

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU


RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 03/26/2009 (Per: PG)




 Appendix A ... Part 10 of 10


(12)

 The 2009 drafting file for LRB-1241/1

has been copied/added to the drafting file for

2009 LRB-2456

 The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

 This cover sheet was added to rear of the original 2009 drafting file. The drafting file was then returned, intact, to its folder and filed.

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1 115.42 (1) (a) 2. The person is licensed as a teacher by the state superintendent
2 or employed as a teacher in a private school or tribal school located in this state.

3 **SECTION 58.** 115.42 (2) (a) 2. of the statutes is amended to read:

4 115.42 (2) (a) 2. The person maintains his or her license as a teacher issued by
5 the state superintendent or remains employed in a private school or tribal school
6 located in this state.

NOTE: Includes teachers employed at a tribal school as those eligible for grants if they are certified by the National Board for Professional Teaching Standards or are licensed by DPI as a master educator and meet other criteria.

7 **SECTION 59.** 115.52 (3) (b) 1. of the statutes is amended to read:

8 115.52 (3) (b) 1. Provide evaluation services to assist local educational agencies,
9 cooperative educational service agencies, county children with disabilities education
10 boards, private schools, tribal schools, and others.

11 **SECTION 60.** 115.52 (3) (b) 2. of the statutes is amended to read:

12 115.52 (3) (b) 2. Provide technical assistance and consultation services to local
13 educational agencies, cooperative educational service agencies, county children with
14 disabilities education boards, private schools, tribal schools, and others.

15 **SECTION 61.** 115.52 (3) (b) 10. of the statutes is amended to read:

16 115.52 (3) (b) 10. Rent or lease technological materials and assistive technology
17 devices, as defined in s. 115.76 (1), to local educational agencies, cooperative
18 educational service agencies, county children with disabilities education boards, and
19 private schools, and tribal schools.

NOTE: Includes tribal schools with those groups to which the Wisconsin Educational Services Program for the Deaf and Hard of Hearing may provide the services specified.

20 **SECTION 62.** 115.525 (3) (b) 2. of the statutes is amended to read:

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1 115.525 (3) (b) 2. Provide technical assistance and consultation services to
2 entities such as local educational agencies, cooperative educational service agencies,
3 county children with disabilities education boards ~~and~~, private schools, and tribal
4 schools.

NOTE: Includes tribal schools with those groups to which the Wisconsin Center for the Blind and Visually Impaired may provide technical assistance and consultation services.

5 **SECTION 63.** 116.01 of the statutes is amended to read:

6 **116.01 Purpose.** The organization of school districts in Wisconsin is such that
7 the legislature recognizes the need for a service unit between the school district and
8 the state superintendent. The cooperative educational service agencies are designed
9 to serve educational needs in all areas of Wisconsin by serving as a link both between
10 school districts and between school districts and the state. Cooperative educational
11 service agencies may provide leadership, coordination, and education services to
12 school districts, University of Wisconsin System institutions, and technical colleges.
13 Cooperative educational service agencies may facilitate communication and
14 cooperation among all public ~~and~~, private, and tribal schools, and all public and
15 private agencies and organizations, that provide services to pupils.

NOTE: Authorizes CESAs to facilitate communication and cooperation among public, private, and tribal schools, agencies, and organizations that provide services to pupils.

16 **SECTION 64.** 116.032 (1) and (3) (a) (intro.) of the statutes are amended to read:

17 116.032 (1) Subject to subs. (2) to (5), for the purpose of providing services to
18 pupils, a board of control may contract with school districts, University of Wisconsin
19 System institutions, technical college district boards, private schools, tribal schools,
20 and agencies or organizations that provide services to pupils. A board of control may

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1 also contract with one or more school boards to operate a charter school under s.
2 118.40 (3) (c).

3 (3) (a) (intro.) A board of control may contract with a private school, tribal
4 school, or private agency or organization to provide a service or program to that
5 private school, tribal school, or private agency or organization only if all of the
6 following apply:

NOTE: Subject to certain conditions, authorizes a CESA to contract with a tribal
school.

7 **SECTION 65.** 118.025 of the statutes is amended to read:

8 **118.025 Arbor day observance.** ~~A school~~ The principal of a public, private,
9 or tribal school may request one free tree provided from state forest nurseries by the
10 department of natural resources under s. 28.06 for each 4th grade pupil in the school
11 for planting in conjunction with an annual observance and celebration of arbor day.

NOTE: Specifies that tribal schools may request trees from the state forest nursery
for Arbor Day observance.

12 **SECTION 66.** 118.07 (3) of the statutes is amended to read:

13 118.07 (3) The department shall make available to school districts, private
14 schools, tribal schools, and charter schools information about meningococcal disease,
15 including the causes and symptoms of the disease, how it is spread, and how to obtain
16 additional information about the disease and the availability, effectiveness, and
17 risks of vaccinations against the disease. The department may do so by posting the
18 information on its Internet site. At the beginning of the 2006-07 to 2011-12 school
19 years, each school board and the governing body of each private school and each
20 charter school shall provide the parents and guardians of pupils enrolled in grades
21 6 to 12 in the school district or school with the information. At the beginning of the
22 2012-13 school year and each school year thereafter, each school board and the

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1 governing body of each private school and each charter school shall provide the
2 parents and guardians of pupils enrolled in grade 6 in the school district or school
3 with the information.

NOTE: Requires DPI to provide information to tribal schools about meningococcal disease. However, in contrast to requirements imposed on public, private, and charter schools, the bill does not require that tribal schools provide the information to parents and guardians of pupils.

4 **SECTION 67.** 118.08 (1) of the statutes is amended to read:

5 118.08 (1) On any street or highway which borders the grounds of any public
6 ~~or, private, or tribal~~ school in which school is held for a term of not less than 6 months,
7 the authority in charge of the maintenance of the street or highway shall erect black
8 and yellow "school" warning signs. The authority may also designate school
9 crossings across any street or highway, whether or not the street or highway borders
10 on the grounds of a school.

NOTE: Requires the authority in charge of a street or highway to erect school warning signs, including signs for tribal schools.

11 **SECTION 68.** 118.125 (2) (n) of the statutes is amended to read:

12 118.125 (2) (n) For the purpose of providing services to a pupil before
13 adjudication, a school board may disclose pupil records to a law enforcement agency,
14 district attorney, city attorney, corporation counsel, agency, as defined in s. 938.78
15 (1), intake worker under s. 48.067 or 938.067, court of record, municipal court,
16 private school, or another school board if disclosure is pursuant to an interagency
17 agreement and the person to whom the records are disclosed certifies in writing that
18 the records will not be disclosed to any other person except as permitted under this
19 subsection. For the purpose of providing services to a pupil before adjudication, a
20 school board may disclose pupil records to a tribal school if disclosure is pursuant to
21 an agreement between the school board and the governing body of the tribal school

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1 and if the school board determines that enforceable protections are provided by a
2 tribal school policy or tribal law that requires the tribal school official to whom the
3 records are disclosed not to disclose the records to any other person except as
4 permitted under this subsection.

NOTE: Current law provides that, for the purpose of providing services to a pupil before adjudication, a school board may disclose pupil records to certain entities, including a private school, if disclosure is pursuant to an interagency agreement and the person to whom records are disclosed certifies that the records will not be disclosed to any other person except as permitted under s. 118.125 (2), stats. This SECTION permits a school board to disclose pupil records to a tribal school under this provision if disclosure is pursuant to an agreement between the school board and the governing body of the tribal school and if the school board determines that enforceable protections are provided by a tribal school policy or tribal law that requires the tribal school official to whom the records are disclosed not to disclose the records to any other person except as permitted under s. 118.125 (2), stats.

5 **SECTION 69.** 118.125 (4) of the statutes is amended to read:

6 118.125 (4) TRANSFER OF RECORDS. Within 5 working days, a school district shall
7 transfer to another school, including a private or tribal school, or school district all
8 pupil records relating to a specific pupil if the transferring school district has
9 received written notice from the pupil if he or she is an adult or his or her parent or
10 guardian if the pupil is a minor that the pupil intends to enroll in the other school
11 or school district or written notice from the other school or school district that the
12 pupil has enrolled or from a court that the pupil has been placed in a juvenile
13 correctional facility, as defined in s. 938.02 (10p), or a secured residential care center
14 for children and youth, as defined in s. 938.02 (15g). In this subsection, "school" and
15 "school district" include any juvenile correctional facility, secured residential care
16 center for children and youth, adult correctional institution, mental health institute,
17 or center for the developmentally disabled, that provides an educational program for
18 its residents instead of or in addition to that which is provided by public and, private,
19 and tribal schools.

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NOTE: Clarifies that, under current law, the requirement that a school district transfer records to a school includes a requirement that a school district transfer records to a tribal school. This SECTION also adds a reference to tribal schools in referring to a center for the developmentally disabled that provides an educational program directly or in addition to that provided by a tribal school.

1 **SECTION 70.** 118.127 (2) of the statutes is amended to read:

2 118.127 (2) A school district ~~or~~, private school, or tribal school may disclose
3 information from law enforcement officers' records obtained under s. 938.396 (1) (c)
4 3. only to persons employed by the school district who are required by the department
5 under s. 115.28 (7) to hold a license, to persons employed by the private school or
6 tribal school as teachers, and to other school district ~~or~~, private school, or tribal school
7 officials who have been determined by the school board or governing body of the
8 private school or tribal school to have legitimate educational interests, including
9 safety interests, in that information. In addition, if that information relates to a
10 pupil of the school district ~~or~~, private school, or tribal school, the school district ~~or~~,
11 private school, or tribal school may also disclose that information to those employees
12 of the school district ~~or~~, private school, or tribal school who have been designated by
13 the school board or governing body of the private school or tribal school to receive that
14 information for the purpose of providing treatment programs for pupils enrolled in
15 the school district ~~or~~, private school, or tribal school. A school district may not use
16 law enforcement officers' records obtained under s. 938.396 (1) (c) 3. as the sole basis
17 for expelling or suspending a pupil or as the sole basis for taking any other
18 disciplinary action, including action under the school district's athletic code, against
19 a pupil.

NOTE: This amendment relates to the amendment to s. 938.396 (1) (c) 3., below. If law enforcement records are disclosed to a tribal school under that provision, the amendment to s. 118.127 (2), stats., imposes duties on the tribal school that are the same as those duties imposed on a private school that receives such information, namely, limiting to whom the tribal school may disclose the information. (The amendment to s. 938.396 (1) (c) 3., stats., below, specifies that the law enforcement agency policy must specify that the law enforcement agency cannot provide information under s. 938.396 (1)

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(c) 3., stats., to a tribal school unless the governing body of the tribal school agrees that the information will be used by the tribal school in the same manner as public and private schools as provided under s. 118.127 (2), stats.)

1 **SECTION 71.** 118.145 (3) and (4) of the statutes are amended to read:

2 118.145 (3) If the superintendent of a private school or of a tribal school files
3 with the department the course of study for elementary grades prescribed by such
4 school and if such course of study is substantially equivalent to the course of study
5 prepared for elementary grades by the department, a certificate or diploma or other
6 written evidence issued by the superintendent of the private school or tribal school
7 showing that the pupil has completed such course of study shall entitle the pupil to
8 admission to a public high school. The certificate or diploma or a certified copy
9 thereof or a certified copy of a list of graduates shall be filed with the school district
10 clerk of the school district operating the high school.

11 (4) The school board of a school district operating high school grades shall allow
12 a pupil enrolled in a private school, a pupil enrolled in a tribal school, or a pupil
13 enrolled in a home-based educational program, who has met the standards for
14 admission to high school under sub. (1), to take up to 2 courses during each school
15 semester if the pupil resides in the school district in which the public school is located
16 and if the school board determines that there is sufficient space in the classroom.

NOTE: Permits a tribal school to file with DPI information about the elementary school course of study which entitles a pupil having completed that course of study to be admitted to a public high school. Also permits a tribal school pupil who has met the standards for admission to high school to take up to two courses each semester at a public high school in the school district in which the pupil resides if the school board determines that there is sufficient space in the classroom. (Under s. 121.004 (7) (e), stats., public schools receive some equalization aid for providing this instruction; under s. 121.05 (1) (a) 12., stats., the number of these pupils is included in the annual school district report; and under s. 121.54 (2) (c), stats., a school district may elect, but is not required, to provide transportation for pupils under s. 118.145 (4), stats.)

17 **SECTION 72.** 118.15 (1) (a) of the statutes is amended to read:

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1 118.15 (1) (a) Except as provided under pars. (b) to (d) and (g) and sub. (4),
2 unless the child is excused under sub. (3) or has graduated from high school, any
3 person having under control a child who is between the ages of 6 and 18 years shall
4 cause the child to attend school regularly during the full period and hours, religious
5 holidays excepted, that the public ~~or~~, private, or tribal school in which the child
6 should be enrolled is in session until the end of the school term, quarter or semester
7 of the school year in which the child becomes 18 years of age.

NOTE: Current law does not clearly provide that attendance at a tribal school satisfies the compulsory school attendance laws. This SECTION explicitly refers to attendance at a tribal school.

The bill does not treat tribal schools similarly to private schools under the compulsory school attendance laws in that private schools are required to: (1) keep records, including: the dates school is held, the names and ages of pupils, the names and addresses of parents of the pupils, and the dates pupils were present at school; and (2) make that information available to the school board's school attendance officer. The bill does not require tribal schools to do so.

8 **SECTION 73.** 118.15 (1) (d) 4. of the statutes is amended to read:

9 118.15 (1) (d) 4. Enrollment in any nonsectarian private school or program, or
10 tribal school, located in the school district in which the child resides, which complies
11 with the requirements of 42 USC 2000d. Enrollment of a child under this subdivision
12 shall be pursuant to a contractual agreement ~~which~~ under s. 121.78 (5) that provides
13 for the payment of the child's tuition by the school district.

NOTE: Under current law, a child's parent or the child may request that the school board provide program or curriculum modifications, including several items specified in the statutes, including a request to attend a private school, rather than the public school. The school board then decides the matter. This SECTION permits a curriculum modification to be requested to attend a tribal school.

14 **SECTION 74.** 118.153 (1) (b) of the statutes is amended to read:

15 118.153 (1) (b) "Dropout" means a child who ceased to attend school, does not
16 attend a public ~~or~~, private, or tribal school, technical college, or home-based private

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1 educational program on a full-time basis, has not graduated from high school, and
2 does not have an acceptable excuse under s. 118.15 (1) (b) to (d) or (3).

NOTE: Exempts a child who attends a tribal school from the definition of "dropout" in the statute for children at risk of not graduating from high school programs. That definition is used by cross-reference in several other statutes.

The bill does not amend s. 118.163, stats., relating to municipal truancy and school dropout ordinances. However, the effect of the amendments noted above that include tribal schools will affect s. 118.163, stats.

3 **SECTION 75.** 118.16 (2) (e) of the statutes is amended to read:

4 118.16 (2) (e) Shall Except as provided in par. (f), shall have access to
5 information regarding the attendance of any child between the ages of 6 and 18 who
6 is a resident of the school district or who claims or is claimed to be in attendance at
7 a private school located in the school district.

8 **SECTION 76.** 118.16 (2) (f) of the statutes is created to read:

9 118.16 (2) (f) Shall request information regarding the attendance of any child
10 between the ages of 6 and 18 who is a resident of the school district and who claims
11 or is claimed to be in attendance at a tribal school, or who is not a resident of the
12 school district and who claims or is claimed to be in attendance at a tribal school
13 located in the school district.

NOTE: As part of the school attendance enforcement statute, current law requires private schools to keep a record containing certain information about pupils, including their attendance. Current law also specifies that a school attendance officer must have access to this information at all reasonable times. [s. 118.16 (2) (e) and (3), stats.] This SECTION requires a school attendance officer to request information about the attendance of a child between the ages of 6 and 18 who: (a) is a resident of the school district and claims or is claimed to be attending a tribal school; or (b) is not a resident of the school district but claims or is claimed to be attending a tribal school located in the school district. The bill does not require the tribal school to keep or provide the information to the school attendance officer.

14 **SECTION 77.** 118.162 (1) (am) and (m) of the statutes are created to read:

15 118.162 (1) (am) A representative from each tribal school in the county,
16 designated by the governing body of the tribal school that he or she represents, who

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1 may be a member of the tribal school governing body, school administrator, teacher,
2 pupil services professional, or parent of a child enrolled in that tribal school.

3 (m) A parent of a pupil enrolled in a tribal school located in the county, who
4 resides in the county, designated by the county board.

NOTE: Adds to the county committee that advises on school districts' truancy plans:
(1) a representative of each tribal school in the county; and (2) a parent of a tribal school
pupil. The latter provision is modeled after the provision for a parent of a private school
pupil being appointed to the county committee.

5 **SECTION 78.** 118.255 (2) of the statutes is amended to read:

6 118.255 (2) (a) If a school board, cooperative educational service agency, or
7 county children with disabilities education board provides physical or mental health
8 treatment services to its pupils, it may also provide such services within the private
9 school or tribal school facilities to those private school or tribal school pupils who are
10 referred to the public school board, cooperative educational service agency, or county
11 children with disabilities education board by the administrator of a private school
12 or tribal school for evaluation for possible servicing. There shall be no charge for
13 health treatment services provided to any pupils unless public school students or
14 their parents are charged for similar services. For purposes of state aid, as it is
15 provided under s. 115.88 to the public school district, for the health treatment service
16 program, private school and tribal school pupils receiving such health treatment
17 services shall be counted among the pupils of the public school district receiving such
18 services, although each child may receive health treatment services within the
19 child's own school facilities, whether public ~~or~~, private, or tribal.

20 (b) A school board, cooperative educational service agency, or county children
21 with disabilities education board providing services under this section may enter
22 into agreements with the administrator of a private school or tribal school on the
23 scheduling, space, and other necessary arrangements for performance of such health

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1 treatment services. A school board, cooperative educational service agency, or county
2 children with disabilities education board shall not pay any private school or tribal
3 school for any services or facilities provided under this section. Control of the health
4 treatment services program shall rest with the public school board, cooperative
5 educational service agency, or county children with disabilities education board.

6 (c) A school board, cooperative educational service agency, or county children
7 with disabilities education board may provide health treatment services only within
8 private school or tribal school facilities located within the boundaries of the school
9 district, cooperative educational service agency, or county.

NOTE: Permits school boards, CESAs, and county children with disabilities education boards to provide health treatment services to tribal school pupils at tribal schools under certain circumstances. One of the required circumstances is that the pupil be referred by the tribal school administrator.

10 **SECTION 79.** 118.257 (1) (d) of the statutes is amended to read:

11 118.257 (1) (d) "School" means a public, parochial ~~or~~, private, or tribal school
12 which provides an educational program for one or more grades between grades 1 and
13 12 and which is commonly known as an elementary school, middle school, junior high
14 school, senior high school, or high school.

NOTE: Current law exempts from liability certain staff at a private school for removing a pupil from school premises or from school-sponsored activities for suspicion of certain activities relating to controlled substances. Changing this definition has the effect of extending to certain tribal school officials the same exemption from liability under state law. It also has the effect of adding tribal schools to the definition of school in s. 134.66 (1) (h), stats., which cross-references this definition. This would prohibit a retailer from placing a vending machine that dispenses cigarettes within 500 feet of a tribal school.

Extending the immunity protections under state law to certain tribal school staff does not affect liability under tribal law or whatever right such staff may have to raise a defense of tribal sovereign immunity if sued.

15 **SECTION 80.** 118.29 (2) (a) (intro.) and 3. and (b) and (3) of the statutes are
16 amended to read:

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1 118.29 (2) (a) (intro.) Notwithstanding chs. 441, 447, 448, and 450, a school bus
2 operator validly authorized under ss. 343.12 and 343.17 (3) (c) to operate the school
3 bus he or she is operating, any school employee or volunteer, county children with
4 disabilities education board employee or volunteer or cooperative educational
5 service agency employee or volunteer authorized in writing by the administrator of
6 the school district, the board or the agency, respectively, or by a school principal, and
7 any private school employee or volunteer authorized in writing by a private school
8 administrator or private school principal, and any tribal school employee or
9 volunteer authorized in writing by a tribal school administrator or tribal school
10 principal:

11 3. Is Subject to sub. (4m), is immune from civil liability for his or her acts or
12 omissions in administering a drug or prescription drug to a pupil under subd. 1., 2.,
13 2m., or 2r. unless the act or omission constitutes a high degree of negligence. This
14 subdivision does not apply to health care professionals.

15 (b) Any Subject to sub. (4m), any school district administrator, county children
16 with disabilities education board administrator, cooperative educational service
17 agency administrator, public ~~or~~, private, or tribal school principal, or private or tribal
18 school administrator who authorizes an employee or volunteer to administer a drug
19 or prescription drug to a pupil under par. (a) is immune from civil liability for the act
20 of authorization unless it constitutes a high degree of negligence.

21 (3) EMERGENCY CARE; CIVIL LIABILITY EXEMPTION. Any school bus operator validly
22 authorized under ss. 343.12 and 343.17 (3) (c) to operate the school bus he or she is
23 operating and any public ~~or~~, private, or tribal school employee or volunteer, county
24 children with disabilities education board employee or volunteer, or cooperative
25 educational service agency employee or volunteer, other than a health care

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1 professional, who in good faith renders emergency care to a pupil of a public or,
2 private, or tribal school is immune from civil liability for his or her acts or omissions
3 in rendering such emergency care. The immunity from civil liability provided under
4 this subsection is in addition to and not in lieu of that provided under s. 895.48 (1).

5 **SECTION 81.** 118.29 (4m) of the statutes is created to read:

6 118.29 (4m) APPLICABILITY TO TRIBAL SCHOOL EMPLOYEES. The immunity under
7 sub. (2) applies to a tribal school employee, administrator, or volunteer only if the
8 governing body of the tribal school has adopted a written policy that complies with
9 sub. (4).

NOTE: Current law, in pertinent part, permits private school employees and volunteers to administer certain drugs to pupils under certain circumstances and exempts them from liability under state law for doing so. Current law also requires the governing board of a private school to adopt a written policy governing such administration. This SECTION permits tribal school employees and volunteers to do so in the same situations and extends to them the same exemptions from liability under state law if the governing body of the tribal school has adopted a written policy that complies with the requirements for a written policy that apply to private schools. This SECTION also extends to tribal school employees and volunteers the same exemption from liability under state law when they are rendering emergency care that applies to certain others, including private school employees and volunteers.

Extending the immunity protections under state law to tribal school employees and volunteers does not affect liability under tribal law or whatever right tribal school employees and volunteers may have to raise a defense of tribal sovereign immunity if sued.

10 **SECTION 82.** 118.291 (1g) (b) of the statutes is amended to read:

11 118.291 (1g) (b) "School" includes a public ~~and a~~, private, and tribal school.

12 **SECTION 83.** 118.291 (2) (c) of the statutes is created to read:

13 118.291 (2) (c) No tribal school or tribal school employee is civilly liable for
14 injury to a pupil caused by a tribal school employee who prohibits a pupil from using
15 an inhaler because of the employee's good faith belief that the requirements of sub.
16 (1r) had not been satisfied or who allows a pupil to use an inhaler because of the
17 employee's good faith belief that the requirements of sub. (1r) had been satisfied.

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NOTE: Current law permits a pupil with asthma to use an inhaler at school under circumstances when the pupil has provided the school principal with written approval of the pupil's physician and parent. Current statutes provide immunity under state law for school employees who permit inhaler use because of a good faith belief that these conditions have been satisfied or who prohibit use because of a good faith belief that these conditions have not been satisfied.

This SECTION extends the immunity to tribal school employees under the same conditions. This extension of immunity protections under state law does not affect liability under tribal law or whatever right a tribal school employee may have to raise a defense of tribal sovereign immunity if sued.

1 **SECTION 84.** 118.295 of the statutes is amended to read:

2 **118.295 Suicide intervention; civil liability exemption.** Any school
3 board, private school, tribal school, county children with disabilities education
4 board, or cooperative educational service agency, and any officer, employee, or
5 volunteer thereof, who in good faith attempts to prevent suicide by a pupil is immune
6 from civil liability for his or her acts or omissions in respect to the suicide or
7 attempted suicide. The civil liability immunity provided in this section is in addition
8 to and not in lieu of that provided under s. 895.48 (1).

NOTE: Current law, in pertinent part, specifies that private school officers, employees, and volunteers who in good faith attempt to prevent suicide by a pupil are exempt under state law from civil liability for their acts or omissions. This SECTION extends the same exemptions from liability under state law to tribal school officers, employees, and volunteers.

Extending the immunity protections to tribal school officers, employees, and volunteers does not affect liability under tribal law or whatever right tribal school officers, employees, and volunteers may have to raise a defense of tribal sovereign immunity if sued.

9 **SECTION 85.** 120.18 (1) (a) 2. and (s) of the statutes are amended to read:

10 **120.18 (1) (a) 2.** Adding the number of persons under this paragraph who were
11 residents of the school district and were enrolled in the school district on the 3rd
12 Friday of September of the previous school year; plus the number of persons under
13 this paragraph who were residents of the school district and who were enrolled in
14 private schools, tribal schools, home-based private educational programs, or other
15 school districts on the 3rd Friday of September of the previous school year; plus the

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1 number or an estimate of the number of those persons under this paragraph who
2 were residents of the school district and not enrolled in the school district, private
3 schools, tribal schools, home-based private educational programs, or other school
4 districts on the 3rd Friday of September of the previous school year.

5 (s) Such other facts and statistics in relation to the ~~schools~~, public or, private
6 or tribal schools, in the school district as the department requires.

NOTE: In the annual school district report submitted by the school district clerk to
DPI, this SECTION requires inclusion of the above information about tribal schools and
tribal school pupils. (This information can be included only if the tribal school voluntarily
provides the information to the school district.)

7 **SECTION 86.** 121.05 (1) (a) 7. of the statutes is amended to read:

8 121.05 (1) (a) 7. Pupils enrolled in a nonsectarian private school or program or
9 tribal school under s. 118.15 (1) (d) 4.

NOTE: Current law requires that the pupil membership report (which is used to
calculate state aid to school districts) include pupils enrolled in a nonsectarian private
school or program if the school district is paying tuition for the pupil to attend such a
private school or program because of a curriculum modification agreed to by the school
board. This SECTION adds tribal schools to reflect the proposed amendment to s. 118.15
(1) (d) 4., stats., above.

10 **SECTION 87.** 121.76 (1) (a) of the statutes is amended to read:

11 121.76 (1) (a) "Agency of service" means a school board, board of control of a
12 cooperative educational service agency, county children with disabilities education
13 board, or governing body of a nonsectarian private school or, university model school,
14 or tribal school, which provides services for which tuition may be charged.

NOTE: Current law defines "agency of service" for purposes of subch. V, ch. 121,
stats., which describes various circumstances under which a pupil may attend a school
other than a public school in the school district of residence, how tuition and aid are
calculated if the school district is paying for it, and how tuition is otherwise calculated.
The entity providing the services is the agency of service. This SECTION adds tribal schools
to this definition. As a result of other provisions of this bill, a tribal school may be
providing the services due to curriculum modification or court-ordered educational
placement.

15 **SECTION 88.** 121.76 (2) (c) of the statutes is amended to read:

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1 121.76 (2) (c) The agency of service, other than a tribal school, shall rebate a
2 proportional share of state or federal aid received for pupils for whom it received
3 tuition. The rebate shall be paid to the agency or person who paid the tuition within
4 30 days of its receipt by the agency of service.

NOTE: Under current law, if an agency of service, including a private school, receives tuition from a school district, it must rebate a proportional share of any federal or state aid it received. Because a tribal school could assert a defense of sovereign immunity in any lawsuit to collect a rebate, this SECTION does not require a tribal school to rebate such aid. Rather, the bill provides in s. 121.78 (4) and (5), stats., below, that federal and state aid are subtracted in determining the amount of tuition paid to a tribal school that is providing either court-ordered educational placement under an agreement with the school district or curriculum modification under an agreement with the school district.

5 **SECTION 89.** 121.78 (4) of the statutes is amended to read:

6 121.78 (4) COURT-ORDERED EDUCATIONAL SERVICES. If a pupil is receiving
7 educational services as the result of a court order under s. 48.345 (12) or 938.34 (7d),
8 the school board of the school district in which the pupil resided at the time of
9 issuance of the court order shall pay tuition for the pupil. A school board paying
10 tuition for a pupil under this subsection shall count the pupil as 1.0 pupil in
11 membership for general aid under subch. II. The school board shall pay each agency
12 specified under s. 48.345 (12) (a) 2. to 4. or 938.34 (7d) (a) 2. to 4., for each full-time
13 equivalent pupil served by the agency, an amount equal to at least 80% of the average
14 per pupil cost for the school district. No state aid may be paid to the technical college
15 district for pupils attending the technical college under s. 48.345 (12) (a) 4. or 938.34
16 (7d) (a) 4. The minimum amount paid by a school board to a tribal school specified
17 under s. 48.345 (12) (a) 5. or 938.34 (7d) (a) 5., for each full-time equivalent pupil
18 served by the tribal school, shall be determined by multiplying the average per pupil
19 cost for the school district by 0.8 and then subtracting any federal or state aid
20 received by the tribal school for the pupil.

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NOTE: Amends this provision to reflect the amendments which add s. 48.345 (12) (a) 5., stats., above, and s. 938.34 (7d) (a) 5., stats., below, which permit a court to require in a CHIPS, JIPS, or delinquency dispositional order an educational placement at a tribal school that must be paid for by the school district. Under current law, a school board must pay an agency providing such services, other than a technical college, at least 80% of the average per pupil cost for the school district. This is the minimum amount that must be specified in the contract between the school board and agency. The agency of service must rebate all federal and state aid received for that pupil under s. 121.76 (2) (c), stats.

This SECTION specifies that if a tribal school is providing a court-ordered educational placement for a pupil under an agreement with the school district, the *minimum* amount paid by the school board to the tribal school must be determined by multiplying the average per pupil cost of the school district times 0.80 and then subtracting all federal and state aid received by the tribal school for that pupil.

1 **SECTION 90.** 121.78 (5) of the statutes is created to read:

2 121.78 (5) ALTERNATIVE PROGRAMS. If a pupil is placed in an alternative program
3 under s. 118.15 (1) (d) 4., the school board shall pay tuition for the pupil to the agency
4 of service pursuant to a contractual agreement between the school board and the
5 agency of service. If the agency of service is a tribal school, any federal or state aid
6 received by the tribal school for the pupil shall be subtracted in determining the
7 amount of aid to be paid.

NOTE: This SECTION provides that, if a school board approves a curriculum modification allowing a pupil to attend a nonsectarian private school or tribal school at school district expense and pursuant to an agreement between the school board and the private school or tribal school, the school board pays tuition pursuant to an agreement with the private school or tribal school. (Current law included this requirement with respect to private schools in s. 118.15 (1) (d) 4., stats.; the bill adds tribal schools and cross-references the requirement with respect to private schools.) This SECTION requires such an agreement with a tribal school to provide for subtracting the amount of federal and state aid received for the pupil in determining the amount of tuition paid by the school district for the pupil to the tribal school. The bill is silent with respect to private schools in this regard, as private schools are required to rebate any such payment under s. 121.76 (2) (c), stats.

8 **SECTION 91.** 125.09 (2) (a) 2. of the statutes is amended to read:

9 125.09 (2) (a) 2. "School" means a public, school, a parochial or private school,
10 or a tribal school, as defined in s. 115.001 (15m), which provides an educational
11 program for one or more grades between grades 1 and 12 and which is commonly
12 known as an elementary school, middle school, junior high school, senior high school,
13 or high school.

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NOTE: Includes tribal school in the definition of "school" for purposes of the statute that restricts possession of alcohol beverages on school premises. Violation of this statute or an ordinance adopted in conformity with this statute has consequences under various statutes, with special provisions applying to juveniles.

1 **SECTION 92.** 125.68 (3) (intro.) of the statutes is amended to read:

2 125.68 (3) **RESTRICTIONS ON LOCATION.** (intro.) No "Class A" or "Class B" license
3 or permit may be issued for premises the main entrance of which is less than 300 feet
4 from the main entrance of ~~any a~~ public or parochial school, tribal school, as defined
5 in s 115.001 (15m), hospital, or church, except that this prohibition may be waived
6 by a majority vote of the governing body of the municipality in which the premises
7 is located. The distance shall be measured by the shortest route along the highway
8 from the main entrance of the school, church, or hospital to the main entrance of the
9 premises covered by the license or permit. The prohibition in this subsection does
10 not apply to any of the following:

NOTE: Includes tribal schools in the statute that generally restricts the location of the premises for which a Class A or Class B liquor license is issued from being within 300 feet from the main entrance of a school.

11 **SECTION 93.** 252.15 (1) (ab) and (2) (a) 7. a. of the statutes are amended to read:

12 252.15 (1) (ab) "Affected person" means an emergency medical technician; first
13 responder; fire fighter; peace officer; correctional officer; person who is employed at
14 a juvenile correctional facility, as defined in s. 938.02 (10p), or a secured residential
15 care center for children and youth, as defined in s. 938.02 (15g); state patrol officer;
16 jailer, keeper of a jail, or person designated with custodial authority by the jailer or
17 keeper; health care provider; employee of a health care provider; staff member of a
18 state crime laboratory; social worker; or employee of a school district, cooperative
19 educational service agency, charter school, private school, tribal school, as defined
20 in s. 115.001 (15m), the Wisconsin Educational Services Program for the Deaf and
21 Hard of Hearing, or the Wisconsin Center for the Blind and Visually Impaired.

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1 (2) (a) 7. a. If all of the conditions under subd. 7. ai. to c. are met, an emergency
2 medical technician; first responder; fire fighter; peace officer; correctional officer;
3 person who is employed at a juvenile correctional facility, as defined in s. 938.02
4 (10p), or a secured residential care center for children and youth, as defined in s.
5 938.02 (15g); state patrol officer; jailer, keeper of a jail, or person designated with
6 custodial authority by the jailer or keeper, during the course of providing care or
7 services to an individual; a peace officer, correctional officer, state patrol officer,
8 jailer, or keeper of a jail, or person designated with custodial authority by the jailer
9 or keeper, while searching or arresting an individual or while controlling or
10 transferring an individual in custody; a health care provider or an employee of a
11 health care provider, during the course of providing care or treatment to an
12 individual or handling or processing specimens of body fluids or tissues of an
13 individual; a staff member of a state crime laboratory, during the course of handling
14 or processing specimens of body fluids or tissues of an individual; social worker; or
15 an employee of a school district, cooperative educational service agency, charter
16 school, private school, tribal school, as defined in s. 115.001 (15m), the Wisconsin
17 Educational Services Program for the Deaf and Hard of Hearing, or the Wisconsin
18 Center for the Blind and Visually Impaired, while performing employment duties
19 involving an individual; who is significantly exposed to the individual may subject
20 the individual's blood to a test or a series of tests for the presence of HIV, antigen or
21 nonantigenic products of HIV or an antibody to HIV and may receive disclosure of
22 the results.

NOTE: While the results of HIV tests are generally confidential, this amendment includes tribal school employees in the category of persons who, when significantly exposed to an individual (for example, by contact with the individual's blood) may require HIV testing of the individual and receive the results of the test.

23 **SECTION 94.** 255.30 (4) of the statutes is amended to read:

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1 255.30 (4) The state superintendent of public instruction shall prepare and
2 circulate to each public and private educational institution and to each tribal school,
3 as defined in s. 115.001 (15m), in this state instructions and recommendations for
4 implementing the eye safety provisions of this section.

NOTE: Requires the state superintendent to provide information about eye safety to tribal schools, in addition to the other entities specified in current law.

5 **SECTION 95.** 301.45 (1d) (c) of the statutes is amended to read:

6 301.45 (1d) (c) "Student" means a person who is enrolled on a full-time or
7 part-time basis in any public ~~or~~ private, or tribal educational institution, including
8 a secondary school, a business, trade, technical or vocational school, or an institution
9 of higher education.

NOTE: Amends the definition of "student" for the purpose of the sex offender registration law to also include students at a tribal educational institution, which would include tribal colleges as well as tribal schools. The registration and reporting requirements apply to state residents, persons employed or carrying on a vocation in this state, and students attending school in this state.

10 **SECTION 96.** 301.46 (4) (a) 1. of the statutes is amended to read:

11 301.46 (4) (a) 1. A public or private elementary or secondary school or a tribal
12 school, as defined in s. 115.001 (15m).

NOTE: Adds tribal schools to the list of those who may request information about persons on the sex offender registry.

13 **SECTION 97.** 343.06 (1) (c) of the statutes is amended to read:

14 343.06 (1) (c) To any person under age 18 unless the person is enrolled in a
15 school program or high school equivalency program and is not a habitual truant as
16 defined in s. 118.16 (1) (a), has graduated from high school or been granted a
17 declaration of high school graduation equivalency, or is enrolled in a home-based
18 private educational program, as defined in s. 115.001 (3g), and has satisfactorily
19 completed a course in driver education in public schools approved by the department
20 of public instruction, or in technical colleges approved by the technical college system

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1 board, or in nonpublic and private schools or tribal schools, as defined in s. 115.001
2 (15m), that meet the minimum standards set by the department of public
3 instruction, or has satisfactorily completed a substantially equivalent course in
4 driver training approved by the department and given by a school licensed by the
5 department under s. 343.61, or has satisfactorily completed a substantially
6 equivalent course in driver education or training approved by another state and has
7 attained the age of 16, except as provided in s. 343.07 (1g). The department shall not
8 issue a license to any person under the age of 18 authorizing the operation of "Class
9 M" vehicles unless the person has successfully completed a basic rider course
10 approved by the department. The department may, by rule, exempt certain persons
11 from the basic rider course requirement of this paragraph. Applicants for a license
12 under s. 343.08 or 343.135 are exempt from the driver education, basic rider or driver
13 training course requirement. The secretary shall prescribe rules for licensing of
14 schools and instructors to qualify under this paragraph. The driver education course
15 shall be made available to every eligible student in the state. Except as provided
16 under s. 343.16 (1) (c) and (2) (cm) to (e), no operator's license may be issued unless
17 a driver's examination has been administered by the department.

NOTE: Allows an individual age 16 or 17 to obtain a driver's license if the individual has taken a driver training course at a tribal school if the course meets DPI minimum standards and all other license criteria are met. See the treatment of s. 115.28 (11), stats., above, and s. 343.16 (1) (c) 3., stats., below.

18 **SECTION 98.** 343.07 (1c) of the statutes is amended to read:

19 343.07 (1c) DEFINITION. In this section, "qualified instructor" means a person
20 employed by a public ~~or~~ school, private school, or tribal school, as defined in s. 115.001
21 (15m), holding an operator's license and meeting the teaching certification standards
22 of the department of public instruction or the technical college system board to teach
23 driver education; or an instructor of a school licensed under s. 343.61; or a teacher

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1 or student teacher in a driver education course for teachers conducted by an
2 institution of higher education.

NOTE: Provides that an individual meeting certain credentials and employed by a tribal school is considered to be a qualified instructor to teach a driver education course for purposes of the state driver's license statutes.

3 **SECTION 99.** 343.16 (1) (c) 3. of the statutes is amended to read:

4 343.16 (1) (c) 3. A course in driver education in nonpublic and private schools
5 or tribal schools, as defined in s. 115.001 (15m), that meets the minimum standards
6 set by the department of public instruction.

NOTE: Permits an instructor of a driver education course in a tribal school to administer part of the driver's license examination. See s. 343.06 (1) (c), stats., above.

7 **SECTION 100.** 447.06 (2) (a) 2. of the statutes is amended to read:

8 447.06 (2) (a) 2. For a school board or a governing body of a private school or
9 of a tribal school, as defined in s. 115.001 (15m).

NOTE: Current law limits where a dental hygienist may practice. This SECTION additionally permits a dental hygienist to be employed at or independently contract with a tribal school.

10 **SECTION 101.** 895.48 (1m) (a) (intro.) of the statutes is amended to read:

11 895.48 (1m) (a) (intro.) Except as provided in par. (b), any physician or athletic
12 trainer licensed under ch. 448, chiropractor licensed under ch. 446, dentist licensed
13 under ch. 447, emergency medical technician licensed under s. 256.15, first
14 responder certified under s. 256.15 (8), physician assistant licensed under ch. 448,
15 registered nurse licensed under ch. 441, or a massage therapist or bodyworker issued
16 a certificate under ch. 460 who renders voluntary health care to a participant in an
17 athletic event or contest sponsored by a nonprofit corporation, as defined in s.
18 66.0129 (6) (b), a private school, as defined in s. 115.001 (3r), a tribal school, as
19 defined in s. 115.001 (15m), a public agency, as defined in s. 46.856 (1) (b), or a school,

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1 as defined in s. 609.655 (1) (c), is immune from civil liability for his or her acts or
2 omissions in rendering that care if all of the following conditions exist:

NOTE: Current law specifies, in pertinent part, that certain health care providers who render free health care at an athletic event at a private school are immune from liability for acts and omissions. This SECTION extends the immunity under state law if care is rendered at a tribal school's athletic event. Adding immunity under this provision also permits the health care provider who has been significantly exposed to the emergency victim to get the results of HIV tests. Extending immunity under state law does not affect liability under tribal law or whatever right a person may have to raise a defense of tribal sovereign immunity if sued.

3 **SECTION 102.** 895.515 (2) of the statutes is amended to read:

4 895.515 (2) Any person engaged in the sale or use of commercial equipment or
5 technology, for profit or not for profit, who donates any commercial equipment or
6 technology to a public or private elementary or secondary school, a tribal school, as
7 defined in s. 115.001 (15m), or an institution of higher education or who accepts
8 reimbursement in an amount not to exceed overhead and transportation costs for any
9 commercial equipment or technology provided to a public or private elementary or
10 secondary school, to a tribal school, or to an institution of higher education is immune
11 from civil liability for the death of or injury to an individual caused by the commercial
12 equipment or technology.

NOTE: Current law specifies, in pertinent part, that certain individuals who donate commercial equipment or technology to a private school are immune from civil liability under state law for death or injury caused by the donated equipment or technology. This SECTION extends the immunity under state law if the donation is made to a tribal school. Extending immunity under state law does not affect liability under tribal law or whatever right a person may have to raise a defense of tribal sovereign immunity if sued.

13 **SECTION 103.** 938.02 (18e) of the statutes is created to read:

14 938.02 (18e) "Tribal school" has the meaning given in s. 115.001 (15m).

15 **SECTION 104.** 938.34 (7d) (a) 5. of the statutes is created to read:

16 938.34 (7d) (a) 5. Under a contractual agreement with the school district in
17 which the child resides, an educational program provided by a tribal school.

18 **SECTION 105.** 938.34 (7d) (c) of the statutes is amended to read:

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1 938.34 (7d) (c) The court shall order the county department or licensed child
2 welfare agency responsible for supervising the juvenile to disclose to the school
3 board, technical college district board, tribal school, or private, nonprofit,
4 nonsectarian agency which is providing an educational program under par. (a) 3.
5 records or information about the juvenile, as necessary to assure the provision of
6 appropriate educational services under par. (a).

NOTE: Under current law, a delinquency dispositional order, JIPS dispositional order, or a habitual truancy ordinance violation dispositional order may include an order that a juvenile attend an educational program provided by the school district or one of several programs under contract with the school district. Current law does not include a tribal school.

SECTION 104 amends s. 938.34 (7d) (a) 5., stats., to specify that the court is permitted to order a juvenile to attend a tribal school if the school district has a contract with the tribal school for such placements. SECTION 105 amends s. 938.34 (7d) (c), stats., to require the court to order the supervising agency to disclose information to the tribal school necessary to assure the provision of appropriate educational services. Also see the treatment of ss. 48.345 (12) (a) 5. and (c) and 121.78 (4), stats., above.

7 **SECTION 106.** 938.34 (14t) of the statutes is amended to read:

8 938.34 (14t) POSSESSION OF A CONTROLLED SUBSTANCE OR CONTROLLED SUBSTANCE
9 ANALOG ON OR NEAR CERTAIN PREMISES. If the juvenile is adjudicated delinquent under
10 a violation of s. 961.41 (3g) by possessing or attempting to possess a controlled
11 substance included in schedule I or II under ch. 961, a controlled substance analog
12 of a controlled substance included in schedule I or II under ch. 961 or ketamine or
13 flunitrazepam while in or on the premises of a scattered-site public housing project,
14 as defined in s. 961.01 (20i), while in or on or otherwise within 1,000 feet of a state,
15 county, city, village, or town park, a jail or correctional facility, as defined in s. 961.01
16 (12m), a multiunit public housing project, as defined in s. 961.01 (14m), a swimming
17 pool open to members of the public, a youth center, as defined in s. 961.01 (22), or a
18 community center, while in or on or otherwise within 1,000 feet of any private, tribal,
19 or public school premises, or while in or on or otherwise within 1,000 feet of a school

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1 bus, as defined in s. 340.01 (56), the court shall require that the juvenile participate
2 for 100 hours in a supervised work program or other community service work under
3 sub. (5g).

NOTE: Current statutes provide that if a juvenile is adjudicated delinquent for possessing certain drugs on the premises of or within 1,000 feet of a school, the juvenile court must impose 100 hours of community service work for a public agency or a nonprofit charitable organization in addition to other penalties the court imposes. This SECTION specifies that the penalty enhancement also applies for possession on or within 1,000 feet of the premises of a tribal school.

4 **SECTION 107.** 938.342 (1r) of the statutes is amended to read:

5 938.342 (1r) SCHOOL ATTENDANCE CONDITION. If school attendance is a condition
6 of an order under sub. (1d) or (1g), the order shall specify what constitutes a violation
7 of the condition and shall direct the school board of the school district, or the
8 governing body of the private school, in which the person is enrolled, or shall request
9 the governing body of the tribal school in which the person is enrolled, to notify the
10 court or, if the person is under the supervision of an agency under sub. (1g) (j), the
11 agency that is responsible for supervising the person, within 5 days after any
12 violation of the condition by the person.

NOTE: Under s. 938.342 (1d) and (1g), stats., a court that determined that a juvenile violated a school truancy or habitual truancy ordinance may order the juvenile to attend school. If school attendance is required, current law requires the court to order the school board or the governing body of a private school to notify the court within five days of a violation of this condition. This SECTION requires that the court order request that a tribal school do so.

13 **SECTION 108.** 938.355 (2) (c) of the statutes is amended to read:

14 938.355 (2) (c) If school attendance is a condition of an order under par. (b) 7.,
15 the order shall specify what constitutes a violation of the condition and shall direct
16 the school board of the school district, or the governing body of the private school, in
17 which the juvenile is enrolled, or shall request the governing body of the tribal school
18 in which the juvenile is enrolled, to notify the county department that is responsible

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1 for supervising the juvenile within 5 days after any violation of the condition by the
2 juvenile.

NOTE: Under s. 938.355 (2) (b) 7., stats., a delinquency or JIPS dispositional order may state the conditions with which the juvenile must comply. If school attendance is a condition, current law requires that the order direct the school board or the governing body of a private school to notify the court within five days of a violation of this condition. This SECTION requires that the court order request that a tribal school do so.

3 **SECTION 109.** 938.396 (1) (b) 2. of the statutes is amended to read:

4 938.396 (1) (b) 2. The confidential exchange of information between a law
5 enforcement agency and officials of the public or private school attended by the
6 juvenile. A public school official who obtains information under this subdivision
7 shall keep the information confidential as required under s. 118.125, and a private
8 school official who obtains information under this subdivision shall keep the
9 information confidential in the same manner as is required of a public school official
10 under s. 118.125.

11 **SECTION 110.** 938.396 (1) (b) 2m. of the statutes is created to read:

12 938.396 (1) (b) 2m. The confidential exchange of information between a law
13 enforcement agency and officials of the tribal school attended by the juvenile if the
14 law enforcement agency determines that enforceable protections are provided by a
15 tribal school policy or tribal law that requires tribal school officials to keep the
16 information confidential in a manner at least as stringent as is required of a public
17 school official under s. 118.125.

NOTE: Under current law, subject to certain exceptions, law enforcement records relating to juveniles under ch. 938, stats. (juvenile justice code), are confidential. One of the exceptions is for the confidential exchange of information between a law enforcement agency and school officials. However, current law requires that public school officials who obtain information under this exception keep the information confidential as required in s. 118.125, stats. (relating to the confidentiality of pupil records). Current law also requires that private school officials who obtain information under this exception keep the information confidential in the same manner as is required of a public school official.

This SECTION permits a law enforcement agency to confidentially exchange information with tribal school officials if the law enforcement agency determines that a tribal school policy or tribal law provides enforceable protections that require tribal

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school officials to keep the information confidential in a manner at least as stringent as is required of public and private school officials.

1 **SECTION 111.** 938.396 (1) (c) 3. (intro.), a., c. and d. and 4. of the statutes are
2 amended to read:

3 938.396 (1) (c) 3. (intro.) ~~A law enforcement agency, on its own initiative or on~~
4 At the request of the a school district administrator of a public school district, the,
5 administrator of a private school, or administrator of a tribal school, or the designee
6 of the a school district administrator or the, private school administrator, or tribal
7 school administrator, or on its own initiative, a law enforcement agency may, subject
8 to official agency policy, provide to the school district administrator, private school
9 administrator, or tribal school administrator or designee, for use as provided in s.
10 118.127 (2), any information in its records relating to any of the following if the
11 official agency policy specifies that the information may not be provided to an
12 administrator of a tribal school or a tribal school administrator's designee unless the
13 governing body of the tribal school agrees that the information will be used by the
14 tribal school as provided in s. 118.127 (2):

15 a. The use, possession, or distribution of alcohol or a controlled substance or
16 controlled substance analog by a juvenile enrolled in the public school district ~~or,~~
17 private school, or tribal school.

18 c. An act for which a juvenile enrolled in the school district ~~or,~~ private school,
19 or tribal school was taken into custody under s. 938.19 based on a law enforcement
20 officer's belief that the juvenile was committing or had committed a violation of any
21 state or federal criminal law.

22 d. An act for which a juvenile enrolled in the public school district ~~or,~~ private
23 school, or tribal school was adjudged delinquent.

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1 4. A law enforcement agency may enter into an interagency agreement with a
2 school board, a private school, a tribal school, a social welfare agency, or another law
3 enforcement agency providing for the routine disclosure of information under subs.
4 (1) (b) 2. and 2m. and (c) 3. to the school board, private school, tribal school, social
5 welfare agency, or other law enforcement agency.

NOTE: Under current law, a law enforcement agency may, on its own initiative or on the request of a public or private school, disclose certain information to the public or private school. The school is then required to use the information as provided in s. 118.127 (2), stats., which generally prohibits disclosure except to certain individuals. The law enforcement agency may do so only subject to official agency policy.

This SECTION permits a law enforcement agency to also disclose information, on its own initiative or on request, to a tribal school but requires that the law enforcement agency policy specify that the law enforcement agency cannot provide information to a tribal school unless the governing body of the tribal school agrees that the information will be used by the tribal school in the same manner as public and private schools as provided under s. 118.127 (2), stats., above. This SECTION also permits a law enforcement agency to enter into an interagency agreement with a tribal school to disclose information under s. 938.396 (1) (b) 2m. and (c) 3., stats.

6 **SECTION 112.** 938.396 (2g) (m) of the statutes is amended to read:

7 938.396 (2g) (m) *Notification of juvenile's school.* 1. If a petition under s. 938.12
8 or 938.13 (12) is filed alleging that a juvenile has committed a delinquent act that
9 would be a felony if committed by an adult, the court clerk shall notify the school
10 board of the school district, ~~or~~ the governing body of the private school, or the
11 governing body of the tribal school in which the juvenile is enrolled or the designee
12 of the school board or governing body of the fact that the petition has been filed and
13 the nature of the delinquent act alleged in the petition. If later the proceeding on the
14 petition is closed, dismissed, or otherwise terminated without a finding that the
15 juvenile has committed a delinquent act, the court clerk shall notify the school board
16 of the school district, ~~or~~ the governing body of the private school, or tribal school in
17 which the juvenile is enrolled or the designee of the school board or governing body

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1 that the proceeding has been terminated without a finding that the juvenile has
2 committed a delinquent act.

3 2. Subject to subd. 4., if a juvenile is adjudged delinquent, within 5 days after
4 the date on which the dispositional order is entered, the court clerk shall notify the
5 school board of the school district, ~~or~~ the governing body of the private school, or the
6 governing body of the tribal school in which the juvenile is enrolled or the designee
7 of the school board or governing body of the fact that the juvenile has been
8 adjudicated delinquent, the nature of the violation committed by the juvenile, and
9 the disposition imposed on the juvenile under s. 938.34 as a result of the violation.

10 3. If school attendance is a condition of a dispositional order under s. 938.342
11 (1d) or (1g) or 938.355 (2) (b) 7., within 5 days after the date on which the dispositional
12 order is entered, the clerk of the court assigned to exercise jurisdiction under this
13 chapter and ch. 48 or the clerk of the municipal court exercising jurisdiction under
14 s. 938.17 (2) shall notify the school board of the school district, ~~or~~ the governing body
15 of the private school, or the governing body of the tribal school in which the juvenile
16 is enrolled or the designee of the school board or governing body of the fact that the
17 juvenile's school attendance is a condition of a dispositional order.

18 4. If a juvenile is found to have committed a delinquent act at the request of or
19 for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been
20 a felony under chs. 939 to 948 or 961 if committed by an adult and is adjudged
21 delinquent on that basis, within 5 days after the date on which the dispositional
22 order is entered, the court clerk shall notify the school board of the school district,
23 ~~or~~ the governing body of the private school, or the governing body of the tribal school
24 in which the juvenile is enrolled or the designee of the school board or governing body
25 of the fact that the juvenile has been adjudicated delinquent on that basis, the nature

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1 of the violation committed by the juvenile, and the disposition imposed on the
2 juvenile under s. 938.34 as a result of that violation.

3 5. In addition to the disclosure made under subd. 2. or 4., if a juvenile is
4 adjudicated delinquent and as a result of the dispositional order is enrolled in a
5 different school district ~~or~~, private school, or tribal school from the school district ~~or~~,
6 private school, or tribal school in which the juvenile is enrolled at the time of the
7 dispositional order, the court clerk, within 5 days after the date on which the
8 dispositional order is entered, shall provide the school board of the juvenile's new
9 school district, the governing body of the juvenile's new private school, or the
10 governing body of the tribal school or the designee of the school board or governing
11 body with the information specified in subd. 2. or 4., whichever is applicable, and, in
12 addition, shall notify that school board, governing body, or designee of whether the
13 juvenile has been adjudicated delinquent previously by that court, the nature of any
14 previous violations committed by the juvenile, and the dispositions imposed on the
15 juvenile under s. 938.34 as a result of those previous violations.

16 6. Except as required under subds. 1. to 5. or by order of the court, no
17 information from the juvenile's court records may be disclosed to the school board of
18 the school district, ~~or~~ the governing body of the private school, or the governing body
19 of the tribal school in which the juvenile is enrolled or the designee of the school board
20 or governing body. Any information from a juvenile's court records provided to the
21 school board of the school district, or the governing body of the private school, in
22 which the juvenile is enrolled or the designee of the school board or governing body
23 shall be disclosed by the school board, governing body, or designee to employees of
24 the school district or private school who work directly with the juvenile or who have
25 been determined by the school board, governing body, or designee to have legitimate

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1 educational interests, including safety interests, in the information. A school district
2 or private school employee to whom that information is disclosed may not further
3 disclose the information. If information is disclosed to the governing body of a tribal
4 school under this subdivision, the court shall request that the governing body of the
5 tribal school or its designee disclose the information to employees who work directly
6 with the juvenile or who have been determined by the governing body or its designee
7 to have legitimate educational interests, including safety interests, in the
8 information, and shall further request that the governing body prohibit any
9 employee to whom information is disclosed under this subdivision from further
10 disclosing the information. A school board may not use any information from a
11 juvenile's court records as the sole basis for expelling or suspending a juvenile or as
12 the sole basis for taking any other disciplinary action, including action under the
13 school district's athletic code, against the juvenile. A member of a school board or of
14 the governing body of a private school or tribal school or an employee of a school
15 district ~~or~~, private school, or tribal school may not be held personally liable for any
16 damages caused by the nondisclosure of any information specified in this subdivision
17 unless the member or employee acted with actual malice in failing to disclose the
18 information. A school district ~~or~~, private school, or tribal school may not be held liable
19 for any damages caused by the nondisclosure of any information specified in this
20 subdivision unless the school district, private school, or tribal school or its agent
21 acted with gross negligence or with reckless, wanton, or intentional misconduct in
22 failing to disclose the information.

NOTE: Under current law, juvenile court records relating to ch. 938 proceedings are confidential unless an exception is specified in the statutes. Those exceptions include a requirement that the clerk of juvenile court notify the school board of the school district or the governing body of a private school, or their designee, of certain matters relating to a juvenile delinquency or JIPS proceeding or adjudication. The bill additionally

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requires that the clerk notify the governing body of a tribal school, or its designee, of those matters.

Current law requires that the school board or governing body of a private school disclose this information to employees who work directly with the juvenile or who have been determined by the governing body, or its designee, to have legitimate educational interests, including safety interests, in the information. Current law prohibits the employee from further disclosing this information. This SECTION requires the court to request that the governing body of a tribal school, or its designee, disclose the information to those employees and request that the governing body prohibit those employees from further disclosing the information. This SECTION extends the immunity protections under state law to employees of the tribal school.

Extending the immunity protections to employees of the tribal school does not affect liability under tribal law or whatever right tribal school employees may have to raise a defense of tribal sovereign immunity if sued for redisclosure of the information.

1 **SECTION 113.** 938.78 (2) (b) of the statutes is amended to read:

2 938.78 (2) (b) 1. Paragraph (a) does not apply to the confidential exchange of
3 information between an agency and another social welfare agency, a law
4 enforcement agency, the victim-witness coordinator, a fire investigator under s.
5 165.55 (15), a public school district or a private school regarding an individual in the
6 care or legal custody of the agency. A social welfare agency that obtains information
7 under this paragraph shall keep the information confidential as required under this
8 section and s. 48.78. A law enforcement agency that obtains information under this
9 paragraph shall keep the information confidential as required under ss. 48.396 (1)
10 and 938.396 (1) (a). A public school that obtains information under this paragraph
11 shall keep the information confidential as required under s. 118.125, and a private
12 school that obtains information under this paragraph shall keep the information
13 confidential in the same manner as is required of a public school under s. 118.125.
14 Paragraph (a) does not apply to the confidential exchange of information between an
15 agency and officials of a tribal school regarding an individual in the care or legal
16 custody of the agency if the agency determines that enforceable protections are
17 provided by a tribal school policy or tribal law that requires tribal school officials to

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1 keep the information confidential in a manner at least as stringent as is required of
2 a public school official under s. 118.125.

3 1m. An agency may enter into an interagency agreement with a school board,
4 a private school, a tribal school, a law enforcement agency, or another social welfare
5 agency providing for the routine disclosure of information under subd. 1. to the school
6 board, private school, tribal school, law enforcement agency, or other social welfare
7 agency.

8 2. On petition of an agency to review pupil records, as defined in s. 118.125 (1)
9 (d), other than pupil records that may be disclosed without court order under s.
10 118.125 (2) or (2m), for the purpose of providing treatment or care for an individual
11 in the care or legal custody of the agency, the court may order the school board of the
12 school district, or the governing body of the private school, in which an individual is
13 enrolled to disclose to the agency the pupil records of the individual as necessary for
14 the agency to provide that treatment or care. The court may request the governing
15 body of the tribal school in which an individual is enrolled to disclose to the agency
16 the pupil records of the individual as necessary for the agency to provide that
17 treatment or care. The agency may use the pupil records only for the purpose of
18 providing treatment or care and may make the pupil records available only to
19 employees of the agency who are providing treatment or care for the individual.

NOTE: Section 938.78, stats., provides that, subject to certain exceptions, the Department of Corrections, a county department of human services or county department of social services, or a licensed child welfare agency (collectively referred to as agency) must keep its ch. 938 records confidential. Section 938.78 (2) (b), stats., provides the exception that permits the confidential exchange of information with a public or private school which is then required to keep the information confidential if required to do so under the pupil records statute.

This SECTION permits an agency to confidentially exchange information with a tribal school if the agency determines that a tribal school policy or tribal law provides enforceable protections that require tribal school officials to keep the information confidential in a manner at least as stringent as is required of public and private school officials. This SECTION also permits interagency agreements for the disclosure of

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information to include tribal schools and permits the court to request a tribal school to disclose information necessary for the agency to provide care and treatment.

1 **SECTION 114.** 939.632 (1) (a) and (d) 3. of the statutes are amended to read:

2 939.632 (1) (a) "School" means a public school, parochial or private school, or
3 tribal school, as defined in s. 115.001 (15m), that provides an educational program
4 for one or more grades between grades 1 and 12 and that is commonly known as an
5 elementary school, middle school, junior high school, senior high school, or high
6 school.

7 (d) 3. On a school bus or public transportation transporting students to and
8 from a public or private school or to and from a tribal school, as defined in s. 115.001
9 (15m).

NOTE: Current statutes provide an enhanced penalty for violent crimes committed in a school zone, which includes on the premises of or within 1,000 feet of the school premises, on a school bus or public transportation transporting pupils to and from school, and at school bus stops. This SECTION adds tribal schools to the definition of a "school" for the purpose of the penalty enhancement.

10 **SECTION 115.** 944.21 (8) (b) 2. of the statutes is amended to read:

11 944.21 (8) (b) 2. A private school, as defined in s. 115.001 (3r), or a tribal school,
12 as defined in s. 115.001 (15m).

NOTE: Provides that an employee, member of the board of directors, or trustee of a tribal school, while in his or her capacity as such, may not be prosecuted under s. 944.21, stats. (crimes relating to obscene materials or performance).

13 **SECTION 116.** 948.095 (1) (a) of the statutes is amended to read:

14 948.095 (1) (a) "School" means a public or private elementary or secondary
15 school, or a tribal school, as defined in s. 115.001 (15m).

NOTE: Current statutes provide that it is a class H felony for school staff at a public or private school to have sexual contact or sexual intercourse with a child who is age 16 or 17. This SECTION adds tribal schools to the definition of "school" for this purpose. (Current law also provides that it is a class H felony for a person age 21 or older who works or volunteers with children to have sexual contact or sexual intercourse with a 16- or 17-year old child with whom the person works or interacts as a volunteer.)

16 **SECTION 117.** 948.11 (4) (b) 2. of the statutes is amended to read:

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1 948.11 (4) (b) 2. A private school, as defined in s. 115.001 (3r), or a tribal school,
2 as defined in s. 115.001 (15m).

NOTE: Provides that an employee, member of the board of directors, or trustee of a tribal school, while in his or her capacity as such, may not be prosecuted under s. 948.11, stats. (crimes relating to exposing a child to harmful material or harmful descriptions or narrations).

3 **SECTION 118.** 948.50 (2) (a) of the statutes is amended to read:

4 948.50 (2) (a) "School" means a public school, parochial or private school, or
5 tribal school, as defined in s. 115.001 (15m), which provides an educational program
6 for one or more grades between kindergarten and grade 12 and which is commonly
7 known as a kindergarten, elementary school, middle school, junior high school,
8 senior high school, or high school.

NOTE: Current statutes provide a criminal penalty for strip searches of pupils by school employees. This SECTION adds tribal schools to the definition of school for this purpose. [Section 118.32, stats. (prohibiting strip searches), refers to schools without further definition, and the definition is supplied by s. 948.50, stats.]

9 **SECTION 119.** 948.61 (1) (b) of the statutes is amended to read:

10 948.61 (1) (b) "School" means a public school, parochial or private school, or
11 tribal school, as defined in s. 115.001 (15m), which provides an educational program
12 for one or more grades between grades 1 and 12 and which is commonly known as
13 an elementary school, middle school, junior high school, senior high school, or high
14 school.

NOTE: Current law in s. 948.61, stats., provides a criminal penalty for possessing (subject to certain exceptions) certain dangerous weapons other than firearms on school premises. Current law in s. 948.605, stats., prohibits (subject to certain exceptions) possession of a firearm in or on the grounds of a school or within 1,000 feet of a school (school zone) and provides certain criminal penalties under certain circumstances for the discharge of a firearm in a school zone. This SECTION adds tribal schools to the definition of "school" for both of these statutes inasmuch as s. 948.605, stats., cross-references the definition in s. 948.61, stats. Under s. 938.34 (14q), stats., additional consequences for a delinquency disposition also may apply for firearms violation on school premises. Under s. 973.137, stats., information about a conviction must be forwarded to DOT.

15 **SECTION 120.** 961.49 (1m) (b) 6. of the statutes is amended to read:

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1 961.49 (1m) (b) 6. Any private or public school premises and any premises of
2 a tribal school, as defined in s. 115.001 (15m).

NOTE: Current statutes provide a criminal penalty for possessing controlled substances (certain drugs) on or within 1,000 feet of a school. This SECTION specifies that possession on or within 1,000 feet of the premises of a tribal school is included in that crime.

3 **SECTION 121.** 961.495 of the statutes is amended to read:

4 **961.495 Possession or attempted possession of a controlled substance**
5 **on or near certain places.** If any person violates s. 961.41 (3g) by possessing or
6 attempting to possess a controlled substance included in schedule I or II, a controlled
7 substance analog of a controlled substance included in schedule I or II or ketamine
8 or flunitrazepam while in or on the premises of a scattered-site public housing
9 project, while in or on or otherwise within 1,000 feet of a state, county, city, village,
10 or town park, a jail or correctional facility, a multiunit public housing project, a
11 swimming pool open to members of the public, a youth center or a community center,
12 while in or on or otherwise within 1,000 feet of any private or public school premises
13 or of any premises of a tribal school, as defined in s. 115.001 (15m), or while in or on
14 or otherwise within 1,000 feet of a school bus, as defined in s. 340.01 (56), the court
15 shall, in addition to any other penalties that may apply to the crime, impose 100
16 hours of community service work for a public agency or a nonprofit charitable
17 organization. The court shall ensure that the defendant is provided a written
18 statement of the terms of the community service order and that the community
19 service order is monitored. Any organization or agency acting in good faith to which
20 a defendant is assigned pursuant to an order under this section has immunity from
21 any civil liability in excess of \$25,000 for acts or omissions by or impacting on the
22 defendant.

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NOTE: Current statutes provide that for possessing certain drugs on the premises of or within 1,000 feet of a school, the court must additionally impose 100 hours of community service work for a public agency or a nonprofit charitable organization. This SECTION specifies that the penalty enhancement also applies for possession on or within 1,000 feet of the premises of a tribal school.

- 1 **SECTION 122. Initial applicability.**
- 2 (1) The treatment of sections 15.377 (4) (f) and (8) (c) 14. and 15.57 (3) of the
- 3 statutes first applies to appointments made on the effective date of this subsection.
- 4 (2) The treatment of section 45.20 (2) (a) 1., (c) 1., and (d) 1. of the statutes first
- 5 applies to courses completed on the effective date of this subsection.
- 6 (3) The treatment of sections 48.345 (12) (a) 5., 48.355 (2) (c), 938.34 (7d) (a) 5.,
- 7 938.342 (1r), 938.355 (2) (c), and 938.396 (2g) (m) 2. to 6. of the statutes first applies
- 8 to dispositional orders issued on the effective date of this subsection.
- 9 (4) The treatment of section 938.396 (2g) (m) 1. of the statutes first applies to
- 10 petitions filed on the effective date of this subsection.

(END)

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