



2005 SENATE BILL 285

August 10, 2005 - Introduced by Senators ROESSLER and OLSEN, cosponsored by Representatives KESTELL, TOWNSEND and OTT. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

1 **AN ACT to amend** 118.15 (5) (b) 2., 118.16 (5) (intro.), 118.16 (6) (a) 1., 118.162
2 (4) (e) and 938.13 (6); and **to create** 48.02 (18m) and 48.13 (5m) of the statutes;
3 **relating to:** granting the juvenile court child in need of protection or services
4 jurisdiction over a child 6 years of age or over who is or should be enrolled in
5 grades kindergarten to 5 and who is truant from school as a result of the person
6 having control of the child not causing the child to attend school regularly.

Analysis by the Legislative Reference Bureau

Currently, the compulsory school attendance law requires, subject to certain exceptions, that a person having under his or her control a child six years of age or over cause the child to attend school regularly during the full period and hours that the school in which the child should be enrolled is in session until the end of the school term, quarter, or semester in which the child becomes 18 years of age, unless the child has an acceptable excuse for not attending school. Current law also permits counties, cities, villages, and towns to enact ordinances prohibiting a person under 18 years of age from being absent from school without an acceptable excuse for part or all of five or more days on which school is held during a school semester (habitual truancy). In addition, current law grants the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) exclusive jurisdiction over a juvenile alleged to be in need of protection or services on the grounds of habitual truancy. Current law requires, however, that before any proceeding may

SENATE BILL 285

be brought against a child for habitual truancy, appropriate school personnel must have met or attempted to meet with the child's parent or guardian to discuss the child's truancy, provided an opportunity for educational counseling to determine whether a change in the child's curriculum would resolve the child's truancy, and evaluated the child to determine whether learning problems or social problems may be a cause of the child's truancy.

This bill grants to the juvenile court exclusive jurisdiction over a child alleged to be in need of protection or services on the grounds of truancy, including intermittent attendance carried on for the purpose of defeating the compulsory school attendance law, if all of the following conditions are met:

1. The child is six years of age or over and enrolled or should be enrolled in grades kindergarten to five.

2. The truancy is the result of the person having control of the child not causing the child to attend school regularly rather than the result of the child's intentional refusal to attend school.

3. Appropriate school personnel have met or attempted to meet with the child's parent or guardian, provided an opportunity for educational counseling, and evaluated the child for learning and social problems.

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

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

1 **SECTION 1.** 48.02 (18m) of the statutes is created to read:

2 48.02 (**18m**) "Truant" has the meaning given in s. 118.163 (1) (d) and includes
3 intermittent attendance carried on for the purpose of defeating the intent of s.
4 118.15.

5 **SECTION 2.** 48.13 (5m) of the statutes is created to read:

6 48.13 (**5m**) Who is truant from school, if the child is 6 years of age or over and
7 enrolled or should be enrolled in grades kindergarten to 5, if the truancy is the result
8 of the person having control of the child not causing the child to attend school
9 regularly rather than the result of the child's intentional refusal to attend school, and
10 if evidence is provided by the school attendance officer that the activities under s.

SENATE BILL 285

1 118.16 (5) have been completed or were not required to be completed as provided in
2 s. 118.16 (5m).

3 **SECTION 3.** 118.15 (5) (b) 2. of the statutes is amended to read:

4 118.15 (5) (b) 2. In a prosecution under par. (a), if the defendant proves that he
5 or she is unable to comply with the law because of the disobedience of the child, the
6 action shall be dismissed and the child shall be referred to the court assigned to
7 exercise jurisdiction under ~~ch.~~ chs. 48 and 938.

8 **SECTION 4.** 118.16 (5) (intro.) of the statutes is amended to read:

9 118.16 (5) (intro.) Except as provided in sub. (5m), before any proceeding may
10 be brought against a child under s. 48.13 (5m) for truancy, under s. 938.13 (6) for
11 habitual truancy, or under s. 938.125 (2) or 938.17 (2) for a violation of an ordinance
12 enacted under s. 118.163 (2) or against the child's parent or guardian under s. 118.15
13 for failure to cause the child to attend school regularly, the school attendance officer
14 shall provide evidence that appropriate school personnel in the school or school
15 district in which the child is enrolled have, within the school year during which the
16 truancy occurred, done all of the following:

17 **SECTION 5.** 118.16 (6) (a) 1. of the statutes is amended to read:

18 118.16 (6) (a) 1. File information on any child who continues to be truant with
19 the court assigned to exercise jurisdiction under chs. 48 and 938 in accordance with
20 s. 48.24 or 938.24. Filing information on a child under this subdivision does not
21 preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).

22 **SECTION 6.** 118.162 (4) (e) of the statutes is amended to read:

23 118.162 (4) (e) The types of truancy cases to be referred to the district attorney
24 for the filing of information under s. 48.24 or 938.24 or prosecution under s. 118.15

SENATE BILL 285

1 (5) and the time periods within which the district attorney will respond to and take
2 action on the referrals.

3 **SECTION 7.** 938.13 (6) of the statutes is amended to read:

4 938.13 (6) Who is habitually truant from school, if evidence is provided by the
5 school attendance officer that the activities under s. 118.16 (5) have been completed
6 or were not required to be completed as provided in s. 118.16 (5m), except as provided
7 under s. 48.13 (5m) or 938.17 (2).

8 **SECTION 8. Initial applicability.**

9 (1) TRUANCY AS A RESULT OF PARENTAL NEGLECT. This act first applies to a child
10 who is truant, as defined in section 48.02 (18m) of the statutes, as created by this act,
11 from school during the 2006-07 school year.

12 (END)