.16 (4).
- While somewhat obvious, it should also be noted that redefining habitual truancy may have a profound effect on reported truancy statistics if comparisons are done with past years.

We thank you for this opportunity to testify; as always the department is willing to work with you on successful solutions for all students.



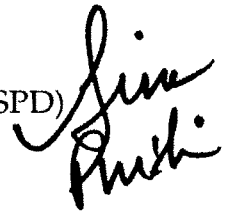
# WISCONSIN STATE LEGISLATURE



CORRESPONDENCE / MEMORANDUM

STATE OF WISCONSIN

Date: February 25, 1998  
To: Honorable Members of the Senate's Committee on Education  
From: Gina Pruski, Deputy Legal Counsel, State Public Defender's Office (SPD)  
Re: Assembly Bill 686 (habitual truancy)



The following is information related to AB 686. This information relates, in particular, to the effectiveness of placing truant children in secure detention.

**INFORMATION FROM SPD STAFF**

*Racine county*

In October of 1997, SPD staff reviewed Racine county detention center records and discovered that from September 27, 1996, through September 27, 1997, approximately 249 different children spent time in secure detention for missing school. (These children were either adjudicated delinquent previously and sanctioned for missing school or adjudicated in need of protection or services and sentenced to secure detention on a contempt of court action.) Of the 249 children sent to secure detention, 135 (54%) spent more than one term in secure detention. Of those 135 children, the following table shows the number of children who spent more than one term and the number of terms:

<u>Number of children</u>	<u>Number of terms</u>
66 (49%)	2
28 (21%)	3
24 (18%)	4
7 (5%)	5
6 (4%)	6
2 (1%)	8
2 (1%)	9

Although some children in Racine county spent only one or two terms in secure detention, many children spent lengthy terms there. For example, one child who spent only one term in secure detention spent 25 days there. Another child who stayed only once spent 21 days in detention. Another child, who spent two terms in detention, spent 10 days the first time and 30

days the second time, for a total of 40 days.

Further, when looking at the children who spent several terms in detention, we were surprised to learn that many of these children spent a large number of total days in detention. For instance, one child who spent eight terms in secure detention spent a total of 66 days there. Another child who spent six terms in secure detention spent a total of 59 days there.

Most of the children who spent more than one term in secure detention were either 15 or 16 years old. There were some 14 year-olds, and fewer 13 year-olds.

In order to see whether secure detention had an impact on the child's school attendance, Racine SPD staff selected a random sample of 13 of the above children and spoke with the student directory at the Racine Unified School District. The student directory was able to tell our staff where each child in the sample is enrolled this school year. Our staff then spoke with each school to find out how the child is doing. This is what we learned about each of the 13 children's school attendance (after they spent time in detention) so far this school year:

<u>Child</u>	<u># terms</u>	<u>Total days</u>	<u>Behavior so far this year<sup>1</sup></u>
A	1	25	18 days truant
B	2	9	no school
C	2	38	no school
D	8	39	attending Gateway
E	2	7	no school
F	1	1	8 days excused
G	1	7	truant from 9/17 to 10/3
H	1	11	22 days truant
I	1	10	3.5 days truant; also tardy
J	1	5	expelled 9/19 to 9/30
K	6	19	17 days truant
L	9	35	Alternative Ctr. (truant)
M	8	66	Satellite Ctr. (improved)

<sup>1</sup> This column represents the child's behavior as of October 1997.

In the above table, "# terms" means the number of terms spent in detention, and "Total days" means the aggregate number of days in detention.

In addition, "no school" (see child B, C, and E) means that the student directory at the Racine Unified School District shows that the child is not enrolled in any Racine school this school year. If a child is not enrolled, the child could be involved in home-schooling or placed out of the home outside of Racine.

Also, it should be pointed out that Gateway (see child D) is a technical college in Racine where some 17 and 18-year old high schoolers attend school. The program at Gateway is for only one to two hours each day. The Alternative Center (see child L) and Satellite Center (see child M) are attended by children who have educational or behavioral problems and involve less than full days as well. According to the Satellite Center, although child M's attendance has improved, child M still truants at least one day a week and is tardy every day.

We also learned that it costs, on average, \$125 a day to house a truant in secure detention. So, for example, it cost Racine county \$8,250 to house child M in secure detention last year.

Finally, it is important to note that some of the social workers in Racine county (who wish not to be identified) have advised SPD staff that they believe secure detention is not an effective way of dealing with truant children.

### *Milwaukee county*

Our attorney supervisor in the Milwaukee Juvenile office states that placing truants in secure detention is impractical because there is no room in detention for truants. All 120 beds in the Milwaukee detention facility are usually continuously filled with delinquent children. He further stated that many children who truant from school have concluded that they are failures at school, and placement in secure detention of these children will not dispel that conclusion.

### *Dane county*

In Dane county, a committee meets periodically to review the trends and effectiveness of sanctions used in Dane county. The committee consists of attorneys from the SPD and the district attorney's office, social workers, staff from the Juvenile Reception Center (intake) and the juvenile detention facility, and the juvenile court administrator. Last year, the committee asked social workers to complete a questionnaire about the number of sanctions motions filed, the reasons sanctions motions were filed, and the apparent effectiveness of the sanction. The questionnaire



covered a three-month period, and of the 35 questionnaires returned, the following was learned:

Of the sanctions motions filed, 49% involved a truancy violation. Regarding effectiveness, social workers estimated that in only 14% of the cases did serving time in secure detention cause the child's compliance/behavior to improve significantly. In 29% of the cases, the child's compliance/behavior improved moderately, while in 23% of the cases, the child's compliance/behavior did not change much one way or the other. Finally, in 3% of the cases, social workers stated that the child's compliance/behavior worsened.

### *Other counties*

A staff attorney who handles juvenile cases in one of our northeastern counties states that social workers often try to sanction children for failing to attend school, however, the judges are reluctant to sent the child to jail if failing to attend school is the only violation. If failing to attend school is the only violation, then the judges most often will order electronic monitoring and home detention. In extreme cases, secure detention may be imposed and stayed along with electronic monitoring.

This same staff attorney believes that secure detention is often ineffective no matter what the violation because of children's ability to adapt to their surroundings. She states that the effect of incarceration is lost on children after about two to three days.

Further, a number of our staff attorneys throughout the state who handle juvenile cases believe that sanctioning children to secure detention for failing to attend school enables these children's behavior. The school programs offered in some secure detention facilities (including the facilities in the counties mentioned above) are perfunctory, involving perhaps one hour per day. In some facilities, the child can choose to not attend the facility's school program. These factors can thus cause the child to become further behind in regular school. In fact, some children prefer to spend time in secure detention rather than attend school.

One of our staff attorneys states that "fighting truancy in the courts is a losing battle." In her county, the district attorney's office has almost completely stopped filing truancy petitions because it doesn't make any difference.

A staff attorney from northern Wisconsin says that some of the judges and prosecutors send truant children to secure detention because they are so frustrated and don't know what else to do. A concern raised by this staff attorney is that these children are being placed with recalcitrant and dangerous delinquents. While in detention, the truants may be tutored by a teacher for a few hours a day, however, they may also be "tutored" by

older, tougher children on how to steal cars, break into homes, fight, and run away.

An attorney supervisor in the southeastern part of the state says that placement in a sheltercare facility, instead of secure detention, can sometimes successfully prompt a truant child to attend school. While placed in sheltercare, the child learns a routine of getting up and ready for school. It is also easier for teachers to work with the sheltercare rather than the jail in helping truant children stay in school.

A few of our staff attorneys indicate that in some cases, however, secure detention can be effective in getting a truant child to attend school. One attorney estimates that in only about 10% of the cases, the child changes his or her behavior. However, any effectiveness secure detention may have is short-lived. At some point, the child no longer cares if he or she has to go to secure detention and thus chooses to skip school. Furthermore, even if a stay in secure detention causes the child to attend school, the ultimate goal of education fails because nobody addresses the underlying problems (such as difficulty interacting with peers or completing homework). The child may attend school, but he or she just sits there and gains nothing.

#### **INFORMATION FROM SCHOOL STAFF**

State Public Defender Nick Chiarkas and SPD Legal Counsel Virginia Pomeroy were invited to speak last fall at a teacher inservice training in southeastern Wisconsin where five urban school districts were represented. Also, I was invited to speak last October at a teacher inservice training in northern Wisconsin where five rural school districts were represented. Our presentations focused on various juvenile issues, including truancy. Teachers and administrators present at these inservice training sessions expressed the following opinions about placing truant children in secure detention:

Overall, the teachers and administrators believe that placing children in secure detention is not an effective way to combat truancy. In fact, many teachers stated that parents should be held more responsible for their children's truancy. Specifically, many teachers liked the idea of fining parents for failing to get their children to attend school. Also, several teachers said that if more parents are sentenced to jail, perhaps that would improve children's attendance rates.

Many of the teachers were concerned about sending children to secure detention because doing so does not get to the "heart of the problem." These teachers said that time needs to be spent figuring out why the child misses school, and then doing something about that.

Other teachers said that suspension of the child's operating privilege or

work permit is sometimes effective because a lot of children care very much about driving and making money.

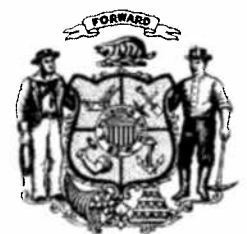
Finally, a few teachers said that sending a truant child to jail oftentimes makes the child a worse problem.

### **CONCLUSION**

I hope you find this information useful. If you have any questions or would like additional information about this issue, please feel free to contact me at 266-6782. Thank you.



# WISCONSIN STATE LEGISLATURE



CORRESPONDENCE / MEMORANDUM

STATE OF WISCONSIN

Date: February 26, 1998  
To: Honorable Members of the Senate's Committee on Education  
From: Gina Pruski, Deputy Legal Counsel, State Public Defender's Office (SPD)  
Re: Assembly Bill 686 (habitual truancy)

As you recall, I testified yesterday for informational purposes on AB 686. During my testimony, Senator Huelsman asked about the specific educational program offered to the juveniles in the Racine county secure detention facility. The following is what I learned:

Juveniles may choose to remain in their cell throughout the day or attend the detention facility's school program. The school program is for one hour each day. Juveniles (approximately 6-10 at a time) are taught by a teacher from the Racine Unified School District who has come into the detention facility to teach the juveniles. Attached is a description of the typical coursework taught to these juveniles.

I hope you find this information useful. If you have any questions or would like additional information, please feel free to contact me at 266-6782.

Thank you.

Attachment.

RACINE COUNTY DETENTION CENTER

ATTY.  
TONY  
JAMIESON

WEEKLY = SOMEWHAT TYPICAL

MONDAY

ENGLISH SKILLS

Nouns, Verbs, Adjectives, Antonyms, Homonyms, Synonyms, Idioms, Crosswords

TUESDAY

MATH

Worksheets of different level Math with problems to solve. Solve phrases or questions.

Probability, Logic, Geometric Shapes

Consumer Math: Hours, Wages, Taxes, Shopping, Discounts

Measuring, Reading Graphs

Racine Unified's Math Competency Practice Test

WEDNESDAY

Alternate more MATH or Problem Solving

Where in the World is Carmen San Diego? Either taped videos and play as a team or CD Rom in computer with a worksheet

THURSDAY

Computer pre-work for Friday's readings

EXAMPLE: Worksheets on Egyptian Culture

Worksheets on Construction of Pyramids

Worksheets on Mummies

FRIDAY

Scope Magazine Play: Read aloud

EXAMPLE: King Tut with worksheet from magazine to follow

In addition to this, another teacher goes to day-rooms with:

Geography

States - Capitals

Nations - Capitals

A multitude of different worksheets

History

Self-inclusive worksheets with the text and questions

English

Some different Basic English Skills work.

We use Apple Education Series:

Elementary Reference Bundle and Secondary Reference Bundle - A series of CD's

Earth Watch - Eye Witness - History, Science, Nature

Our times - Grolier Encyclopedia - Time

3-D Atlas - Art Gallery

We make worksheets off of these CD's



**CALVIN J. POTTER**  
State Senator



## Wisconsin State Senate

### MEMO

**TO:** Senator Darling

**FROM:** Paul Rusk, Committee Clerk

**RE:** Becky Young Audit Amendment for AB 686

**DATE:** March 2, 1998

Representative Young would like us to include the attached amendment calling for an audit of the effectiveness of secure detention in deterring habitual truancy. Cal asked me to send it on to you as the "coordinator" of the sub.

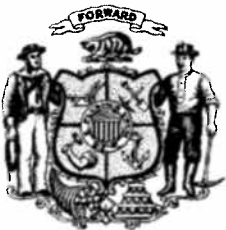
I'm also sending a copy to Russ Whitesel and Senator Shibilski.

Thank you.





# WISCONSIN STATE LEGISLATURE





## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536  
Telephone (608) 266-1304  
Fax (608) 266-3830

**DATE:** March 16, 1998  
**TO:** SENATOR CALVIN POTTER; AND OTHER INTERESTED LEGISLATORS  
**FROM:** Russ Whitesel, Senior Staff Attorney  
**SUBJECT:** Senate Substitute Amendment 1 to 1997 Engrossed Assembly Bill 686,  
Relating to Compulsory School Attendance and Truancy

This memorandum provides a description of the changes made by Senate Substitute Amendment 1 to 1997 Engrossed Assembly Bill 686, relating to compulsory school attendance and truancy. The provisions of 1997 Engrossed Assembly Bill 686 as passed by the Assembly are described in the attached memorandum addressed to "Interested Legislators" by Jane R. Henkel, Deputy Director, dated February 19, 1998.

Senate Substitute Amendment 1 makes the following changes and additions to the Bill:

1. The Substitute Amendment clarifies that a county board is required to pass a resolution authorizing the court to use placement in a secure detention facility or juvenile portion of the county jail as a disposition or as a sanction for a violation of a dispositional order regarding habitual truancy before a court may impose that sanction.
2. The Substitute Amendment provides that the school district clerk or his or her designee must 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 and that the law enforcement agency will not further disclose the pupil's attendance record except as permitted under the Juvenile Justice Code. [s. 938.396, Stats.] School district clerks are currently required to make the same disclosures when a pupil is under investigation for allegedly committing a criminal or delinquent act.

The Substitute Amendment further provides that in instances where a pupil's attendance record has been disclosed to a law enforcement agency for purposes of a truancy investigation, the clerk must notify the pupil's parent or guardian of that disclosure as soon as practicable after that disclosure.

3. The Substitute Amendment limits the forfeiture amount for truancy ordinance violations to a maximum cumulative amount of not more than \$500 for all violations committed during a school semester. As passed by the Assembly, a truancy violation could result in 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 subsequent violation committed within 12 months of a previous violation. All or part of the forfeiture plus costs may be assessed against a person, the parent or guardian or the person or both.

4. Under the Bill as passed by the Assembly, a "truant" was defined as a pupil who was absent from school without an acceptable excuse under ss. 118.15 and 118.16 (4), Stats., for part of any day on which school is held, *including a summer session*. The Senate Substitute Amendment *deletes* the reference to summer school and provides instead that a "truant" means a pupil who is absent from school without an acceptable excuse for part or all of any day on which school is held during a school semester.

5. The Substitute Amendment creates an exception to the compulsory attendance law for pupil absences excused by the pupil's parent or guardian. The Senate Substitute Amendment provides an exception to the compulsory attendance law by providing that that law does not apply to any child excused *in writing* by his or her parent or guardian *prior to an absence*. Under this provision, a child may not be excused for more than *10 days* in a school year and the child is required to make up any course work missed during an absence.\*

6. Under the Senate Substitute Amendment, a request is made of the Joint Audit Committee to direct the Legislative Audit Bureau (LAB) to perform a performance evaluation audit to evaluate the accuracy and uniformity of truancy statistics that are reported to the Department of Public Instruction by school boards and the effectiveness of using placement of a juvenile in a secure detention facility or juvenile portion of a county jail as a sanction for a violation of a condition of a dispositional order based on habitual truancy from school and deterring truancy. If the LAB performs the audit, the LAB is required to file its report by September 1, 1999.

The Substitute Amendment makes no other substantive changes in the Bill.

If you have any questions regarding this matter, please feel free to contact me directly at the Legislative Council Staff offices.

RW:jt;ksm

Attachment

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\*The Bill, as passed by the Assembly, defines "habitual truant," for the purposes of all statutes making use of that term, to mean a pupil who is absent without an acceptable excuse for part or all of five or more days on which school is held during a school semester. Under current law, a "habitual truant" is a pupil who is absent from school without an acceptable excuse for part or all of: (a) five or more days out of 10 consecutive days on which school is held during a school semester; or (b) 10 or more days on which school is held during a school semester.



## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536  
Telephone (608) 266-1304  
Fax (608) 266-3830

DATE: February 19, 1998  
TO: INTERESTED LEGISLATORS  
FROM: Jane R. Henkel, Deputy Director  
SUBJECT: 1997 Engrossed Assembly Bill 686, Relating to Compulsory School Attendance and Truancy (the Bill, as Passed by the Assembly)

This memorandum outlines the provisions of 1997 Engrossed Assembly Bill 686, relating to compulsory school attendance and truancy (the Bill, as passed by the Assembly).

1997 Assembly Bill 686 was introduced by Representative Olsen and others; cosponsored by Senator Darling and others. The Assembly passed the Bill, as amended by: Assembly Substitute Amendment 1; Assembly Amendments 1, 2, 3, 4 and 5 to the Substitute Amendment; and Assembly Amendment 1 to Assembly Amendment 1 to the Substitute Amendment. The Assembly's vote on passage of the Bill was Ayes, 74; Noes 22. The Bill was printed engrossed by direction of the Assembly chief clerk.

### 1. Planning and Truancy Plans

1997 Engrossed Assembly Bill 686 (hereinafter, "the Bill") requires each school board to review and, if appropriate, revise its truancy plan<sup>1</sup> at least once every two years. The Bill also requires the appointment of county truancy planning committees at least once every four years to make recommendations to school districts in the county on revisions to their truancy plans.

### 2. Truants Under the Age of Six Years

The Bill provides that, *if a school board adopts a resolution* so specifying, the person in control of a child under the age of six years who is attending a public school in that school

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1. 1987 Wisconsin Act 285 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. Under 1987 Wisconsin Act 285, each school board was required to adopt a truancy plan by September 1, 1989. [s. 118.162, Stats.]

district, including a prekindergarten program, must cause the child to continue to attend that school regularly during the full period and hours that the program in which the child is enrolled is in session. Thus, the truancy laws will apply to such children. This 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.

Under current law, what constitutes an "acceptable excuse" to be absent from school is determined by the school board. Thus, under the Bill, a school board could set different criteria for an "acceptable excuse" for prekindergarten or kindergarten pupils, than for pupils in grades 1 to 12.

### 3. Definition of "Habitual Truant"

The Bill amends the definition of "habitual truant," for the purposes of all statutes making use of that term<sup>2</sup> to mean a pupil who is absent without an acceptable excuse for part or all of five or more days on which school is held during a school semester.

Under current law, a "habitual truant" is a pupil who is absent from school without an acceptable excuse part or all of: (a) five or more days out of 10 consecutive days on which school is held during a school semester; or (b) 10 or more days on which school is held during a school semester. [ss. 49.26 (1) (a) 1., 118.163 (1) (b) and 938.02 (9m), Stats.]

### 4. Parental Notice and Meeting With School Officials

Under current law, when a pupil first meets the definition of "habitual truant," the school attendance officer must notify the pupil's parent or guardian by certified or registered mail. The notice must include a request that the parent or guardian meet with appropriate school personnel to discuss the child's truancy and 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. Current law does not place a time limit on the specified meeting date. [s. 118.16 (2) (cg), Stats.]

The Bill provides that:

a. The date for the meeting must be within *five 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 five school days.

b. If a meeting between the school personnel and parent or guardian is not *held* within *10 school days* after the date the notice is sent, the parent or guardian *may* be prosecuted for failing to cause the child to attend school regularly and municipal or juvenile court proceedings relating to the child may be initiated *without a meeting* between the parent or guardian and school personnel.

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2. Truancy, motor vehicle and Learnfare laws.

Item b., above, modifies the current law requirement that, before the parent or guardian may be prosecuted or proceedings relating to the child may be initiated, a school attendance officer must provide evidence that appropriate school personnel have, within the school year during which the truancy occurred: met with the child's parent or guardian; provided an opportunity for educational counseling; evaluated the child to determine whether learning problems may be a cause of the child's truancy; and evaluated the child to determine whether social problems may be a cause of the child's truancy.<sup>3</sup> [ss. 118.15 (5) (a), 118.16 (5), 938.125 (2), 938.13 (6) and 938.17 (2) (a) 1., Stats.]

### **5. Prosecution of Parent or Other Person in Control of the Child**

Under current law, a person who has a child under his or her control who fails to cause the child to attend school regularly is subject to the following sanctions:

- a. The person may be fined not more than \$500 or imprisoned for not more than 30 days, or both. [s. 118.15 (5) (a), Stats.]
- b. The person may be ordered to participate in counseling at his or her own expense. [s. 118.15 (5) (am), Stats.]

The Bill expands the sanctions as follows:

- a. For a second or subsequent offense, the person may be fined not more than \$1,000 or imprisoned for not more than 90 days, or both. (The current law provisions on fine and imprisonment (\$500, 30 days or both) continue to apply for the first offense).
- b. For a first or subsequent offense, the person may be required to perform community service work for a public agency or a nonprofit charitable organization, in lieu of a fine or imprisonment. Also, see item 7., below.
- c. For a first or subsequent offense, the person may be ordered to attend school with his or her child.

Under both current law and the Bill, if the defendant proves that he or she is unable to comply with the law because of the disobedience of the child, the action must be dismissed and the child referred to juvenile court under ch. 48, Stats. [s. 118.15 (5) (a), Stats.; SECTIONS 7, 10 and 11 of the Bill.]

### **6. Dispositions for Habitual Truants**

The Bill expands the dispositions that may be made available under a municipal habitual truancy ordinance, and which are available in a proceeding involving a juvenile alleged to be in

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3. Under current law, educational counseling, evaluation for learning problems and evaluation for social problems are not required if school personnel are unable to carry out the activity due to the child's absences from school. School personnel are not required to meet with the child's parent or guardian if they have attempted to do so and receive no response or been refused.

need of protection or services based on habitual truancy, to include the following new dispositions:

- a. An order for the child to attend school.
- b. A forfeiture of not more than \$500 plus, if the juvenile is 14 years of age or older, costs. All or part of the forfeiture plus costs may be assessed against the child, the child's parents or guardian, or both.
- c. Any other reasonable conditions, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
- d. An order placing the juvenile under formal or informal supervision of an agency, the Department of Corrections (DOC), if the department approves, or a suitable adult, under conditions prescribed by the court including reasonable rules for the juvenile's conduct, designed for the physical, mental or moral well-being and behavior of the juvenile.
- e. An order for the child's parent, guardian or legal custodian to attend school with the child.
- f. An order for the child's parent, guardian or legal custodian to participate in counseling at his or her own expense. (Authorized, under the Bill, for a municipal court. A juvenile court which finds that a child has violated a municipal habitual truancy ordinance or is in need of protection or services based on habitual truancy already has this authority. See ss. 938.342 (1m) and 938.345 (2), Stats.)

Also, the Bill modifies current dispositions as follows:

- a. Extends the maximum period of suspension of the child's operating privilege from 90 days to one year.
- b. Provides that the costs of any counseling, supervised work program or other community service work ordered by the court may be assessed against the child, the child's parents or guardian, or both.

(Current dispositions are set forth in ss. 118.163 (2), 938.342 (1) and 938.345 (2), Stats.)

Also, see item 7., below.

### 7. Community Service Immunity

The Bill provides that any organization or agency acting in good faith, to which either a habitual truant or a person in control of a child who fails to cause the child to attend school regularly is assigned to a supervised work program or to perform community service work, shall be provided immunity from civil liability in excess of \$25,000 for acts or omissions by or impacting on the habitual truant or person in control.

### **8. Violation of Dispositional Order: Secure Detention**

The Bill expands the use of secure detention for a child who has been found to be habitually truant and, subsequently, violates a condition of his or her court-imposed dispositional order.

Under current law, if a child is found to have violated a municipal truancy ordinance either by a juvenile court or a municipal court and, subsequently, the child violates a condition of his or her dispositional order, one of the sanctions which may be imposed upon the child for violation of the condition is placement in a secure detention facility or the juvenile portion of a county jail that meets standards promulgated by the DOC for not more than 10 days with the provision of educational services consistent with his or her current course of study during the period of placement. [s. 938.355 (6) (a) and (d) 1. and (6m), Stats.] Before a municipal court may impose this sanction, however, the municipal court must petition the juvenile court to impose the sanction and, if the juvenile court imposes the sanction, it must order the municipality to pay to the county the costs of providing the sanction. [s. 938.355 (6) (an), Stats.]

This secure detention option is not available to a juvenile court which finds that a juvenile is in need of *protection or services* based on habitual truancy. [s. 938.355 (6) (a), Stats.]<sup>4</sup>

The Bill authorizes a juvenile court to use secure detention, for up to 10 days, for a juvenile found to be in need of protection or services based on habitual truancy who, subsequently, violates his or her dispositional order.

### **9. Truancy Ordinance Authority**

Under current law, the authority for municipalities to enact truancy ordinances is limited to "habitual truancy." Also, under current law, juvenile court jurisdiction over juveniles alleged to be in need of protection or services based on truancy is limited to "habitual truancy." [ss. 118.163 and 938.13 (6), Stats.]

The Bill authorizes a county, city, village or town to enact an ordinance prohibiting a person under 18 years of age from being "truant." Under the Bill:

#### **a. Key Definition**

"Truant" is defined to mean a pupil who is absent from school without an acceptable excuse for part or all of any day in which school is held, including a summer session.

#### **b. Concurrent Jurisdiction**

Juvenile courts have concurrent jurisdiction with municipal courts over juveniles who violate municipal truancy ordinances, except that: (1) juvenile court jurisdiction is limited to

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4. A juvenile court may, however, impose secure detention for a second or subsequent violation of the dispositional order under contempt procedures. [s. 938.355 (6g), Stats.]



juveniles who are under the age of 17 years; and (2) municipal court jurisdiction is limited to violations of truancy ordinances by juveniles age 12 years or older.

*Note:* Municipal courts may exercise jurisdiction over juveniles who violate *habitual truancy* ordinances regardless of the juvenile's age but, under s. 938.17 (2) (a) 1. and the Bill, municipal court jurisdiction for violations of *truancy* ordinances would be limited to juveniles age 12 years or older.

### c. Dispositions

A municipal truancy ordinance shall specify which of the following dispositions are available to the municipal or juvenile court:

(1) An order to attend school.

(2) A forfeiture of not more than \$50, or a forfeiture of not more than \$100 for any second or subsequent violation committed within 12 months of a previous violation, plus, if the child is 14 years of age or older, costs. All or part of the forfeiture plus costs may be assessed against the child or the child's parents or guardian, or both.

## 10. Scope of County Ordinances

The Bill provides that a truancy ordinance, habitual truancy ordinance or dropout ordinance enacted by a county is applicable and may be enforced in any 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 such an ordinance.

Under current law, a county habitual truancy ordinance or a dropout ordinance is not applicable in a city, village or town which has enacted such an ordinance. [s. 118.163 (3), Stats.]

## 11. Directory Data

### a. Notice Requirements

The Wisconsin Pupil Records Law requires confidential treatment of pupil records, with specified exceptions. One of those exceptions relates to "directory data" which is defined to include a pupil's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, *dates of attendance*, degrees and awards received and the name of the school most recently previously attended. [s. 118.125 (1) (b), Stats.]

Under the Wisconsin Pupil Records Law, directory data *may* be disclosed to any person if the school has: (1) notified the parent, legal guardian or guardian ad litem of the categories of information it has designated as directory data with respect to each pupil; and (2) allowed 14 days for the pupil's parent, legal guardian or guardian ad litem to inform the school that all or part of the directory data may not be released without his or her consent. [s. 118.125 (1) (j),

Stats.] However, there are certain circumstances under which a school district *must* release directory data if: (1) the school has notified the parent, legal guardian or guardian ad litem of the information that it has designated its directory data with respect to any pupil; (2) the school has allowed 14 days for the parent, legal guardian or guardian ad litem to inform the school that such information may not be released without his or her prior consent; and (3) the parent, legal guardian or guardian ad litem has not so informed the school. [s. 118.125 (2) (j), Stats.]

The Bill amends each of these provisions to require that, in addition to allowing 14 days for the parent, legal guardian or guardian ad litem to inform the school that all or part of the directory data may not be released without prior consent, the school *must have informed the parent*, legal guardian or guardian ad litem that he or she has 14 days to inform the school that all or part of the directory data may not be released without his or her prior consent.

**b. Release to City Attorney for Attendance Enforcement**

Under current law, if a notice and opportunity to object, described above, have been provided, then the school district clerk or his or her designee, upon request, shall provide directory data pertaining to a pupil to any representative of a law enforcement agency, district attorney, corporation council, county social or human services department or court for the purpose of enforcing that pupil's attendance, investigating alleged criminal or delinquent activity by the pupil or responding to a health or safety emergency. [s. 118.125 (2) (j) 3., Stats.]

The Bill expands this provision to also require disclosure, upon request, to a *city attorney*.

**12. Names of Dropouts (Operating Privileges)**

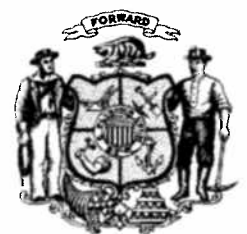
The Bill authorizes a court (municipal or circuit court) to order a school district to provide to the court a list of all dropouts known to the school district who reside in the county in which the circuit court is located or the municipality in which the municipal court is located. Upon request, the Department of Transportation must assist the court in determining which dropouts have operating privileges. (Under current law, municipalities may enact ordinances suspending the operating privileges of dropouts. Municipal and circuit courts have concurrent jurisdiction over children who violate the ordinances. [ss. 118.163 (2m) and 938.17 (2), Stats.]

Also, the Bill creates an exception to the confidentiality requirements of the Pupil Records Law to require school districts to provide names of dropouts to a court in response to such a request.

JRH:ksm:rv:lah:kjf;wu;lah



# WISCONSIN STATE LEGISLATURE



**CALVIN J. POTTER**  
State Senator



**Wisconsin State Senate**

**M E M O**

**TO:** Education Committee Members  
**FROM:** Cal Potter  
**RE:** Hearing/Exec Tomorrow  
**DATE:** March 17, 1998

Here is a "hard" copy of the hearing notice for tomorrow, along with the following:

1. Copies of the two Legislative Council memos on the truancy bill (AB 686) covering the changes we made. I presume this bill will be on the floor Thursday.
2. Copies of the Legislative Council memos on pupil expulsions (SB 192) covering the changes developed by Rep. Becky Young. This is on for our executive session.

There will be a sub to the Downer Woods bill (SB 490) which we will pass out tomorrow.

We will discuss the possibility of a letter to Joint Finance recommending that all students 18 years of age be able to take advantage of the higher education tax credits (Senator Roessler's suggestion).

If you have any questions please let us know.



**APPENDIX B**

**MADISON METROPOLITAN SCHOOL DISTRICT  
HABITUAL TRUANCY  
1994-95  
1995-96  
Fall 1996**

	1994- 1995		1995 - 1996		1996 - 1997	96-97	97-98
	fall, 1994	spring, 1995	fall, 1995	spring, 1996	fall, 1996	spring 97	fall 98
<b>HIGH SCHOOLS:</b>							
All High School Programs	454	511	410	612	406	637	534
E/W/ LaF/ M only	362	467	394	527	405	598	511
<b>MIDDLE SCHOOLS:</b>	262	292	215	220	169	184	124
<b>ELEMENTARY SCHOOLS:</b>	215	198	147	181	96*	145	81

\* 34 of these were Kindergarten students

**Background:** This is a summary of District's data from the Habitual Truancy Reports by John Gaffney, Registrar. The High School numbers reflect only the students who remain Habitual Truants by the end of the semester. In the fall of 1996 Elementary and Middle Schools counts changed to reflect only the students who remained truant at the end of the semester to be more consistent with the High School count.