

1987 Assembly Bill 389

Date of enactment: April 15, 1988
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1987 Wisconsin Act 285

AN ACT to renumber 118.16 (1) (a) and (b); to renumber and amend 48.125, 48.32 (2), 48.345 and 118.15 (5); to amend 48.13 (6), 48.17 (2) (a) (intro.), 48.17 (2) (d), 48.343 (intro.), 118.125 (2) (intro.), 118.16 (2) (c), 119.04 (1) and 343.30 (5); and to create 48.02 (9m), 48.125 (2), 48.17 (2) (g), 48.245 (2), 48.245 (2m), 48.32 (2) (b), 48.34 (12), 48.342, 48.345 (2), 59.07 (105), 59.07 (106), 118.125 (2) (k), 118.15 (5) (b), 118.16 (1) (a), 118.16 (2) (cg) and (cr), 118.162, 118.163, 120.12 (18), 121.78 (4) and 947.16 of the statutes, relating to truancy, educational programs for children adjudged delinquent or in need of protection or services and providing penalties.

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

SECTION 1. 48.02 (9m) of the statutes is created to read:

48.02 (9m) "Habitually truant" means a child who is a habitual truant as defined under s. 118.16 (1) (a).

SECTION 2. 48.125 of the statutes is renumbered 48.125 (intro.) and amended to read:

48.125 Jurisdiction over children alleged to have violated civil laws or ordinances. (intro.) The court has exclusive jurisdiction over any child alleged to have violated a law punishable by forfeiture or a county, town or other municipal ordinance, except as:

(1) As provided under s. 48.17; and

SECTION 3. 48.125 (2) of the statutes is created to read:

48.125 (2) That the court has exclusive jurisdiction over any child alleged to have violated an ordinance enacted under s. 118.163 only after evidence is pro-

vided by the school attendance officer that the activities under s. 118.16 (5) have been completed.

SECTION 4. 48.13 (6) of the statutes is amended to read:

48.13 (6) Who is habitually truant from school, after evidence is provided by the school attendance officer that the activities under s. 118.16 (5) have been completed, except as provided under s. 48.17 (2);

SECTION 5. 48.17 (2) (a) (intro.) of the statutes is amended to read:

48.17 (2) (a) (intro.) Except as provided in sub. (1), municipal courts have concurrent jurisdiction with the court assigned to exercise jurisdiction under this chapter in proceedings against children aged 14 or older for violations of county, town or other municipal ordinances. If evidence is provided by the school attendance officer that the activities under s. 118.16 (5) have been completed, municipal courts may exercise jurisdiction in proceedings against a child for a violation of an ordinance enacted under s. 118.163 regardless of

the child's age and regardless of whether the court assigned to exercise jurisdiction under this chapter has jurisdiction under s. 48.13 (6). When a child is alleged to have violated a municipal ordinance, the child may be:

SECTION 6. 48.17 (2) (d) of the statutes is amended to read:

48.17 (2) (d) If a municipal court finds that the child violated a municipal ordinance other than an ordinance enacted under s. 118.163 or an ordinance which conforms to s. 125.07 (4) (a) or (b), 125.08 (3) (b) or 125.09 (2), it shall enter any of the dispositional orders permitted under s. 48.343 (1), (2), (5), (6), (7) or (8). If a child fails to pay the forfeiture imposed by the municipal court, the court shall not impose a jail sentence but may suspend any license issued under ch. 29 for not less than 30 nor more than 90 days, or suspend the child's operating privilege, as defined in s. 340.01 (40), for not less than 30 nor more than 90 days. If a court suspends a license under this section, it shall immediately take possession of the suspended license and forward it to the department which issued the license, together with the notice of suspension clearly stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the first 30 days after the license is suspended, the suspension shall be reduced to the minimum period of 30 days. If it is paid thereafter, the court shall immediately notify the department, which shall thereupon return the license to the person. If it is paid after the end of the 30 days, the suspension shall be reduced to the time period which has already elapsed and the court shall immediately notify the department which shall then return the license to the child.

SECTION 7. 48.17 (2) (g) of the statutes is created to read:

48.17 (2) (g) If a municipal court finds that a child violated a municipal ordinance enacted under s. 118.163, it shall enter a dispositional order under s. 48.342 that is consistent with the municipal ordinance.

SECTION 8. 48.245 (2) of the statutes is amended to read:

48.245 (2) Informal disposition may provide that the child appear with a parent, guardian or legal custodian for counseling and advice, or that the child and a parent, guardian and legal custodian abide by such obligations as will tend to ensure the child's rehabilitation, protection or care. Informal disposition may not include any form of residential placement and may not exceed 6 months, except as provided under sub. (2m).

SECTION 9. 48.245 (2m) of the statutes is created to read:

48.245 (2m) If the informal disposition is based on allegations that the child is habitually truant and that the child is in need of protection or services, the informal disposition may not exceed one year.

SECTION 10. 48.32 (2) of the statutes is renumbered 48.32 (2) (a) and amended to read:

48.32 (2) (a) A Except as provided in par. (b), a consent decree shall remain in effect up to 6 months unless the child, parent, guardian or legal custodian is discharged sooner by the judge or juvenile court commissioner.

(c) Upon the motion of the court or the application of the child, parent, guardian, legal custodian, intake worker or any agency supervising the child under the consent decree, the court may, after giving notice to the parties to the consent decree and their counsel, if any, extend the decree for up to an additional 6 months in the absence of objection to extension by the parties to the initial consent decree. If the parent, guardian or legal custodian objects to the extension, the judge shall schedule a hearing and make a determination on the issue of extension.

SECTION 11. 48.32 (2) (b) of the statutes is created to read:

48.32 (2) (b) If the proceeding is for a petition which alleges that the child is in need of protection and services, and if the proceeding is based on an allegation of habitual truancy, a consent decree shall remain in effect for up to one year unless the child, parent, guardian or legal custodian is discharged sooner by the judge or juvenile court commissioner.

SECTION 12. 48.34 (12) of the statutes is created to read:

48.34 (12) EDUCATION PROGRAM. (a) Except as provided in par. (d), the judge may order the child to attend any of the following:

1. A nonresidential educational program, including a program for children at risk under s. 118.153, provided by the school district in which the child resides.

2. Pursuant to a contractual agreement with the school district in which the child resides, a nonresidential educational program provided by a licensed child welfare agency.

3. Pursuant to a contractual agreement with the school district in which the child resides, an educational program provided by a private, nonprofit, nonsectarian agency that is located in the school district in which the child resides and that complies with 42 USC 2000d.

4. Pursuant to a contractual agreement with the school district in which the child resides, an educational program provided by a vocational, technical and adult education district located in the school district in which the child resides.

(b) The judge shall order the school board to disclose the child's pupil records, as defined under s. 118.125 (1) (d), to the county department or licensed child welfare agency responsible for supervising the child, as necessary to determine the child's compliance with the order under par. (a).

(c) The judge shall order the county department or licensed child welfare agency responsible for supervising the child to disclose to the school board, vocational, technical and adult education district board or private, nonprofit, nonsectarian agency which is pro-

viding an educational program under par. (a) 3 records or information about the child, as necessary to assure the provision of appropriate educational services under par. (a).

(d) This subsection does not apply to a child with exceptional educational needs, as defined under s. 115.76 (3).

SECTION 13. 48.342 of the statutes is created to read:

48.342 Disposition; truancy ordinance violations. If the judge finds that the child violated a municipal ordinance enacted under s. 118.163, the judge shall enter an order making one or more of the following dispositions if such a disposition is authorized by the municipal ordinance:

(1) Suspend the child's operating privilege, as defined in s. 340.01 (40), for not less than 30 days nor more than 90 days. The judge shall immediately take possession of the suspended license and forward it to the department of transportation together with a notice stating the reason for and duration of the suspension.

(2) Order the child to participate in counseling, community service or a supervised work program under s. 48.34 (9).

(3) Order the child to remain at home except during hours in which the child is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a child to leave his or her home if the child is accompanied by a parent or guardian.

(4) Order the child to attend an educational program under s. 48.34 (12).

SECTION 14. 48.343 (intro.) of the statutes is amended to read:

48.343 Disposition of child adjudged to have violated a civil law or an ordinance. (intro.) Except as provided by ~~s. ss. 48.342 and~~ 48.344, if the court finds that the child violated a civil law or an ordinance, it shall enter an order making one or more of the following dispositions:

SECTION 15. 48.345 of the statutes is renumbered 48.345 (1), and 48.345 (1) (intro.), (a) to (d) and (f), as renumbered, are amended to read:

48.345 (1) (intro.) If the judge finds that the child is in need of protection or services, ~~it~~ the judge shall enter an order deciding one or more of the dispositions of the case as provided in s. 48.34 under a care and treatment plan except that ~~the plan shall not order~~ may not do any of the following:

(a) Transfer the custody of the child to the subunit of the department administering corrections;

(b) Order restitution;

(c) Order payment of a forfeiture;

(d) Restrict, suspend or revoke the driving privileges of the child; ~~or, except as provided under sub. (2).~~

(f) Order the child to participate in a supervised work program under s. 48.34 (9), except as provided under sub. (2).

SECTION 16. 48.345 (2) of the statutes is created to read:

48.345 (2) If the judge finds that a child is in need of protection or services based on habitual truancy, and the judge also finds that the habitual truancy is a result of the child's intentional refusal to attend school rather than the failure of any other person to comply with s. 118.15 (1) (a), the judge, instead of or in addition to any other disposition imposed under sub. (1), may enter any of the orders permitted under s. 48.342.

SECTION 17. 59.07 (105) of the statutes is created to read:

59.07 (105) SCHOOL ATTENDANCE. Enact and enforce an ordinance to impose a penalty, which is the same as that provided under s. 118.15 (5), upon a person having under his or her control a child who is between the ages of 6 and 18 years and whose child is not in compliance with s. 118.15.

SECTION 18. 59.07 (106) of the statutes is created to read:

59.07 (106) CONTRIBUTION TO TRUANCY. Enact and enforce an ordinance to prohibit conduct which is the same as or similar to that prohibited by s. 947.16 and provide a forfeiture for a violation of the ordinance.

SECTION 19. 118.125 (2) (intro.) of the statutes is amended to read:

118.125 (2) CONFIDENTIALITY. (intro.) All pupil records maintained by a public school shall be confidential, except as provided in pars. (a) to ~~(j)~~ (k). The school board shall adopt regulations to maintain the confidentiality of such records.

SECTION 20. 118.125 (2) (k) of the statutes is created to read:

118.125 (2) (k) A school board shall disclose the pupil records of a pupil in compliance with a court order under s. 48.34 (12) (b) after making a reasonable effort to notify the pupil's parent or legal guardian.

SECTION 21. 118.15 (5) of the statutes is renumbered 118.15 (5) (a) and amended to read:

118.15 (5) (a) ~~Whoever~~ Except as provided under par. (b) or if a person has been found guilty of a misdemeanor under s. 947.16, whoever violates this section may be fined not ~~less than \$5 nor~~ more than \$50 \$500 or imprisoned not more than ~~3 months~~ 30 days or both, after evidence has been provided by the school attendance officer that the activities under s. 118.16 (5) have been completed. In a prosecution under this ~~subsection~~ paragraph, if the defendant proves that he or she is unable to comply with the law because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under ch. 48.

SECTION 22. 118.15 (5) (b) of the statutes is created to read:

118.15 (5) (b) Paragraph (a) does not apply to a person who has under his or her control a child who has been sanctioned under s. 49.50 (7) (h).

SECTION 23. 118.16 (1) (a) and (b) of the statutes are renumbered 118.16 (1) (b) and (c).

SECTION 24. 118.16 (1) (a) of the statutes is created to read:

118.16 (1) (a) "Habitual truant" means a pupil who is absent from school without an acceptable excuse under sub. (4) and s. 118.15 for either of the following:

1. Part or all of 5 or more days out of 10 consecutive days on which school is held during a school semester.

2. Part or all of 10 or more days on which school is held during a school semester.

SECTION 25. 118.16 (2) (c) of the statutes is amended to read:

118.16 (2) (c) Shall Except as provided under pars. (cg) and (cr), shall notify the parent or guardian of a child who has been truant of the child's truancy and direct the parent or guardian to return the child to school no later than the next day on which school is in session or to provide an excuse under s. 118.15. The notice under this paragraph must shall be given before the end of the 2nd school day after receiving a report of an unexcused absence and. The notice may be made by personal service contact, mail or telephone call of which a written record is kept, except that notice by personal contact or telephone call shall be attempted before notice by mail may be given.

SECTION 26. 118.16 (2) (cg) and (cr) of the statutes are created to read:

118.16 (2) (cg) Shall notify the parent or guardian of a child who is a habitual truant, by registered or certified mail, when the child initially becomes a habitual truant. The notice shall include all of the following:

1. A statement of the parent's or guardian's responsibility, under s. 118.15 (1) (a), to cause the child to attend school regularly.

2. A statement that the parent, guardian or child may request program or curriculum modifications for the child under s. 118.15 (1) (d) and that the child may be eligible for enrollment in a program for children at risk under s. 118.153 (3).

3. A request that the parent or guardian meet with appropriate school personnel to discuss the child's truancy. The notice shall include the name of the school personnel with whom the parent or guardian should meet, a date, time and place for the meeting and the name, address and telephone number of a person to contact to arrange a different date, time or place.

4. A statement of the penalties, under s. 118.15 (5), that may be imposed on the parent or guardian if he or

she fails to cause the child to attend school regularly as required under s. 118.15 (1) (a).

(cr) After the notice required under par. (cg) has been given, shall notify the parent or guardian of a habitual truant of the habitual truant's unexcused absences as provided in the plan under s. 118.162 (4) (a). After the notice required under par. (cg) has been given, par. (c) does not apply.

SECTION 27. 118.162 of the statutes is created to read:

118.162 Truancy committee and plan. (1) On the effective date of this subsection [revisor inserts date], in each county, the superintendent of the school district which contains the county seat designated under s. 59.11, or his or her designee, shall convene a committee under this section. At its first meeting, the committee shall elect a chairperson, vice chairperson and secretary. Not later than February 1, 1989, the committee shall make recommendations to the school boards of all of the school districts in the county on the items to be included in the districts' truancy plans under sub. (4). The committee shall consist of the following members:

(a) A representative from each school district in the county, designated by the school board of the school district that he or she represents, who may be a school board member, school administrator, teacher, pupil services professional or parent of a child enrolled in the school district. If the territory of a school district lies in more than one county, the school district shall have a representative on the committee for the county in which the largest portion of the school district's equalized valuation is located.

(b) A representative of the office of the district attorney, designated by the district attorney.

(c) A representative of the sheriff's department, designated by the sheriff.

(d) A representative of the local law enforcement agency, other than the sheriff's department, with jurisdiction over the county seat, designated by the chief administrative officer of the law enforcement agency.

(e) A representative of the circuit court for the county, designated by the chief judge of the judicial administrative district.

(f) A representative of the county department of social services under s. 46.22, designated by the county social services director, or, if the duties of the department under s. 46.22 have been transferred to a department under s. 46.23, a representative of the county department of human services under s. 46.23, designated by the county human services director.

(g) A representative of the juvenile court intake unit, designated by the county social services director, or, if the duties of the department under s. 46.22 have been transferred to a department under s. 46.23, designated by the county human services director, or designated by the chief judge of the judicial administrative district.

(h) If a county department of human services has not been established under s. 46.23, a representative of a county department established under s. 51.42 or 51.437, designated by the director of the department established under s. 51.42 or 51.437.

(i) Any other member as determined by the committee.

(2) In developing its recommendations:

(a) The committee shall consult with public and private social services agencies and educational and other agencies that serve residents of the school district and with the business community, as appropriate.

(b) The district attorney representative on the committee shall participate in developing the portions of the plan under sub. (4) (e).

(3) The committee shall write a report to accompany the recommendations under sub. (1). The report shall include all of the following:

(a) A description of the factors that contribute to truancy in the county.

(b) Identification and description of any state statutes, municipal ordinances or school or social services policies that contribute to or inhibit the response to truancy in the county.

(c) Recommendations for legislation and school or social services policies that the committee believes should be enacted or developed to assist in dealing with truancy.

(4) Not later than September 1, 1989, each school board shall adopt a truancy plan which shall include all of the following:

(a) Procedures to be followed for notifying the parents or guardians of the unexcused absences of habitual truants under s. 118.16 (2) (cr) and for meeting and conferring with such parents or guardians.

(b) Plans and procedures for identifying truant children of all ages and returning them to school, including the identity of school personnel to whom a truant child shall be returned.

(c) Methods to increase and maintain public awareness of and involvement in responding to truancy within the school district.

(d) The immediate response to be made by school personnel when a truant child is returned to school.

(e) The types of truancy cases to be referred to the district attorney for the filing of information under s. 48.24 or prosecution under s. 118.15 (5) and the time periods within which the district attorney will respond to and take action on the referrals.

(f) Plans and procedures to coordinate the responses to the problems of habitual truants, as defined under s. 118.16 (1) (a), with public and private social services agencies.

(g) Methods to involve the truant child's parent or guardian in dealing with and solving the child's truancy problem.

(5) In adopting a truancy plan under sub. (4), each school board shall:

(a) Develop a written description of the factors that contribute to truancy in the school district.

(b) Identify and prepare a written description of any state statutes, municipal ordinances or school or social services policies that contribute to or inhibit the response to truancy in the school district.

(c) Make recommendations to the appropriate state and local agencies and governing bodies for legislation and school or social services policies that the school board believes should be enacted or developed to assist in dealing with truancy.

SECTION 28. 118.163 of the statutes is created to read:

118.163 Municipal truancy ordinances. (1) In this section, "habitual truant" means a pupil who is absent from school without an acceptable excuse under s. 118.15 for either of the following:

(a) Part or all of 5 or more days out of 10 consecutive days on which school is held during a school semester.

(b) Part or all of 10 or more days on which school is held during a school semester.

(2) A county, city, village or town may enact an ordinance prohibiting a child from being a habitual truant. The ordinance shall provide which of the following dispositions are available to the court:

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

(b) An order for the child to participate in counseling, community service or a supervised work program as provided under s. 48.34 (9).

(c) An order for the child to remain at home except during hours in which the child is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a child to leave his or her home if the child is accompanied by a parent or guardian.

(d) An order for the child to attend an educational program under s. 48.34 (12).

SECTION 29. 119.04 (1) of the statutes, as affected by Wisconsin Acts 27 and (Senate Bill 332), is amended to read:

119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.03 (3) (c), 115.01 (1) and (2), 115.28 (15), 115.34, 115.343, 115.345, 118.01 to 118.04, 118.06, 118.07, 118.10, 118.12, 118.125 to 118.14, 118.15, 118.153, 118.16, ~~118.162, 118.163~~, 118.18, 118.19 (3) (b) and (7), 118.20, 118.24 (2) (c) to (f), 118.255, 118.30 to 118.35, 120.12 (15) ~~and~~, (17) ~~and~~ (18), 120.125 and 120.13 (1), (2) (b) to (f), (14), (17) to (19) and (26) are applicable to a 1st class city school district and board.

SECTION 30. 120.12 (18) of the statutes is created to read:

120.12 (18) CONTINUITY OF EDUCATIONAL PROGRAMMING. Coordinate and provide for continuity of educational programming for pupils receiving educational services as the result of a court order under s. 48.34 (12), including but not limited to providing a written report to the court assigned to exercise jurisdiction under ch. 48 and the agency which is required to submit an educational plan for a child under s. 48.33 (1) (e). The written report shall describe the child's educational status and make recommendations regarding educational programming for the child. The written report shall be provided to the court assigned to exercise jurisdiction under ch. 48 and the agency at least 3 days before the date of the child's dispositional hearing.

SECTION 31. 121.78 (4) of the statutes is created to read:

121.78 (4) COURT-ORDERED EDUCATIONAL SERVICES. If a pupil is receiving educational services as the result of a court order under s. 48.34 (12), the school board of the school district in which the pupil resided at the time of issuance of the court order shall pay tuition for the pupil. A school board paying tuition for a pupil under this subsection shall count the pupil as 1.0 pupil in membership for general aid under subch. II. The school board shall pay each agency specified under s. 48.34 (12) (a) 2 to 4, for each full-time equivalent pupil served by the agency, an amount equal to at least 80% of the average per pupil cost for the school district. No state aid may be paid to the vocational, technical and adult education district for pupils attending the vocational, technical and adult education school under s. 48.34 (12) (a) 4.

SECTION 32. 343.30 (5) of the statutes is amended to read:

343.30 (5) No court may suspend or revoke an operating privilege except as authorized by this chapter or ch. 48, 345 or 351. When a court revokes, suspends or restricts a child's operating privilege under s. 48.17 (2), 48.34 (7) or (8) ~~or~~, 48.342 (1), 48.343 (2), or 48.345 (2) the department of transportation shall not disclose information concerning or relating to the revocation, suspension or restriction to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency, or the minor whose operating privilege is revoked, suspended or restricted, or his or her parent or guardian. Persons entitled to receive this information shall not disclose the information to other persons or agencies.

SECTION 33. 947.16 of the statutes is created to read:

947.16 Contributing to truancy. (1) Except as provided in sub. (2), any person 18 years of age or older who, by any act or omission, knowingly encourages or contributes to the truancy, as defined under s. 118.16 (1) (c), of a child is guilty of a Class C misdemeanor.

(2) Subsection (1) does not apply to a person who has under his or her control a child who has been sanctioned under s. 49.50 (7) (h).

(3) An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be truant.

SECTION 34. **Initial applicability.** (1) PUBLIC INSTRUCTION. (a) *Truancy.* This act first applies to a child's truancy from school which occurs on or after July 1, 1988.

SECTION 35. **Effective date.** This act takes effect on the first day of the 3rd month beginning after publication.