



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1995 ASSEMBLY BILL 385**

February 29, 1996 – Offered by COMMITTEE ON CHILDREN AND FAMILIES.

1 **AN ACT to amend** 938.245 (2) (a) 5., 938.32 (1t) (a), 938.34 (5) (a), (b) and (c) and
2 938.343 (4) of the statutes; **relating to:** the performance of services for the
3 victim by a juvenile as restitution for the juvenile's act.

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

4 **SECTION 1.** 938.245 (2) (a) 5. of the statutes, as created by 1995 Wisconsin Act
5 77, is amended to read:

6 938.245 (2) (a) 5. a. That the juvenile participate in a restitution project if the
7 act for which the deferred prosecution agreement is being entered into has resulted
8 in damage to the property of another, or in actual physical injury to another
9 excluding pain and suffering. Subject to subd. 5. c., the deferred prosecution
10 agreement may require the juvenile to repair the damage to property or to make
11 reasonable restitution for the damage or injury, either in the form of cash payments
12 or, if the victim agrees, the performance of services for the victim, or both, if the
13 intake worker, after taking into consideration the well-being and needs of the victim,
14 considers it beneficial to the well-being and behavior of the juvenile. Any such

1 deferred prosecution agreement shall include a determination that the juvenile
2 alone is financially able to pay or perform the services and may allow up to the date
3 of the expiration of the deferred prosecution agreement for the payment or for the
4 completion of the services.

5 b. In addition to any other employment or duties permitted under ch. 103 or
6 any rule or order under ch. 103, a juvenile who is under 14 years of age who is
7 participating in a restitution project provided by the county or who is performing
8 services for the victim as restitution may, for the purpose of making restitution, be
9 employed or perform any duties under any circumstances in which a juvenile 14 or
10 15 years of age is permitted to be employed or to perform duties under ch. 103 or any
11 rule or order under ch. 103.

12 c. Under this subdivision, a deferred prosecution agreement may not require
13 a juvenile who is under 14 years of age to make more than \$250 in restitution or to
14 perform more than 40 total hours of services for the victim as restitution.

15 **SECTION 2.** 938.32 (1t) (a) of the statutes, as created by 1995 Wisconsin Act 77,
16 is amended to read:

17 938.32 (1t) (a) 1. Subject to subd. 3., if the petition alleges that the juvenile
18 committed a delinquent act that has resulted in damage to the property of another,
19 or in actual physical injury to another excluding pain and suffering, the judge or
20 juvenile court commissioner may require the juvenile as a condition of the consent
21 decree, to repair the damage to property or to make reasonable restitution for the
22 damage or injury, either in the form of cash payments or, if the victim agrees, the
23 performance of services for the victim, or both, if the judge or juvenile court
24 commissioner, after taking into consideration the well-being and needs of the victim,
25 considers it beneficial to the well-being and behavior of the juvenile. Any consent

1 decree that includes a condition of restitution shall include a finding that the juvenile
2 alone is financially able to pay or perform the services and may allow up to the date
3 of the expiration of the consent decree for the payment or for the completion of the
4 services. Objection by the juvenile to the amount of damages claimed shall entitle
5 the juvenile to a hearing on the question of damages before the amount of restitution
6 is made part of the consent decree.

7 2. In addition to any other employment or duties permitted under ch. 103 or
8 any rule or order under ch. 103, a juvenile who is under 14 years of age who is
9 participating in a restitution project provided by the county or who is performing
10 services for the victim as restitution may, for the purpose of making restitution under
11 the consent decree, be employed or perform any duties under any circumstances in
12 which a juvenile 14 or 15 years of age is permitted to be employed or to perform duties
13 under ch. 103 or any rule or order under ch. 103.

14 3. Under this paragraph, a judge or juvenile court commissioner may not order
15 a juvenile who is under 14 years of age to make more than \$250 in restitution or to
16 perform more than 40 total hours of services for the victim as restitution.

17 **SECTION 3.** 938.34 (5) (a), (b) and (c) of the statutes, as created by 1995
18 Wisconsin Act 77, are amended to read:

19 938.34 (5) (a) Subject to par. (c), if the juvenile is found to have committed a
20 delinquent act which has resulted in damage to the property of another, or actual
21 physical injury to another excluding pain and suffering, order the juvenile to repair
22 the damage to property or to make reasonable restitution for the damage or injury,
23 either in the form of cash payments or, if the victim agrees, the performance of
24 services for the victim, or both, if the court, after taking into consideration the
25 well-being and needs of the victim, considers it beneficial to the well-being and

1 behavior of the juvenile. Any such order shall include a finding that the juvenile
2 alone is financially able to pay or perform the services and may allow up to the date
3 of the expiration of the order for the payment or for the completion of the services.

4 Objection by the juvenile to the amount of damages claimed shall entitle the juvenile
5 to a hearing on the question of damages before the amount of restitution is ordered.

6 (b) In addition to any other employment or duties permitted under ch. 103 or
7 any rule or order under ch. 103, a juvenile who is under 14 years of age who is
8 participating in a restitution project provided by the county or who is performing
9 services for the victim as restitution may, for the purpose of making restitution
10 ordered by the court under this subsection, be employed or perform any duties under
11 any circumstances in which a juvenile 14 or 15 years of age is permitted to be
12 employed or perform duties under ch. 103 or any rule or order under ch. 103.

13 (c) Under this subsection, a court may not order a juvenile who is under 14 years
14 of age to make more than \$250 in restitution or to perform more than 40 total hours
15 of services for the victim as restitution.

16 **SECTION 4.** 938.343 (4) of the statutes, as created by 1995 Wisconsin Act 77, is
17 amended to read:

18 938.343 (4) If the violation has resulted in damage to the property of another,
19 or in actual physical injury to another excluding pain and suffering, the court may
20 order the juvenile to make repairs of the damage to property or reasonable
21 restitution for the damage or injury, either in the form of cash payments or, if the
22 victim agrees, the performance of services for the victim, or both, if the court, after
23 taking into consideration the well-being and needs of the victim, considers it
24 beneficial to the well-being and behavior of the juvenile. Any such order requiring
25 payment for repairs or restitution shall include a finding that the juvenile alone is

1 ~~financially~~ able to pay or perform the services and may allow up to the date of the
2 expiration of the order for the payment or for the completion of the services.
3 Objection by the juvenile to the amount of damages claimed shall entitle the juvenile
4 to a hearing on the question of damages before the amount of restitution is ordered.

5 **SECTION 5. Initial applicability.**

6 (1) This act first applies to delinquent acts committed on the effective date of
7 this subsection.

8 (END)