

JLK:jal

01/09/2007

1       **AN ACT** *to amend* 6.28 (2) (c), 7.30 (2) (am), 15.377 (4) (f), 15.57 (3), 16.971 (15),  
2           16.972 (2) (b), 16.974 (2) and (3), 16.9785, 16.99 (2g), 20.505 (1) (is), 27.01 (7) (c)  
3           10., 28.06 (1), 29.301 (1) (a), 30.74 (1) (a), 36.11 (36m), 38.001 (3) (a), 38.04 (27),  
4           38.14 (3) (a) and (bm), 39.41 (1) (bm), 39.41 (1m) (a) (intro.), (b), (c) 4. and 5., (e),  
5           (em), (g) and (j), 45.20 (2) (a) 1., (c) 1. and (d) 1., 46.275 (3r) (a) 3., 48.345 (12) (c),  
6           48.355 (2) (c), 48.396 (1), 48.65 (2) (b), 48.78 (2) (b), 49.26 (1) (g) 2., 51.45 (4) (d),  
7           103.23 (2) (intro.) and (a), 103.25 (3m) (c) and (5), 103.27 (3), 103.275 (8), 103.67  
8           (2) (c), 103.71 (1) (b), 115.28 (7) (b) and (e) 1. and (11) (intro.), 115.34 (2), 115.341,  
9           115.343 (1), 115.345 (7m), 115.36 (1) and (2) (a), (b) and (d) 3., 115.365 (1) and (2)  
10          (a) and (b), 115.368 (1) and (2) (a) and (b), 115.42 (1) (a) 2. and (2) (a) 2., 115.52 (3)  
11          (b) 1., 2., and 10., 115.525 (3) (b) 2., 116.01, 116.032 (1) and (3) (a) (intro.),  
12          118.025, 118.07 (3), 118.08 (1), 118.125 (2) (n), 118.125 (4), 118.127 (2), 118.145  
13          (3) and (4), 118.15 (1) (a), 118.15 (1) (d) 4., 118.153 (1) (b), 118.255 (2), 118.257  
14          (1) (d), 118.29 (2) (a) (intro.) and 3. and (b) and (3), 118.291 (1g) (b), 118.295,  
15          120.18 (1) (a) 2. and (s), 121.05 (1) (a) 7., 121.76 (1) (a), 121.76 (2) (c), 121.78 (4),  
16          125.09 (2) (a) 2., 125.68 (3) (intro.), 252.15 (1) (ab) and (2) (a) 7. a., 255.30 (4),  
17          301.45 (1d) (c), 301.46 (4) (a) 1., 343.06 (1) (c), 343.07 (1c), 343.16 (1) (c) 3.,  
18          447.06 (2) (a) 2., 895.48 (1m) (a), 895.515 (2), 938.34 (7d) (c), 938.34 (14t),  
19          938.342 (1r), 938.355 (2) (c), 938.396 (1) (b) 2., 938.396 (1) (c) 3. and 4., 938.396  
20          (2g) (m), 938.78 (2) (b), 939.632 (1) (a) and (d) 3., 944.21 (8) (b) 2., 948.095 (1) (a),  
21          948.11 (4) (b) 2., 948.50 (2) (a), 948.61 (1) (b), 961.49 (1m) (b) 6. and 961.495; and  
22          **to create** 15.377 (8) (c) 14., 16.972 (1) (cm), 38.01 (9m), 39.41 (1) (br), 48.02

1 (18m), 48.345 (12) (a) 5., 49.26 (1) (a) 2. bm., 103.21 (7), 103.64 (6), 115.001 (16),  
2 118.16 (2) (em), 118.162 (1) (am) and (m), 118.29 (4m), 118.291 (2) (c), 121.78 (5),  
3 938.02 (18e), 938.34 (7d) (a) 5. and 938.396 (1) (b) 2m. of the statutes; **relating to:**  
4 providing benefits to tribal schools and tribal school pupils similar to those provided  
5 to private schools and private school pupils and making an appropriation.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This draft was prepared for the joint legislative council's special committee on state-tribal Relations.

GENERAL BACKGROUND

*Current Law*

Private Schools

Under current law, a "private school" is defined in s. 115.001 (3r), stats., for the purposes of the K-12 education statutes (chs. 115 to 121, stats.) as an institution with a private educational program that: (1) meets all of the criteria under s. 118.165 (1), stats.; or (2) is determined to be a private school by the state superintendent of public instruction (state superintendent) under s. 118.167, stats., because evidence is presented that it meets or exceeds the criteria in s. 118.165 (1), stats. Those criteria are that the educational program: (1) has as its primary purpose providing private or religious-based education; (2) is privately controlled; (3) provides at least 875 hours of instruction in each school year; (4) has a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science, and health; (5) is not operated to avoid or circumvent the compulsory attendance laws; and (6) has its pupils return annually to their homes for at least 2 months of summer vacation or the institution is licensed as a child welfare agency.

Current law imposes certain requirements on private schools and provides certain benefits to private schools and private school pupils. A tribally operated school is not a private school.

### Tribally Operated Schools

Under current Wisconsin statutes, tribally operated schools are dealt with only in subch. IV, ch. 115, stats., relating to the American Indian language and culture education program. In that subchapter, an “alternative school” is defined as “any nonsectarian *private school or tribally operated school* in this state which complies with the requirements of 42 USC 2000d [relating to prohibiting exclusion from participation, denial of benefits, or discrimination based on race, color, or national origin] and in which at least 75% of the pupils enrolled are American Indians”. [s. 115.71 (1), stats. (emphasis added).]

Subchapter IV, ch. 115, then provides that any school district enrolling American Indian pupils *or* any “alternative school” may, after developing a plan containing certain elements and appointing a parent advisory committee, establish, on a voluntary basis, an American Indian language and culture education program which may contain certain elements. These schools are required to keep certain records, and the state superintendent is required to periodically assess the needs of the program and evaluate available resources and programs. However, the programs of alternative schools can be evaluated only with the permission of the alternative school [s. 115.74 (1) (b), stats.]; and the assessment and evaluation can be “performed on Indian reservations and in other Indian communities recognized by the federal government only in conjunction with, or with the permission of, the respective tribal governments”. [s. 115.74 (3), stats.]

A tribally operated school does not need authorization from the state to create an educational program related to American Indian language and culture. Rather, subch. IV, ch. 115, including its requirements to keep records, was enacted in connection with providing state categorical aid to a school district or alternative school that provided a program that met the criteria in subch. IV, ch. 115. State aid for such programs was eliminated by 2003 Wisconsin Act 33.

### *Tribally Operated Schools in Wisconsin*

Currently, 3 schools in Wisconsin come under the tribally operated schools component of the “alternative school” definition in s. 115.71 (1), stats. They are the: Menominee Tribal School; Oneida Nation of Wisconsin Schools; and Lac Courte Oreilles Tribal School. (The Bad River Band of Lake Superior Chippewa Indians previously operated the Mashkiisiibii Tribal School, but that school no longer exists.) These schools have contracts with and are funded, in full or in part, by the bureau of Indian affairs (BIA).

Currently it appears that one school in Wisconsin meets the “nonsectarian private school...in which at least 75% of the pupils enrolled are American Indians” component of the “alternative school” definition in s. 115.71 (1), stats. It is the Indian Community School of Milwaukee, Inc. It appears that the state statutes dealing with private schools already apply to this school, and this draft does not affect it.

*Authority of the State with Regard to Tribally Operated Schools*

In general, state civil regulatory laws do not apply to a tribe or a member of that tribe on the tribe’s reservation or off-reservation trust land unless an act of congress, a treaty, or case law (that is, decisions by the courts) provides that the state law is applicable. Most K-12 education laws likely would be considered by the courts to be civil regulatory laws. It appears that neither an act of congress nor any treaty has authorized the state to apply its civil regulatory education laws to a tribal school that is located on a tribe’s reservation or off-reservation trust land. As for whether case law does so, court decisions suggest that, if a matter were litigated, a court would apply a balancing of interests test and hold that a state civil regulatory education law applies to a tribal school only if the state interests outweigh the tribal and federal interests. That analysis depends on the facts surrounding each individual statute; thus, there is no universal answer as to whether a state civil regulatory law applies to a tribal school.

However, in general, it appears that, with respect to most state K-12 education laws, the state does not have authority to impose such laws on tribal schools. Moreover, a tribe may choose to assert sovereign immunity if a legal action were filed against the tribal school or tribal school officials to enforce any such law.

Nonetheless, a state may choose to provide funding or other benefits to a tribal school and may condition such funding or benefits on meeting certain prerequisites to be eligible for the funding or benefits.

*THE DRAFT*

The draft defines a “tribal school” in s. 115.001 (16), stats., as an institution with an educational program that has as its primary purpose providing education in any grade or grades from kindergarten to 12 and that is controlled by the elected governing body of a federally recognized American Indian tribe or band in Wisconsin or by a tribal educational authority established under the laws of a federally recognized American Indian tribe or band in Wisconsin. That definition then applies in chs. 115 to 121 (statutes relating to K-12 education) under s. 115.001 (intro.), stats. The draft then uses the same definition by cross-reference in statutes outside chs. 115 to 121, stats.

*Private School References—Benefits*

The draft amends statutes that refer specifically to private schools, private school employees, or private school pupils and provide a benefit or protection to them, with the exception of statutes relating to: transportation; special education; eligibility for bonding for certain building projects through the Wisconsin Health and Educational Facilities Authority; and statutes in ch. 119, stats., that refer to private schools (since ch. 119 relates only to the Milwaukee Public Schools). In general, the amendments add references to tribal schools, tribal school employees, or tribal school pupils in those statutes.

*Private School References—Benefit Linked to Requirement*

In some cases, the draft includes language relating to tribal schools that is not identical to current statutes relating to private schools. These relate to statutes in which a requirement is integrally linked to a benefit provided—for example, statutes allowing a private school to receive certain confidential records but prohibiting redisclosure of the record. For those statutes, the draft generally extends the benefit to a tribal school that chooses to comply with the required provision.

*Private School References—Requirements*

With respect to statutes that explicitly impose requirements on private schools unrelated to a benefit, the draft does *not* add a reference to tribal schools. Such statutes include requirements to: make a report to the department of public instruction (DPI) about enrollment; report to DPI charges and convictions of certain crimes and dismissals and resignations related to immoral conduct of a person licensed by DPI and employed by the school; display the flag and offer the pledge of allegiance or national anthem; have a first aid kit; conduct fire drills; distribute information about meningococcal disease; establish school safety zones; prohibit the use of a pupil's social security number as a pupil identification number; have periodic lead inspections in kindergarten; and abide by restaurant regulations if food is brought in under contract.

*Generic School References*

The draft amends several statutes that refer generically to schools without explicitly referring to public schools, private schools, or tribal schools to make clear that if a benefit applies to the school, the benefit also applies to tribal schools. The draft does not amend statutes that impose a requirement generically on schools, including private schools, to impose the requirement on tribal schools, for example, statutes relating to excluding children who have not met the immunization or

waiver of immunization requirements. Whether such statutes apply to tribal schools is an issue to be resolved by the courts.

The provisions of the draft are explained in NOTES following the SECTIONS.

1           **SECTION 1.** 6.28 (2) (c) of the statutes is amended to read:

2           6.28 (2) (c) The principal of any private high school ~~having~~ or of any tribal school, as  
3 defined in s. 115.001 (16), that operates high school grades that has a substantial number of  
4 students residing in a municipality may request the municipal clerk to establish registration  
5 dates when a special registration deputy will be present in the high school, or to appoint a  
6 special school registration deputy in accordance with par. (b). The clerk shall establish  
7 registration dates or appoint a special school registration deputy in the high school if the clerk  
8 determines the school to have a substantial number of students residing in the municipality.

**NOTE:** Permits a tribal school with high school grades that has a substantial number of students to ask the municipal clerk to conduct voter registration at the high school.

9           **SECTION 2.** 7.30 (2) (am) of the statutes is amended to read:

10           7.30 (2) (am) Except as otherwise provided in this paragraph, a pupil who is 16 or 17  
11 years of age and who is enrolled in grades 9 to 12 in a public or private school or in a tribal  
12 school, as defined in s. 115.001 (16), may serve as an inspector at the polling place serving  
13 the pupil's residence, with the approval of the pupil's parent or guardian. Any pupil who has  
14 at least a 3.0 grade point average or the equivalent may serve. In addition, a school board or  
15 governing body of a private school or tribal school may establish criteria for service by a pupil  
16 who does not have at least a 3.0 grade point average or the equivalent. A pupil may serve as  
17 an inspector at a polling place under this paragraph only if at least one election official at the  
18 polling place other than the chief inspector is a qualified elector of this state. No pupil may  
19 serve as chief inspector at a polling place under this paragraph. Before appointment by any

1 municipality of a pupil as an inspector under this paragraph, the municipal clerk shall obtain  
2 written authorization from the pupil's parent or guardian for the pupil to serve for the election  
3 for which he or she is appointed. In addition, if a pupil does not have at least a 3.0 grade point  
4 average or the equivalent, the municipal clerk shall obtain written certification from the  
5 principal of the school where the pupil is enrolled that the pupil meets any criteria established  
6 by the school board or governing body for service as an inspector. Upon appointment of a  
7 pupil to serve as an inspector, the municipal clerk shall notify the principal of the school where  
8 the pupil is enrolled of the name of the pupil and the date of the election at which the pupil  
9 has been appointed to serve.

**NOTE:** Permits certain tribal school pupils to serve as inspectors at a polling place under certain conditions.

10 **SECTION 3.** 15.377 (4) (f) of the statutes is amended to read:

11 15.377 (4) (f) Representatives of private schools ~~and~~, charter schools, and tribal  
12 schools, as defined in s. 115.001 (16).

**NOTE:** Provides that representatives of tribal schools may serve on the DPI council on special education.

13 **SECTION 4.** 15.377 (8) (c) 14. of the statutes is created to read:

14 15.377 (8) (c) 14. One person licensed as a teacher and actively employed in a tribal  
15 school, as defined in s. 115.001 (16), recommended by a federally recognized American  
16 Indian tribe or band in this state that has a tribal school.

**NOTE:** Current law permits one licensed teacher actively employed in a private school, recommended by the Wisconsin council of religious and independent schools, to serve on the DPI professional standards council for teachers. The council currently has 19 members who, with one limited exception, are appointed for 3-year terms. With 3 exceptions, a vacancy in any category is filled by having the entity that is authorized to make a recommendation in that category provide 3 names to the state superintendent, who then makes the selection for that category.

The draft increases the number of members to 20 by adding a provision for a licensed teacher employed by a tribal school. The state superintendent must select this teacher based on the recommendation of a tribe that has a tribal school.

1           **SECTION 5.** 15.57 (3) of the statutes is amended to read:

2           15.57 (3) One representative of public schools and one representative of private schools  
3           or of tribal schools, as defined in s. 115.001 (16), appointed for 4-year terms.

**NOTE:** The educational communications board has 16 members who, with limited exceptions not applicable to this provision, are nominated by the governor and confirmed by the senate. This provision permits the governor to nominate a representative who may represent either a tribal school or private school.

4           **SECTION 6.** 16.971 (15) of the statutes is amended to read:

5           16.971 (15) Provide private schools and tribal schools, as defined in s. 115.001 (16),  
6           with telecommunications access under s. 16.997 and contract with telecommunications  
7           providers to provide that access.

**NOTE:** Requires the department of administration (DOA) to include tribal schools in the educational telecommunication access program under s. 16.997, stats., which provides access to data lines and video links under certain conditions to certain educational agencies (including private schools) at certain costs. This program is the part of the technology for educational achievement (TEACH) program that applies to private schools.

8           **SECTION 7.** 16.972 (1) (cm) of the statutes is created to read:

9           16.972 (1) (cm) “Qualified tribal school” means a tribal school as defined in s. 115.001  
10          (16).

11          **SECTION 8.** 16.972 (2) (b) of the statutes is amended to read:

12          16.972 (2) (b) Except as provided in par. (a), provide such computer services and  
13          telecommunications services to local governmental units and the broadcasting corporation  
14          and provide such telecommunications services to qualified private schools, tribal schools,



1 postsecondary institutions, museums, and zoos, as the department considers to be appropriate  
2 and as the department can efficiently and economically provide. The department may exercise  
3 this power only if in doing so it maintains the services it provides at least at the same levels  
4 that it provides prior to exercising this power and it does not increase the rates chargeable to  
5 users served prior to exercise of this power as a result of exercising this power. The department  
6 may charge local governmental units, the broadcasting corporation, and qualified private  
7 schools, tribal schools, postsecondary institutions, museums, and zoos, for services provided  
8 to them under this paragraph in accordance with a methodology determined by the  
9 department. Use of telecommunications services by a qualified private school, tribal school,  
10 or postsecondary institution shall be subject to the same terms and conditions that apply to a  
11 municipality using the same services. The department shall prescribe eligibility requirements  
12 for qualified museums and zoos to receive telecommunications services under this paragraph.

13 **SECTION 9.** 16.974 (2) and (3) of the statutes are amended to read:

14 16.974 (2) Subject to s. 16.972 (2) (b), enter into and enforce an agreement with any  
15 agency, any authority, any unit of the federal government, any local governmental unit, ~~or~~ any  
16 entity in the private sector, or any tribal school, as defined in s. 115.001 (16), to provide  
17 services authorized to be provided by the department to that agency, authority, unit, ~~or~~ entity,  
18 or tribal school at a cost specified in the agreement.

19 (3) Develop or operate and maintain any system or device facilitating Internet or  
20 telephone access to information about programs of agencies, authorities, local governmental  
21 units, ~~or~~ entities in the private sector, or any tribal schools, as defined in s. 115.001 (16), or  
22 otherwise permitting the transaction of business by agencies, authorities, local governmental  
23 units, ~~or~~ entities in the private sector, or tribal schools by means of electronic communication.

24 The department may assess executive branch agencies, other than the board of regents of the

1 University of Wisconsin System, for the costs of systems or devices relating to information  
2 technology or telecommunications that are developed, operated, or maintained under this  
3 subsection in accordance with a methodology determined by the department. The department  
4 may also charge any agency, authority, local governmental unit, ~~or~~ entity in the private sector,  
5 or tribal school for such costs as a component of any services provided by the department to  
6 that agency, authority, local governmental unit, ~~or~~ entity, or tribal school.

**NOTE:** SECTIONS 7, 8, and 9 permit DOA to provide telecommunications services to tribal schools that DOA considers appropriate and charge for such services. Also see s. 20.505 (1) (is), stats., below.

7 **SECTION 10.** 16.9785 of the statutes is amended to read:

8 **16.9785 Purchases of computers by teachers.** The department shall negotiate with  
9 private vendors to facilitate the purchase of computers and other educational technology, as  
10 defined in s. 24.60 (1r), by public ~~and~~, private, and tribal elementary and secondary school  
11 teachers for their private use. The department shall attempt to make available types of  
12 computers and other educational technology under this section that will encourage and assist  
13 teachers in becoming knowledgeable about the technology and its uses and potential uses in  
14 education.

**NOTE:** Includes tribal school teachers in the DOA program to facilitate the purchase of computers by school teachers.

15 **SECTION 11.** 16.99 (2g) of the statutes is amended to read:

16 16.99 (2g) “Educational agency” means a school district, charter school sponsor,  
17 juvenile correctional facility, private school, tribal school, as defined in s. 115.001 (16),  
18 cooperative educational service agency, technical college district, private college, public  
19 library system, public library board, public museum, the Wisconsin Center for the Blind and

1 Visually Impaired, or the Wisconsin Educational Services Program for the Deaf and Hard of  
2 Hearing.

**NOTE:** Includes tribal schools under the educational telecommunications access program which is part of the TEACH program. See s. 16.971 (15), stats., above.

3 **SECTION 12.** 20.505 (1) (is) of the statutes is amended to read:

4 20.505 (1) (is) *Information technology and communications services; nonstate entities.*

5 From the sources specified in ss. 16.972 (2) (b) and (c), 16.974 (2) and (3), and 16.997 (2) (d),  
6 to provide computer, telecommunications, electronic communications, and supercomputer  
7 services to state authorities, units of the federal government, local governmental units, tribal  
8 schools, and entities in the private sector, the amounts in the schedule.

**NOTE:** Amends the appropriation to DOA for technology and communications services provided to tribal schools to reflect the amendment to ss. 16.972 (2) (b) and 16.974 (2) and (3), stats., above.

9 **SECTION 13.** 27.01 (7) (c) 10. of the statutes is amended to read:

10 27.01 (7) (c) 10. Any motor vehicle operated for the purpose of transporting pupils to  
11 or from curricular or extracurricular activities of a public or private school ~~or~~ a home-based  
12 private educational program under s. 118.15 (4), or a tribal school, as defined in s. 115.001  
13 (16). The operator of a motor vehicle transporting pupils under this subdivision shall possess  
14 and exhibit for inspection a written authorization from an administrator of the school or  
15 home-based private educational program indicating that admission to the vehicle admission  
16 area is part of an official school or home-based private educational program function and  
17 indicating the date for which the authorization is applicable. A separate authorization is  
18 required for each date on which the motor vehicle is admitted to the vehicle admission area  
19 under this subdivision.

**NOTE:** Exempts a motor vehicle transporting tribal school pupils to a state park or recreational area from the requirement to display a state park admission receipt.

1           **SECTION 14.** 28.06 (1) of the statutes is amended to read:

2           28.06 (1) LIMITATION. Only planting stock of species and sizes suitable for forest and  
3 woodlot planting and for planting by school pupils, including pupils at a tribal school, as  
4 defined in s. 115.001 (16), to celebrate arbor day under s. 118.025 shall be produced in state  
5 forest nurseries. The department may employ labor at prevailing local wages for nursery  
6 operation or reforestation.

**NOTE:** Current law provides that the state forest nurseries may plant stock suitable for planting by school pupils to celebrate arbor day and authorizes distribution of the stock for arbor day plantings by school pupils. The draft specifies that tribal school pupils are included.

7           **SECTION 15.** 29.301 (1) (a) of the statutes is amended to read:

8           29.301 (1) (a) In this subsection, “school” means a public or private elementary or  
9 secondary school, including a charter school, a tribal school, as defined in s. 115.001 (16), or  
10 a technical college.

**NOTE:** Adds tribal school to the definition of “school” that is used in s. 29.301 (1) (b), stats., which prohibits hunting within 1,700 feet of certain facilities, including a school.

11           **SECTION 16.** 30.74 (1) (a) of the statutes is amended to read:

12           30.74 (1) (a) The department shall create comprehensive courses on boating safety and  
13 operation. These courses shall be offered in cooperation with schools, including tribal  
14 schools, as defined in s. 115.001 (16), private clubs and organizations, and may be offered by  
15 the department in areas where requested and where other sponsorship is unavailable. The  
16 department shall issue certificates to persons 10 years of age or older successfully completing  
17 such courses. The department shall prescribe the course content and the form of the certificate.

**NOTE:** Requires the department of natural resources to create boating safety courses and offer them in cooperation with, among others, schools, including tribal schools.

1       **SECTION 17.** 36.11 (36m) of the statutes is amended to read:

2       36.11 (**36m**) SCHOOL SAFETY RESEARCH. The board shall direct the schools of education  
3       and other appropriate research-oriented departments within the system, to work with the  
4       technical college system board under s. 38.04 (27), school districts, private schools, tribal  
5       schools, as defined in s. 115.001 (16), and the department of public instruction to present to  
6       school districts ~~and~~, private schools, and tribal schools the results of research on models for  
7       and approaches to improving school safety and reducing discipline problems in schools and  
8       at school activities.

**NOTE:** Requires the board of regents of the University of Wisconsin (UW) system to direct the UW schools of education to work with tribal schools, among others, on researching improving school safety and reducing school discipline problems and to share with tribal schools the results of such research.

9       **SECTION 18.** 38.001 (3) (a) of the statutes is amended to read:

10       38.001 (**3**) (a) 1. Contract with secondary schools, including tribal schools, to provide  
11       educational opportunities for high school age students in order to enhance their potential for  
12       benefiting from postsecondary education and for obtaining employment.

13       2. Coordinate and cooperate with secondary schools, including tribal schools, to  
14       facilitate the transition of secondary school students into postsecondary technical college  
15       education through curriculum articulation and collaboration.

**NOTE:** Provides that the purposes of the technical college system include contracting, coordinating, and cooperating with tribal schools.

16       **SECTION 19.** 38.01 (9m) of the statutes is created to read:

17       38.01 (**9m**) “Tribal school” has the meaning given in s. 115.001 (16).

18       **SECTION 20.** 38.04 (27) of the statutes is amended to read:

1           38.04 (27) SCHOOL SAFETY. The board shall work with schools of education and other  
2 departments of the University of Wisconsin System under s. 36.11 (36m), school districts,  
3 private schools, tribal schools, and the department of public instruction to present to school  
4 districts and private schools, and tribal schools the results of research on models for and  
5 approaches to improving school safety and reducing discipline problems in schools and at  
6 school activities.

**NOTE:** Requires the technical college system board to additionally work  
with tribal schools on researching improving school safety and reducing  
school discipline problems and to share with tribal schools the results of  
such research.

7           **SECTION 21.** 38.14 (3) (a) and (bm) of the statutes are amended to read:

8           38.14 (3) (a) The district board may enter into contracts to provide educational services  
9 to public and private educational institutions, tribal schools, federal and state agencies, local  
10 governmental bodies, industries, and businesses.

11           (bm) The district board may enter into contracts to provide fiscal and management  
12 services to public and private educational institutions, tribal schools, federal and state  
13 agencies, and local governmental units.

**NOTE:** Authorizes a technical college system district board to contract  
with tribal schools, among others, to provide educational services or  
fiscal and management services.

14           **SECTION 22.** 39.41 (1) (bm) of the statutes is amended to read:

15           39.41 (1) (bm) “Senior” means a pupil enrolled in the 12th grade in a public or private  
16 high school, a tribal school, the school operated by the Wisconsin Educational Services  
17 Program for the Deaf and Hard of Hearing, or the school operated by the Wisconsin Center  
18 for the Blind and Visually Impaired.

19           **SECTION 23.** 39.41 (1) (br) of the statutes is created to read:

1           39.41 (1) (br) "Tribal school" has the meaning given in s. 115.001 (16).

2           **SECTION 24.** 39.41 (1m) (a) (intro.), (b), (c) 4. and 5., (e), (em), (g) and (j) of the statutes  
3 are amended to read:

4           39.41 (1m) (a) (intro.) Subject to par. (d), by February 15 of each school year, the school  
5 board of each school district operating one or more high schools and the governing body of  
6 each private high school and of each tribal high school shall:

7           (b) By February 15 of each school year, the school board of each school district  
8 operating one or more high schools and the governing body of each private high school and  
9 of each tribal high school may, for each high school with an enrollment of less than 80 pupils,  
10 nominate the senior with the highest grade point average in all subjects who may be designated  
11 as a scholar by the executive secretary under par. (c) 3.

12           (c) 4. For each public ~~or~~, private, or tribal high school with an enrollment of at least 80  
13 pupils, notify the school board of the school district operating the public high school or the  
14 governing body of the private or tribal high school of the number of scholars to be designated  
15 under par. (a).

16           5. For each public ~~or~~, private, or tribal high school with an enrollment of less than 80  
17 pupils, notify the school board of the school district operating the public high school or the  
18 governing body of the private or tribal high school that the school board or governing body  
19 may nominate a senior under par. (b) who may be designated as a scholar by the executive  
20 secretary.

21           (e) Except as provided under par. (em), if 2 or more seniors from the same high school  
22 of less than 80 pupils have the same grade point average and, except for the limitation of one  
23 nominated senior, are otherwise eligible for nomination under par. (b), the faculty of the high  
24 school shall select the senior who may be nominated by the school board of the school district

1 operating the public high school or the governing body of the private or tribal high school for  
2 designation under par. (b) as a scholar by the executive secretary. If that senior is designated  
3 as a scholar by the executive secretary and does not qualify for a higher education scholarship  
4 under sub. (2) (a) or (3) (a), faculty of the high school shall select one or more of the remaining  
5 seniors with the same grade point average for certification as a scholar and the school board  
6 of the school district operating the high school or the governing body of the private or tribal  
7 high school shall certify to the board one or more of these seniors as eligible for a higher  
8 education scholarship as a scholar under sub. (2) (a) or (3) (a) until the scholarship may be  
9 awarded by the board.

10 (em) If the high school weights different courses differently to determine a pupil's grade  
11 point average, and the senior designated as a scholar by the executive secretary under par. (e)  
12 does not qualify for a higher education scholarship under sub. (2) (a) or (3) (a), the faculty of  
13 the high school shall select one senior with the same grade point average for certification as  
14 a scholar, or, if there is no senior with the same grade point average, one senior with the next  
15 highest grade point average for certification as a scholar, and the school board of the school  
16 district operating the high school or the governing body of the private or tribal high school  
17 shall certify to the board the selected senior as eligible for a higher education scholarship as  
18 a scholar under sub. (2) (a) or (3) (a) until the scholarship may be awarded by the board.

19 (g) Notwithstanding par. (a), if a high school of at least 80 pupils closes or merges in  
20 the 1991-92 school year or in any school year thereafter, the school board of the school district  
21 operating the high school or the governing body of the private or tribal high school shall,  
22 subject to par. (d), for each of the 2 school years following the closure or merger, designate  
23 the same number of scholars from among the pupils enrolled in the high school at the time of  
24 closure or merger as the number of scholars designated for that high school in the school year



1 the high school closed or merged. Any seniors designated under this paragraph shall be  
2 eligible for an original scholarship under this section.

3 (j) In the event that 2 or more seniors from the same high school of at least 80 pupils  
4 have the same grade point average and are otherwise eligible for designation under par. (a),  
5 the school board of the school district operating the high school or the governing body of the  
6 private or tribal high school shall make the designation of the faculty of the high school for  
7 purposes of par. (d) or (i).

**NOTE:** SECTIONS 22, 23, and 24 include seniors at a tribal high school in  
the academic excellence higher education scholarships program that  
provides certain seniors with academic scholarships at the UW, technical  
college, or participating private institutions of higher education.

8 **SECTION 25.** 45.20 (2) (a) 1., (c) 1. and (d) 1. of the statutes are amended to read:

9 45.20 (2) (a) 1. The department shall administer a tuition reimbursement program for  
10 eligible veterans enrolling as undergraduates in any institution of higher education in this  
11 state, enrolling in a school that is approved under s. 45.03 (11), enrolling in a proprietary  
12 school that is approved under s. 38.50, enrolling in a public or private high school, enrolling  
13 in a tribal school, as defined in s. 115.011 (16), that operates high school grades, or receiving  
14 a waiver of nonresident tuition under s. 39.47.

15 (c) 1. A veteran who meets the eligibility requirements under par. (b) 1. may be  
16 reimbursed upon satisfactory completion of an undergraduate semester in any institution of  
17 higher education in this state, or upon satisfactory completion of a course at any school that  
18 is approved under s. 45.03 (11), any proprietary school that is approved under s. 38.50, any  
19 public or private high school, any tribal school, as defined in s. 115.001 (16), that operates high  
20 school grades, or any institution from which the veteran receives a waiver of nonresident  
21 tuition under s. 39.47. Except as provided in par. (e), the amount of reimbursement may not

1 exceed the total cost of the veteran's tuition minus any grants or scholarships that the veteran  
2 receives specifically for the payment of the tuition, or, if the tuition is for an undergraduate  
3 semester in any institution of higher education, the standard cost of tuition for a state resident  
4 for an equivalent undergraduate semester at the University of Wisconsin-Madison, whichever  
5 is less.

6 (d) 1. A veteran's eligibility for reimbursement under this subsection at any institution  
7 of higher education in this state, at a school that is approved under s. 45.03 (11), at a proprietary  
8 school that is approved under s. 38.50, at a public or private high school, at a tribal school, as  
9 defined in s. 115.001 (16), that operates high school grades, or at an institution where he or  
10 she is receiving a waiver of nonresident tuition under s. 39.47 is limited to the following:

**NOTE:** Provides that a veteran is eligible for reimbursement for a course  
taken at a tribal high school under certain circumstances.

11 **SECTION 26.** 46.275 (3r) (a) 3. of the statutes is amended to read:

12 46.275 (3r) (a) 3. The person will be relocated into the home of the person's parent or  
13 guardian and will be receiving state monitoring of the relocation and services provided by a  
14 public or private school or a tribal school, as defined in s. 115.001 (16).

**NOTE:** Current law permits the department of health and family services  
(DHFS) to relocate a resident of a state center for the developmentally  
disabled to the community without county participation under certain  
circumstances, including the circumstance in s. 46.275 (3r) (a) 3., stats.,  
which is amended to include a tribal school.

15 **SECTION 27.** 48.02 (18m) of the statutes is created to read:

16 48.02 (18m) "Tribal school" has the meaning given in s. 115.001 (16).

17 **SECTION 28.** 48.345 (12) (a) 5. of the statutes is created to read:

18 48.345 (12) (a) 5. Pursuant to a contractual agreement with the school district in which  
19 the child resides, an educational program provided by a tribal school.

1           **SECTION 29.** 48.345 (12) (c) of the statutes is amended to read:

2           48.345 (12) (c) The judge shall order the county department, department, in a county  
3           having a population of 500,000 or more, or licensed child welfare agency responsible for  
4           supervising the child to disclose to the school board, technical college district board, tribal  
5           school, or private, nonprofit, nonsectarian agency which is providing an educational program  
6           under par. (a) 3. records or information about the child, as necessary to assure the provision  
7           of appropriate educational services under par. (a).

**NOTE:** Under current law, a child in need of protection or services (CHIPS) dispositional order may include an order that a child 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 48.345 (12) (a) 5., stats., specifies that the court is permitted to order a child to attend a tribal school if the school district has a contract with the tribal school for such placements. Section 48.345 (12) (c), stats., is amended to require the court to order the supervising agency to disclose information to the tribal school necessary to assure appropriate educational services in such cases. Also see ss. 121.78 (4) and 938.34 (7d) (a) 5. and (c), stats., below.

8           **SECTION 30.** 48.355 (2) (c) of the statutes is amended to read:

9           48.355 (2) (c) If school attendance is a condition of an order under par. (b) 7., the order  
10          shall specify what constitutes a violation of the condition and shall direct the school board of  
11          the school district, or the governing body of the private school, in which the child is enrolled,  
12          or shall request the governing body of the tribal school in which the child is enrolled, to notify  
13          the county department that is responsible for supervising the child or, in a county having a  
14          population of 500,000 or more, the department within 5 days after any violation of the  
15          condition by the child.

**NOTE:** Under s. 48.355 (2) (b) 7., stats., a CHIPS dispositional order may state the conditions with which the child 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 5 days of a violation of the condition. The draft requires that the court order request that a tribal school do so.

1           **SECTION 31.** 48.396 (1) of the statutes is amended to read:

2           48.396 (1) Law enforcement officers' records of children shall be kept separate from  
3 records of adults. Law enforcement officers' records of the adult expectant mothers of unborn  
4 children shall be kept separate from records of other adults. Law enforcement officers'  
5 records of children and the adult expectant mothers of unborn children shall not be open to  
6 inspection or their contents disclosed except under sub. (1b), (1d), (5), or (6) or s. 48.293 or  
7 by order of the court. This subsection does not apply to the representatives of newspapers or  
8 other reporters of news who wish to obtain information for the purpose of reporting news  
9 without revealing the identity of the child or adult expectant mother involved, to the  
10 confidential exchange of information between the police and officials of the public or private  
11 school attended by the child or other law enforcement or social welfare agencies, or to children  
12 10 years of age or older who are subject to the jurisdiction of the court of criminal jurisdiction.  
13 A public school official who obtains information under this subsection shall keep the  
14 information confidential as required under s. 118.125, and a private school official who  
15 obtains information under this subsection shall keep the information confidential in the same  
16 manner as is required of a public school official under s. 118.125. This subsection does not  
17 apply to the confidential exchange of information between the police and officials of the tribal  
18 school attended by the child if the police determine that enforceable protections are provided  
19 by a tribal school policy or tribal law that requires tribal school officials to keep the  
20 information confidential in a manner at least as stringent as is required of a public school  
21 official under s. 118.125. A law enforcement agency that obtains information under this  
22 subsection shall keep the information confidential as required under this subsection and s.

1 938.396 (1) (a). A social welfare agency that obtains information under this subsection shall  
2 keep the information confidential as required under ss. 48.78 and 938.78.

**NOTE:** Current law provides that the subsection which specifies that, subject to certain exceptions, law enforcement records relating to children under ch. 48 (the children's code) are confidential does not apply to the confidential exchange of information between the police and school officials. Current law further requires that public school officials who obtain information under this provision 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 provision keep the information confidential in the same manner as is required of a public school official. The draft permits the police to confidentially exchange information with tribal school officials if the police determine 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.

3 **SECTION 32.** 48.65 (2) (b) of the statutes is amended to read:

4 48.65 (2) (b) A public or parochial school or a tribal school.

**NOTE:** The day care license statute requires that, with certain exceptions, a facility that provides care for 4 or more children under the age of 7 must obtain a day care center license. Because the day care license statute is a state civil regulatory law, it is not clear that this statute applies to a facility operated by a tribe or tribal member on a reservation or off-reservation trust land, although a tribe or tribal member may choose to obtain a license. In the event a court interprets the day care license statute as applying to a tribe or tribal member, the draft makes clear that a tribal school is not subject to this statute.

5 **SECTION 33.** 48.78 (2) (b) of the statutes is amended to read:

6 48.78 (2) (b) Paragraph (a) does not apply to the confidential exchange of information  
7 between an agency and another social welfare agency, a law enforcement agency, a public  
8 school, or a private school regarding an individual in the care or legal custody of the agency.  
9 A social welfare agency that obtains information under this paragraph shall keep the  
10 information confidential as required under this section and s. 938.78. A law enforcement

1 agency that obtains information under this paragraph shall keep the information confidential  
2 as required under ss. 48.396 (1) and 938.396 (1) (a). A public school that obtains information  
3 under this paragraph shall keep the information confidential as required under s. 118.125, and  
4 a private school that obtains information under this paragraph shall keep the information  
5 confidential in the same manner as is required of a public school under s. 118.125. Paragraph  
6 (a) does not apply to the confidential exchange of information between an agency and officials  
7 of a tribal school regarding an individual in the care or legal custody of the agency if the agency  
8 determines that enforceable protections are provided by a tribal school policy or tribal law that  
9 requires tribal school officials to keep the information confidential in a manner at least as  
10 stringent as is required of a public school official under s. 118.125.

**NOTE:** Section 48.78 (2) (a), stats., provides that, subject to certain exceptions, DHFS, a county department of human services or county department of social services, a licensed child welfare agency, or a licensed day care center (collectively referred to as agency) must keep its records relating to children under ch. 48, stats., confidential. Section 48.78 (2) (b), stats., provides an exception and 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. The draft permits an agency to confidentially exchange information with tribal school officials 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.

11 **SECTION 34.** 49.26 (1) (a) 2. bm. of the statutes is created to read:  
12 49.26 (1) (a) 2. bm. A tribal school, as defined in s. 115.001 (16).

**NOTE:** Includes a tribal school in the definition of a “school” under the learnfare program, which requires certain individuals to attend school under certain circumstances as a condition of eligibility under the Wisconsin works program.

13 **SECTION 35.** 49.26 (1) (g) 2. of the statutes is amended to read:

1           49.26 (1) (g) 2. The individual has not graduated from a public ~~or~~, private, or tribal high  
2 school or obtained a declaration of equivalency of high school graduation under s. 115.29 (4).

**NOTE:** Provides an exception for the school attendance requirement under the learnfare program if an individual has graduated from a tribal high school.

3           **SECTION 36.** 51.45 (4) (d) of the statutes is amended to read:

4           51.45 (4) (d) Cooperate with the department of public instruction, local boards of  
5 education, schools, including tribal schools, as defined in s. 115.001 (16), police departments,  
6 courts, and other public and private agencies, organizations, and individuals in establishing  
7 programs for the prevention of alcoholism and treatment of alcoholics and intoxicated  
8 persons, and preparing curriculum materials thereon for use at all levels of school education.

**NOTE:** Requires DHFS to cooperate with various entities, including tribal schools, to establish alcoholism prevention and treatment programs and to prepare curriculum materials.

9           **SECTION 37.** 103.21 (7) of the statutes is created to read:

10          103.21 (7) “Tribal school” has the meaning given in s. 115.001 (16).

11          **SECTION 38.** 103.23 (2) (intro.) and (a) of the statutes are amended to read:

12          103.23 (2) (intro.) A minor under 12 years of age may work in a fund-raising sale for  
13 a nonprofit organization, a public school ~~or~~, a private school, or a tribal school under the  
14 following conditions:

15          (a) Each minor must give the nonprofit organization, public school ~~or~~, private school,  
16 or tribal school written approval from the minor’s parent or guardian.

17          **SECTION 39.** 103.25 (3m) (c) and (5) of the statutes are amended to read:

18          103.25 (3m) (c) This subsection does not apply to employment of a minor by a  
19 newspaper publisher or in a fund-raising sale for a nonprofit organization, a public school ~~or~~,  
20 a private school, or a tribal school.

1           (5) This section does not apply to employment of a minor in a fund-raising sale for a  
2 nonprofit organization, a public school ~~or~~, a private school, or a tribal school.

3           **SECTION 40.** 103.27 (3) of the statutes is amended to read:

4           103.27 (3) This section does not apply to employment of a minor in a fund-raising sale  
5 for a nonprofit organization, a public school ~~or~~, a private school, or a tribal school.

6           **SECTION 41.** 103.275 (8) of the statutes is amended to read:

7           103.275 (8) EXCEPTION. This section does not apply to the employment of a minor by  
8 a newspaper publisher or in a fund-raising sale for a nonprofit organization, a public school  
9 ~~or~~, a private school, or a tribal school.

**NOTE:** SECTION 37 creates a definition of “tribal school” for purposes of the statutes relating to minors working in the street trades or fund raising. In general, minors doing fund raising by selling for a public or private school are exempt from these statutes. The courts have not made clear if these statutes may be applied on reservations or on off-reservation trust land to minors who are engaged in such activities for a tribal school. While a court may be less likely to apply the statute to American Indian minors who are fund raising on their own reservation or off-reservation trust land, it is possible that a court would apply the statute to non-Indian minors who are fund raising for a tribal school.

SECTIONS 38 to 41 specify that the statutes do not apply if a minor is engaged in fund-raising activities for a tribal school.

10          **SECTION 42.** 103.64 (6) of the statutes is created to read:

11          103.64 (6) “Tribal school” has the meaning given in s. 115.001 (16).

**NOTE:** Defines tribal school as used in ss. 103.67 (2) (c) and 103.71 (1) (b), below.

12          **SECTION 43.** 103.67 (2) (c) of the statutes is amended to read:

13          103.67 (2) (c) Minors 12 years of age or older may be employed in street trades, and  
14 any minor may work in fund-raising sales for nonprofit organizations, public schools ~~or~~,  
15 private schools, or tribal schools, as provided in ss. 103.21 to 103.31.



**NOTE:** Relates to SECTIONS 37 and 41, above.

1           **SECTION 44.** 103.71 (1) (b) of the statutes is amended to read:

2           103.71 (1) (b) A diploma or certificate to this effect issued by the superintendent of the  
3           parochial school system or by the principal of the parochial or private school or tribal school  
4           last attended by such minor. Such superintendent, principal, or clerk shall issue such diploma  
5           or certificate upon receipt of any application in behalf of any minor entitled thereto. As used  
6           in this paragraph the term “school district” shall apply to all regularly constituted school  
7           districts, including union free high school districts.

**NOTE:** Permits a child who has completed high school, including a tribal  
high school, to be employed during school hours.

8           **SECTION 45.** 115.001 (16) of the statutes is created to read:

9           115.001 (16) “Tribal school” means an institution with an educational program that has  
10          as its primary purpose providing education in any grade or grades from kindergarten to 12 and  
11          that is controlled by the elected governing body of a federally recognized American Indian  
12          tribe or band in Wisconsin or by a tribal educational authority established under the laws of  
13          a federally recognized American Indian tribe or band in Wisconsin.

**NOTE:** Defines tribal school for purposes of chs. 115 to 121, stats.,  
which relate to K–12 education. This definition is also cross-referenced  
in statutes outside these chapters that are being amended to refer to tribal  
schools.

14          **SECTION 46.** 115.28 (7) (b) and (e) 1. and (11) (intro.) of the statutes are amended to  
15          read:

16          115.28 (7) (b) Subject to the same rules and laws concerning qualifications of applicants  
17          and granting and revocation of licenses or certificates under par. (a), the state superintendent  
18          shall grant certificates and licenses to teachers in private schools and tribal schools, except that  
19          teaching experience requirements for such certificates and licenses may be fulfilled by

1 teaching experience in ~~either public or~~ private, or tribal schools. An applicant is not eligible  
2 for a license or certificate unless the state superintendent finds that the private school or tribal  
3 school in which the applicant taught offered an adequate educational program during the  
4 period of the applicant's teaching therein. Private schools are not obligated to employ only  
5 licensed or certified teachers.

**NOTE:** Provides that, although state law does not require that teachers in tribal schools have a state license, a state license may be issued if the applicant who teaches in a tribal school meets the state license criteria. Further provides that appropriate experience in a tribal school is counted in determining teaching experience under the state licensure law.

Whether a tribal school is obligated to employ only state licensed or certified teachers is determined by tribal law (or by federal law if the tribal school receives funding from the BIA). Because the issue is not determined by state law, the draft does not include language regarding the matter.

6 (e) 1. In this paragraph, "alternative education program" means an instructional  
7 program, approved by the school board, that utilizes successful alternative or adaptive school  
8 structures and teaching techniques and that is incorporated into existing, traditional  
9 classrooms or regularly scheduled curricular programs or that is offered in place of regularly  
10 scheduled curricular programs. "Alternative educational program" does not include a private  
11 school, a tribal school, or a home-based private educational program.

**NOTE:** For the alternative education program license, specifies that, like a private school, an alternative educational program does not include a tribal school.

12 **(11) DRIVER EDUCATION COURSES.** (intro.) Approve driver education courses offered by  
13 school districts, county children with disabilities education boards, and technical college  
14 districts for the purposes of s. 343.16 (1) (c) 1. and establish minimum standards for driver  
15 education courses offered in private schools and tribal schools for the purposes of s. 343.16

1 (1) (c) 3. All driver education courses approved or for which standards are established under  
2 this subsection shall do all of the following:

**NOTE:** Requires the state superintendent to establish minimum standards for driver education courses offered in tribal schools so that the courses can be accepted by the department of transportation (DOT) under ss. 343.06 (1) (c) and 343.16, stats., which relate to qualifications for a driver's license and examining applicants for a driver's license.

If the tribal school does not comply with the requirements for the driver education course, the consequence would be that DOT cannot accept the tribal school course for purposes of the driver's license statute.

3 **SECTION 47.** 115.34 (2) of the statutes is amended to read:

4 115.34 (2) The state superintendent shall make payments to school districts, private  
5 schools, charter schools under s. 118.40 (2r), tribal schools, the program under s. 115.52, and  
6 the center under s. 115.525 for school lunches served to children in the prior year as determined  
7 by the state superintendent from the appropriation under s. 20.255 (2) (cn). Payments shall  
8 equal the state's matching obligation under 42 USC 1751 et seq. Payments in the current year  
9 shall be determined by prorating the state's matching obligation based on the number of school  
10 lunches served to children in the prior year. In this subsection, "private school" means any  
11 school defined in s. 115.001 (3r) which complies with the requirements of 42 USC 2000d.

**NOTE:** Adds tribal schools to the school lunch program.

12 **SECTION 48.** 115.341 of the statutes is amended to read:

13 **115.341 School breakfast program. (1)** From the appropriation under s. 20.255 (2)  
14 (cm), the state superintendent shall reimburse each school board 10 cents for each breakfast  
15 served at a school that meets the requirements of 7 CFR 220.8 or 220.8a, whichever is  
16 applicable, and shall reimburse each governing body of a private school or tribal school 10  
17 cents for each breakfast served at the private school or tribal school that meets the  
18 requirements of 7 CFR 220.8 or 220.8a, whichever is applicable.

1           (2) If the appropriation under s. 20.255 (2) (cm) in any fiscal year is insufficient to pay  
2 the full amount of aid under this section, the state superintendent shall prorate state aid  
3 payments among the school boards and governing bodies of private schools and tribal schools  
4 entitled to the aid.

**NOTE:** Adds tribal schools to the school breakfast program.

5           **SECTION 49.** 115.343 (1) of the statutes is amended to read:

6           115.343 (1) The department shall establish a school day milk program. A public,  
7 private, or tribal school participating in the program shall offer each eligible child one  
8 half-pint of Wisconsin-produced whole milk, 2% milk, 1.5% milk, one percent milk, 0.5%  
9 milk, skim milk or chocolate milk on each day in which school is in session. If a child is  
10 allergic to milk or has metabolic disorders or other conditions which prohibit him or her from  
11 drinking milk, the child shall be offered juice as a substitute. Any school that participates in  
12 the program is encouraged to consider bids from local milk suppliers. The school shall keep  
13 all information related to the identity of the pupils who receive a beverage under the program  
14 confidential. In this subsection, "Wisconsin-produced" means that all or part of the raw milk  
15 used by the milk processor was produced in this state.

**NOTE:** Current law provides aid for the school day milk program.  
According to DPI staff, this statute is interpreted as applying to all  
schools, including tribal schools. The draft clearly specifies that tribal  
schools may be participating schools.

16          **SECTION 50.** 115.345 (7m) of the statutes is amended to read:

17          115.345 (7m) A private school or tribal school may establish a food services plan for  
18 elderly persons. If the plan meets all of the requirements of this section and is approved by  
19 the state superintendent, the private school or tribal school is eligible for reimbursement in the  
20 same manner as school districts under sub. (5).

**NOTE:** Adds tribal schools as eligible for reimbursement for a food services plan for the elderly.

1           **SECTION 51.** 115.36 (1) and (2) (a), (b) and (d) 3. of the statutes are amended to read:

2           115.36 (1) The purpose of this section is to enable and encourage public ~~and~~, private,  
3           and tribal schools to develop comprehensive programs to prevent or ameliorate alcohol and  
4           other drug abuse among minors.

5           (2) (a) Develop and conduct training programs for the professional staff of public ~~and~~,  
6           private, and tribal schools in alcohol and other drug abuse prevention, intervention, and  
7           instruction programs.

8           (b) Provide consultation and technical assistance to public ~~and~~, private, and tribal  
9           schools for the development and implementation of alcohol and other drug abuse prevention,  
10          intervention, and instruction programs.

11          (d) 3. The systematic dissemination of information concerning available resources to  
12          appropriate public ~~and~~, private, and tribal school staff.

**NOTE:** Includes tribal schools in DPI's program to assist schools in developing alcohol and other drug abuse programs.

13          **SECTION 52.** 115.365 (1) and (2) (a) and (b) of the statutes are amended to read:

14          115.365 (1) The purpose of this section is to enable and encourage public ~~and~~, private,  
15          and tribal schools to develop programs designed to prevent suicide among minors.

16          (2) (a) Develop and conduct training programs in suicide prevention for the  
17          professional staff of public ~~and~~, private, and tribal schools and county departments under ss.  
18          46.215, 46.22, and 51.42. The programs shall include information on how to assist minors in  
19          the positive emotional development which will help prevent suicidal tendencies; the  
20          detection, by minors, school staff, and parents, of conditions which indicate suicidal  
21          tendencies; the proper action to take when there is reason to believe that a minor has suicidal

1 tendencies or is contemplating suicide; and the coordination of school suicide prevention  
2 programs and activities with the suicide prevention and intervention programs and activities  
3 of other state and local agencies. Persons other than the professional staff of public ~~and~~,  
4 private, and tribal schools and county departments under ss. 46.215, 46.22, and 51.42 may  
5 attend the training programs. The department may charge such persons a fee sufficient to  
6 cover the increased costs to the department of their participation in the programs.

7 (b) Provide consultation and technical assistance to public ~~and~~, private, and tribal  
8 schools for the development and implementation of suicide prevention programs and the  
9 coordination of those programs with the suicide prevention and intervention programs of other  
10 state and local agencies.

**NOTE:** Includes tribal schools in DPI's program to assist schools in  
developing suicide prevention programs.

11 **SECTION 53.** 115.368 (1) and (2) (a) and (b) of the statutes are amended to read:

12 115.368 (1) The purpose of this section is to enable and encourage public ~~and~~, private,  
13 and tribal schools to develop protective behaviors programs and anti-offender behavior  
14 programs designed to assist minors and their parents or guardians in recognizing, avoiding,  
15 preventing, and halting physically or psychologically intrusive or abusive situations that may  
16 be harmful to minors.

17 (2) (a) Develop and conduct protective behaviors training programs for the professional  
18 staff of public ~~and~~, private, and tribal schools and counties under ss. 46.034, 46.215, 46.22,  
19 46.23, 51.42, and 51.437. The training programs shall include information on how to assist  
20 a minor and his or her parent or guardian in recognizing, avoiding, preventing, and halting  
21 physically or psychologically intrusive or abusive situations that may be harmful to the minor,  
22 including child abuse, sexual abuse, and child enticement. The training programs shall

1 emphasize how to help minors to develop positive psychological, emotional, and  
2 problem-solving responses to such situations, and to avoid relying on negative, fearful, or  
3 solely reactive methods of dealing with such situations. The training programs shall also  
4 include information on the detection, by other minors, their parents or guardians, and school  
5 staff, of conditions that indicate that a minor is being or has been subjected to such situations;  
6 the proper action to take when there is reason to believe that a minor is being or has been  
7 subjected to such situations; and the coordination of school protective behaviors programs and  
8 activities with programs and activities of other state and local agencies. Persons other than  
9 the professional staff of public and private, and tribal schools and counties under ss. 46.034,  
10 46.215, 46.22, 46.23, 51.42, and 51.437 may attend the training programs. The department  
11 may charge such persons a fee sufficient to cover the increased costs of materials, but not  
12 personnel cost, to the department of their participation in the programs. The department may  
13 not deny any resident of Wisconsin the opportunity to participate in a program if the person  
14 is unable to pay any fee.

15 (b) Provide consultation and technical assistance to public and private, and tribal  
16 schools for the development and implementation of protective behaviors programs and the  
17 coordination of those programs with programs of other state and local agencies.

**NOTE:** Includes tribal schools in DPI's program to assist schools in  
developing protective behavior programs.

18 **SECTION 54.** 115.42 (1) (a) 2. and (2) (a) 2. of the statutes are amended to read:

19 115.42 (1) (a) 2. The person is licensed as a teacher by the state superintendent or  
20 employed as a teacher in a private school or tribal school located in this state.

21 (2) (a) 2. The person maintains his or her license as a teacher by the state superintendent  
22 or remains employed in a private school or tribal school 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 and meet other criteria.

1           **SECTION 55.** 115.52 (3) (b) 1., 2., and 10. of the statutes are amended to read:

2           115.52 (3) (b) 1. Provide evaluation services to assist local educational agencies,  
3 cooperative educational service agencies, county children with disabilities education boards,  
4 private schools, tribal schools, and others.

5           2. Provide technical assistance and consultation services to local educational agencies,  
6 cooperative educational service agencies, county children with disabilities education boards,  
7 private schools, tribal schools, and others.

8           10. Rent or lease technological materials and assistive technology devices, as defined  
9 in s. 115.76 (1), to local educational agencies, cooperative educational service agencies,  
10 county children with disabilities education boards, ~~and~~ 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.

11           **SECTION 56.** 115.525 (3) (b) 2. of the statutes is amended to read:

12           115.525 (3) (b) 2. Provide technical assistance and consultation services to entities such  
13 as local educational agencies, cooperative educational service agencies, county children with  
14 disabilities education boards ~~and~~, private schools, and tribal 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.

15           **SECTION 57.** 116.01 of the statutes is amended to read:

16           **116.01 Purpose.** The organization of school districts in Wisconsin is such that the  
17 legislature recognizes the need for a service unit between the school district and the state  
18 superintendent. The cooperative educational service agencies are designed to serve



1 educational needs in all areas of Wisconsin by serving as a link both between school districts  
2 and between school districts and the state. Cooperative educational service agencies may  
3 provide leadership, coordination, and education services to school districts, University of  
4 Wisconsin System institutions, and technical colleges. Cooperative educational service  
5 agencies may facilitate communication and cooperation among all public and private, and  
6 tribal schools, agencies, and organizations that provide services to pupils.

**NOTE:** Authorizes cooperative educational service agencies (CESAs) to facilitate communication and cooperation among public, private, and tribal schools, agencies, and organizations that provide services to pupils.

7 **SECTION 58.** 116.032 (1) and (3) (a) (intro.) of the statutes are amended to read:

8 116.032 (1) Subject to subs. (2) to (5), for the purpose of providing services to pupils,  
9 a board of control may contract with school districts, University of Wisconsin System  
10 institutions, technical college district boards, private schools, tribal schools, and agencies or  
11 organizations that provide services to pupils. A board of control may also contract with one  
12 or more school boards to operate a charter school under s. 118.40 (3) (c).

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

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

16 **SECTION 59.** 118.025 of the statutes is amended to read:

17 **118.025 Arbor day observance.** ~~A school~~ The principal of a public, private, or tribal  
18 school may request one free tree provided from state forest nurseries by the department of  
19 natural resources under s. 28.06 for each 4th grade pupil in the school for planting in  
20 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.

1           **SECTION 60.** 118.07 (3) of the statutes is amended to read:

2           118.07 (3) The department shall make available to school districts, private schools,  
3           tribal schools, and charter schools information about meningococcal disease, including the  
4           causes and symptoms of the disease, how it is spread, and how to obtain additional information  
5           about the disease and the availability, effectiveness, and risks of vaccinations against the  
6           disease. The department may do so by posting the information on its Internet site. At the  
7           beginning of the 2006–07 to 2011–12 school years, each school board and the governing body  
8           of each private school and each charter school shall provide the parents and guardians of pupils  
9           enrolled in grades 6 to 12 in the school district or school with the information. At the beginning  
10          of the 2012 school year and each school year thereafter, each school board and the governing  
11          body of each private school and each charter school shall provide the parents and guardians  
12          of pupils enrolled in grade 6 in the school district or school 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 draft does require that tribal schools provide the information to parents and guardians of pupils.

13          **SECTION 61.** 118.08 (1) of the statutes is amended to read:

14          118.08 (1) On any street or highway which borders the grounds of any public ~~or~~, private,  
15          or tribal school in which school is held for a term of not less than 6 months, the authority in  
16          charge of the maintenance of the street or highway shall erect black and yellow “school”  
17          warning signs. The authority may also designate school crossings across any street or  
18          highway, whether or not the street or highway borders 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.

19          **SECTION 62.** 118.125 (2) (n) of the statutes is amended to read:

1           118.125 (2) (n) For the purpose of providing services to a pupil before adjudication, a  
2 school board may disclose pupil records to a law enforcement agency, district attorney, city  
3 attorney, corporation counsel, agency, as defined in s. 938.78 (1), intake worker under s.  
4 48.067 or 938.067, court of record, municipal court, private school, or another school board  
5 if disclosure is pursuant to an interagency agreement and the person to whom the records are  
6 disclosed certifies in writing that the records will not be disclosed to any other person except  
7 as permitted under this subsection. For the purpose of providing services to a pupil before  
8 adjudication, a school board may disclose pupil records to a tribal school if disclosure is  
9 pursuant to an agreement between the school board and the governing body of the tribal school  
10 and if the school board determines that enforceable protections are provided by a tribal school  
11 policy or tribal law that requires the tribal school official to whom the records are disclosed  
12 not to disclose the records to any other person except as 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. The draft 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.

13           **SECTION 63.** 118.125 (4) of the statutes is amended to read:

14           118.125 (4) TRANSFER OF RECORDS. Within 5 working days, a school district shall  
15 transfer to another school, including a private or tribal school, or school district all pupil  
16 records relating to a specific pupil if the transferring school district has received written notice

1 from the pupil if he or she is an adult or his or her parent or guardian if the pupil is a minor  
2 that the pupil intends to enroll in the other school or school district or written notice from the  
3 other school or school district that the pupil has enrolled or from a court that the pupil has been  
4 placed in a juvenile correctional facility, as defined in s. 938.02 (10p), or a secured residential  
5 care center for children and youth, as defined in s. 938.02 (15g). In this subsection, “school”  
6 and “school district” include any juvenile correctional facility, secured residential care center  
7 for children and youth, adult correctional institution, mental health institute, or center for the  
8 developmentally disabled, that provides an educational program for its residents instead of or  
9 in addition to that which is provided by public ~~and~~ private, and tribal schools.

**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. The draft 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.

10 **SECTION 64.** 118.127 (2) of the statutes is amended to read:

11 118.127 (2) A school district ~~or~~ private school, or tribal school may disclose  
12 information from law enforcement officers’ records obtained under s. 938.396 (1) (c) 3. only  
13 to persons employed by the school district who are required by the department under s. 115.28  
14 (7) to hold a license, to persons employed by the private school or tribal school as teachers,  
15 and to other school district ~~or~~ private school, or tribal school officials who have been  
16 determined by the school board or governing body of the private school or tribal school to have  
17 legitimate educational interests, including safety interests, in that information. In addition,  
18 if that information relates to a pupil of the school district ~~or~~ private school or tribal school,  
19 the school district ~~or~~ private school, or tribal school may also disclose that information to  
20 those employees of the school district ~~or~~ private school, or tribal school who have been

1 designated by the school board or governing body of the private school or tribal school to  
2 receive that information for the purpose of providing treatment programs for pupils enrolled  
3 in the school district ~~or~~, private school, or tribal school. A school district may not use law  
4 enforcement officers' records obtained under s. 938.396 (1) (c) 3. as the sole basis for  
5 expelling or suspending a pupil or as the sole basis for taking any other disciplinary action,  
6 including action under the school district's athletic code, against 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) (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.)

7 **SECTION 65.** 118.145 (3) and (4) of the statutes are amended to read:

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

16 (4) The school board of a school district operating high school grades shall allow a pupil  
17 enrolled in a private school, a pupil enrolled in a tribal school, or a pupil enrolled in a

1 home-based educational program, who has met the standards for admission to high school  
2 under sub. (1), to take up to 2 courses during each school semester if the pupil resides in the  
3 school district in which the public school is located and if the school board determines that  
4 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 2 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.)

5 **SECTION 66.** 118.15 (1) (a) of the statutes is amended to read:

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

The draft 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 draft does not require tribal schools to do so.

1           **SECTION 67.** 118.15 (1) (d) 4. of the statutes is amended to read:

2           118.15 (1) (d) 4. Enrollment in any nonsectarian private school or program, or tribal  
3 school, located in the school district in which the child resides, which complies with the  
4 requirements of 42 USC 2000d. Enrollment of a child under this subdivision shall be pursuant  
5 to a contractual agreement ~~which~~ under s. 121.78 (5) that provides for the payment of the  
6 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. The draft permits a curriculum modification to be requested to attend a tribal school.

7           **SECTION 68.** 118.153 (1) (b) of the statutes is amended to read:

8           118.153 (1) (b) "Dropout" means a child who ceased to attend school, does not attend  
9 a public ~~or~~, private, or tribal school, technical college, or home-based private educational  
10 program on a full-time basis, has not graduated from high school, and does not have an  
11 acceptable excuse under s. 118.15 (1) (b) to (d) or (3).

**NOTE:** Exempts a child who attends 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 draft 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.

12           **SECTION 69.** 118.16 (2) (em) of the statutes is created to read:

13           118.16 (2) (em) Shall request information regarding the attendance of any child  
14 between the ages of 6 and 18 who is a resident of the school district and who claims or is  
15 claimed to be in attendance at a tribal school.

**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.] The draft requires a school attendance officer to request information about the attendance of a child between the ages of 6 and 18 who is a resident of the school district and who claims or is claimed to be attending a tribal school. The draft does not require the tribal school to keep or provide the information to the school attendance officer.

1           **SECTION 70.** 118.162 (1) (am) and (m) of the statutes are created to read:

2           118.162 (1) (am) A representative from each tribal school in the county, designated by  
3 the governing body of that tribal school that he or she represents, who may be a member of  
4 the tribal school governing body, school administrator, teacher, pupil services professional,  
5 or parent of a child enrolled in that tribal school.

6           (m) A parent of a pupil enrolled in a tribal school located in the county, who resides in  
7 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.

8           **SECTION 71.** 118.255 (2) of the statutes is amended to read:

9           118.255 (2) (a) If a school board, cooperative educational service agency, or county  
10 children with disabilities education board provides physical or mental health treatment  
11 services to its pupils, it may also provide such services within the private school or tribal  
12 school facilities to those private school or tribal school pupils who are referred to the public  
13 school board, cooperative educational service agency, or county children with disabilities  
14 education board by the administrator of a private school or tribal school for evaluation for  
15 possible servicing. There shall be no charge for health treatment services provided to any



1 pupils unless public school students or their parents are charged for similar services. For  
2 purposes of state aid, as it is provided under s. 115.88 to the public school district, for the health  
3 treatment service program, private school and tribal school pupils receiving such health  
4 treatment services shall be counted among the pupils of the public school district receiving  
5 such services, although each child may receive health treatment services within the child's  
6 own school facilities, whether public ~~or~~, private, or tribal.

7 (b) A school board, cooperative educational service agency, or county children with  
8 disabilities education board providing services under this section may enter into agreements  
9 with the administrator of a private school or tribal school on the scheduling, space, and other  
10 necessary arrangements for performance of such health treatment services. A school board,  
11 cooperative educational service agency, or county children with disabilities education board  
12 shall not pay any private school or tribal school for any services or facilities provided under  
13 this section. Control of the health treatment services program shall rest with the public school  
14 board, cooperative educational service agency, or county children with disabilities education  
15 board.

16 (c) A school board, cooperative educational service agency, or county children with  
17 disabilities education board may provide health treatment services only within private school  
18 or tribal school facilities located within the boundaries of the school district, cooperative  
19 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.

20 **SECTION 72.** 118.257 (1) (d) of the statutes is amended to read:

1           118.257 (1) (d) “School” means a public, parochial ~~or~~, private, or tribal school which  
2 provides an educational program for one or more grades between grades 1 and 12 and which  
3 is commonly known as an elementary school, middle school, junior high school, senior high  
4 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 whatever right such staff have to raise a defense of tribal sovereign immunity if sued.

5           **SECTION 73.** 118.29 (2) (a) (intro.) and 3. and (b) and (3) of the statutes are amended  
6 to read:

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

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

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

11           **(3) EMERGENCY CARE; CIVIL LIABILITY EXEMPTION.** Any school bus operator validly  
12 authorized under ss. 343.12 and 343.17 (3) (c) to operate the school bus he or she is operating  
13 and any public ~~or~~, private, or tribal school employee or volunteer, county children with  
14 disabilities education board employee or volunteer, or cooperative educational service agency  
15 employee or volunteer, other than a health care professional, who in good faith renders  
16 emergency care to a pupil of a public ~~or~~, private, or tribal school is immune from civil liability  
17 for his or her acts or omissions in rendering such emergency care. The immunity from civil  
18 liability provided under this subsection is in addition to and not in lieu of that provided under  
19 s. 895.48 (1).

20           **SECTION 74.** 118.29 (4m) of the statutes is created to read:

21           118.29 **(4m)** APPLICABILITY TO TRIBAL SCHOOL EMPLOYEES. The immunity under sub.  
22 (2) applies to a tribal school employee, administrator, or volunteer only if the governing body  
23 of the tribal school has adopted a written policy that complies with 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. It also requires the governing board of a private school to adopt a written policy governing such administration. The draft 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. The draft 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 whatever right they have to raise a defense of tribal sovereign immunity if sued.

1           **SECTION 75.** 118.291 (1g) (b) of the statutes is amended to read:

2           118.291 (1g) (b) “School” includes a public ~~and a~~ private, or tribal school.

3           **SECTION 76.** 118.291 (2) (c) of the statutes is created to read:

4           118.291 (2) (c) No tribal school or tribal school employee is civilly liable for injury to  
5 a pupil caused by a tribal school employee who prohibits a pupil from using an inhaler because  
6 of the employee’s good faith belief that the requirements of sub. (1r) had not been satisfied  
7 or who allows a pupil to use an inhaler because of the employee’s good faith belief that the  
8 requirements of sub. (1r) had been satisfied.

**NOTE:** Current law, as amended by 2005 Wisconsin Act 398, 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.

The draft extends the immunity to tribal school employees under the same conditions. This extension of immunity protections under state law

does not affect whatever right a tribal school employee may have to raise a defense of tribal sovereign immunity if sued.

1           **SECTION 77.** 118.295 of the statutes is amended to read:

2           **118.295 Suicide intervention; civil liability exemption.** Any school board, private  
3 school, tribal school, county children with disabilities education board, or cooperative  
4 educational service agency, and any officer, employee, or volunteer thereof, who in good faith  
5 attempts to prevent suicide by a pupil is immune from civil liability for his or her acts or  
6 omissions in respect to the suicide or attempted suicide. The civil liability immunity provided  
7 in this section is in addition 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. The draft 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 whatever right they have to raise a defense of tribal sovereign immunity if sued.

8           **SECTION 78.** 120.18 (1) (a) 2. and (s) of the statutes are amended to read:

9           120.18 (1) (a) 2. Adding the number of persons under this paragraph who were residents  
10 of the school district and were enrolled in the school district on the 3rd Friday of September  
11 of the previous school year; plus the number of persons under this paragraph who were  
12 residents of the school district and who were enrolled in private schools, tribal schools,  
13 home-based private educational programs, or other school districts on the 3rd Friday of  
14 September of the previous school year; plus the number or an estimate of the number of those  
15 persons under this paragraph who were residents of the school district and not enrolled in the  
16 school district, private schools, tribal schools, home-based private educational programs, or  
17 other school districts on the 3rd Friday of September of the previous school year.

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

**NOTE:** In the annual school district report submitted by the school district clerk to DPI, 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.)

3 **SECTION 79.** 121.05 (1) (a) 7. of the statutes is amended to read:

4 121.05 (1) (a) 7. Pupils enrolled in a nonsectarian private school or program, or tribal  
5 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.

6 **SECTION 80.** 121.76 (1) (a) of the statutes is amended to read:

7 121.76 (1) (a) “Agency of service” means a school board, board of control of a  
8 cooperative educational service agency, county children with disabilities education board, or  
9 governing body of a nonsectarian private school or university model school, or tribal school,  
10 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. As a result of other provisions of this draft, a tribal school may be providing the services due to curriculum modification or court-ordered educational placement.

11 **SECTION 81.** 121.76 (2) (c) of the statutes is amended to read:

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 tuition. The  
3 rebate shall be paid to the agency or person who paid the tuition within 30 days of its receipt  
4 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, the draft does not require a tribal school to rebate such aid. Rather, the draft 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 82.** 121.78 (4) of the statutes is amended to read:

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

**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, juvenile in need of protection or services (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.

The draft 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 83.** 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 under  
3           s. 118.15 (1) (d) 4., the school board shall pay tuition to the agency of service pursuant to a  
4           contractual agreement between the school board and the agency of service. If the agency of  
5           service is a tribal school, any federal or state aid received by the tribal school for the pupil shall  
6           be subtracted in determining the amount of aid to be paid.

**NOTE:** The draft 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. The draft 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 to the tribal school. The draft 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.

7           **SECTION 84.** 125.09 (2) (a) 2. of the statutes is amended to read:



1           125.09 (2) (a) 2. “School” means a public, school, a parochial or private school, or a  
2 tribal school, as defined in s. 115.001 (16), which provides an educational program for one  
3 or more grades between grades 1 and 12 and which is commonly known as an elementary  
4 school, middle school, junior high school, senior high school, or high school.

**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.

5           **SECTION 85.** 125.68 (3) (intro.) of the statutes is amended to read:

6           125.68 (3) RESTRICTIONS ON LOCATION. (intro.) No “Class A” or “Class B” license or  
7 permit may be issued for premises the main entrance of which is less than 300 feet from the  
8 main entrance of any public or parochial school, any tribal school, as defined in s 115.001 (16),  
9 any hospital, or any church, except that this prohibition may be waived by a majority vote of  
10 the governing body of the municipality in which the premises is located. The distance shall  
11 be measured by the shortest route along the highway from the main entrance of the school,  
12 church, or hospital to the main entrance of the premises covered by the license or permit. The  
13 prohibition in this subsection does 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.

14           **SECTION 86.** 252.15 (1) (ab) and (2) (a) 7. a. of the statutes are amended to read:

15           252.15 (1) (ab) “Affected person” means an emergency medical technician; first  
16 responder; fire fighter; peace officer; correctional officer; person who is employed at a  
17 juvenile correctional facility, as defined in s. 938.02 (10p), or a secured residential care center  
18 for children and youth, as defined in s. 938.02 (15g); state patrol officer; jailer, keeper of a jail,  
19 or person designated with custodial authority by the jailer or keeper; health care provider;

1 employee of a health care provider; staff member of a state crime laboratory; social worker;  
2 or employee of a school district, cooperative educational service agency, charter school,  
3 private school, tribal school, as defined in s. 115.001 (16), the Wisconsin Educational Services  
4 Program for the Deaf and Hard of Hearing, or the Wisconsin Center for the Blind and Visually  
5 Impaired.

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

**NOTE:** While the results of human immunodeficiency virus (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.

1           **SECTION 87.** 255.30 (4) of the statutes is amended to read:

2           255.30 (4) The state superintendent of public instruction shall prepare and circulate to  
3 each public and private educational institution and to each tribal school, as defined in s.  
4 115.001 (16), in this state instructions and recommendations for implementing the eye safety  
5 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.

6           **SECTION 88.** 301.45 (1d) (c) of the statutes is amended to read:

7           301.45 (1d) (c) "Student" means a person who is enrolled on a full-time or part-time  
8 basis in any public ~~or~~ private, or tribal educational institution, including a secondary school,  
9 a business, trade, technical or vocational school, or an institution 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 89.** 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 school,  
12 as defined in s. 115.001 (16).

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

13           **SECTION 90.** 343.06 (1) (c) of the statutes is amended to read:

1           343.06 (1) (c) To any person under age 18 unless the person is enrolled in a school  
2 program or high school equivalency program and is not a habitual truant as defined in s. 118.16  
3 (1) (a), has graduated from high school or been granted a declaration of high school graduation  
4 equivalency, or is enrolled in a home-based private educational program, as defined in s.  
5 115.001 (3g), and has satisfactorily completed a course in driver education in public schools  
6 approved by the department of public instruction, or in technical colleges approved by the  
7 technical college system board, or in nonpublic and private schools or tribal schools, defined  
8 in s. 115.011 (16), that meet the minimum standards set by the department of public  
9 instruction, or has satisfactorily completed a substantially equivalent course in driver training  
10 approved by the department and given by a school licensed by the department under s. 343.61,  
11 or has satisfactorily completed a substantially equivalent course in driver education or training  
12 approved by another state and has attained the age of 16, except as provided in s. 343.07 (1g).  
13 The department shall not issue a license to any person under the age of 18 authorizing the  
14 operation of “Class M” vehicles unless the person has successfully completed a basic rider  
15 course approved by the department. The department may, by rule, exempt certain persons  
16 from the basic rider course requirement of this paragraph. Applicants for a license under s.  
17 343.08 or 343.135 are exempt from the driver education, basic rider or driver training course  
18 requirement. The secretary shall prescribe rules for licensing of schools and instructors to  
19 qualify under this paragraph. The driver education course shall be made available to every  
20 eligible student in the state. Except as provided under s. 343.16 (1) (c) and (2) (cm) to (e), no  
21 operator’s license may be issued unless a driver’s examination has been administered by the  
22 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 s. 115.28 (11), stats., above, and s. 343.16 (1) (c) 3., stats., below.

1           **SECTION 91.** 343.07 (1c) of the statutes is amended to read:

2           343.07 **(1c)** DEFINITION. In this section, “qualified instructor” means a person employed  
3 by a public or private school or by a tribal school, as defined in s. 115.001 (16), holding an  
4 operator’s license and meeting the teaching certification standards of the department of public  
5 instruction or the technical college system board to teach driver education, or an instructor of  
6 a school licensed under s. 343.61, or a teacher or student teacher in a driver education course  
7 for teachers conducted by an 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.

8           **SECTION 92.** 343.16 (1) (c) 3. of the statutes is amended to read:

9           343.16 **(1)** (c) 3. A course in driver education in nonpublic and private schools or tribal  
10 schools, as defined in s. 115.001 (16), that meets the minimum standards set by the department  
11 of public instruction.

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

12           **SECTION 93.** 447.06 (2) (a) 2. of the statutes is amended to read:

13           447.06 **(2)** (a) 2. For a school board or a governing body of a private school or of a tribal  
14 school, as defined in s. 115.001 (16).

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

15           **SECTION 94.** 895.48 (1m) (a) of the statutes is amended to read:

1           895.48 **(1m)** (a) Except as provided in par. (b), any physician or athletic trainer licensed  
2 under ch. 448, chiropractor licensed under ch. 446, dentist licensed under ch. 447, emergency  
3 medical technician licensed under s. 146.50, first responder certified under s. 146.50 (8),  
4 physician assistant licensed under ch. 448, registered nurse licensed under ch. 441, or a  
5 massage therapist or bodyworker issued a certificate under ch. 460 who renders voluntary  
6 health care to a participant in an athletic event or contest sponsored by a nonprofit corporation,  
7 as defined in s. 66.0129 (6) (b), a private school, as defined in s. 115.001 (3r), a tribal school,  
8 as defined in s. 115.001 (16), a public agency, as defined in s. 46.856 (1) (b), or a school, as  
9 defined in s. 609.655 (1) (c), is immune from civil liability for his or her acts or omissions in  
10 rendering that care if all of the following conditions exist:

11           1. The health care is rendered at the site of the event or contest, during transportation  
12 to a health care facility from the event or contest, or in a locker room or similar facility  
13 immediately before, during or immediately after the event or contest.

14           2. The physician, athletic trainer, chiropractor, dentist, emergency medical technician,  
15 first responder, physician assistant, registered nurse, massage therapist or bodyworker does  
16 not receive compensation for the health care, other than reimbursement for expenses.

**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. The draft 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 whatever right to immunity may be provided under the laws of that tribe.

17           **SECTION 95.** 895.515 (2) of the statutes is amended to read:

18           895.515 **(2)** Any person engaged in the sale or use of commercial equipment or  
19 technology, for profit or not for profit, who donates any commercial equipment or technology

1 to a public or private elementary or secondary school, a tribal school, as defined in s. 115.001  
2 (16), or an institution of higher education or who accepts reimbursement in an amount not to  
3 exceed overhead and transportation costs for any commercial equipment or technology  
4 provided to a public or private elementary or secondary school, to a tribal school, or to an  
5 institution of higher education is immune from civil liability for the death of or injury to an  
6 individual caused by the commercial 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 amendment extends the immunity under state law if the donation is made to a tribal school. Extending immunity under state law does not affect whatever right to immunity may be provided under the laws of that tribe.

7 **SECTION 96.** 938.02 (18e) of the statutes is created to read:

8 938.02 (18e) "Tribal school" has the meaning given in s. 115.001 (16).

9 **SECTION 97.** 938.34 (7d) (a) 5. of the statutes is created to read:

10 938.34 (7d) (a) 5. Under a contractual agreement with the school district in which the  
11 child resides, an educational program provided by a tribal school.

12 **SECTION 98.** 938.34 (7d) (c) of the statutes is amended to read:

13 938.34 (7d) (c) The court shall order the county department or licensed child welfare  
14 agency responsible for supervising the juvenile to disclose to the school board, technical  
15 college district board, tribal school, or private, nonprofit, nonsectarian agency which is  
16 providing an educational program under par. (a) 3. records or information about the juvenile,  
17 as necessary to assure the provision of 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 938.34 (7d) (a) 5., stats., specifies 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 938.34 (7d) (c), stats., requires 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 ss. 48.345 (12) (a) 5. and (c) and 121.78 (4), stats., above.

1           **SECTION 99.** 938.34 (14t) of the statutes is amended to read:

2           938.34 (14t) POSSESSION OF A CONTROLLED SUBSTANCE OR CONTROLLED SUBSTANCE  
3           ANALOG ON OR NEAR CERTAIN PREMISES. If the juvenile is adjudicated delinquent under a  
4           violation of s. 961.41 (3g) by possessing or attempting to possess a controlled substance  
5           included in schedule I or II under ch. 961, a controlled substance analog of a controlled  
6           substance included in schedule I or II under ch. 961 or ketamine or flunitrazepam while in or  
7           on the premises of a scattered-site public housing project, as defined in s. 961.01 (20i), while  
8           in or on or otherwise within 1,000 feet of a state, county, city, village, or town park, a jail or  
9           correctional facility, as defined in s. 961.01 (12m), a multiunit public housing project, as  
10          defined in s. 961.01 (14m), a swimming pool open to members of the public, a youth center,  
11          as defined in s. 961.01 (22), or a community center, while in or on or otherwise within 1,000  
12          feet of any private, tribal, or public school premises, or while in or on or otherwise within 1,000  
13          feet of a school bus, as defined in s. 340.01 (56), the court shall require that the juvenile  
14          participate for 100 hours in a supervised work program or other community service work  
15          under 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. The draft



specifies that the penalty enhancement also applies for possession on or within 1,000 feet of the premises of a tribal school.

1           **SECTION 100.** 938.342 (1r) of the statutes is amended to read:

2           938.342 **(1r)** SCHOOL ATTENDANCE CONDITION. If school attendance is a condition of an  
3 order under sub. (1d) or (1g), the order shall specify what constitutes a violation of the  
4 condition and shall direct the school board of the school district, or the governing body of the  
5 private school, in which the person is enrolled, or shall request the governing body of the tribal  
6 school in which the person is enrolled, to notify the court or, if the person is under the  
7 supervision of an agency under sub. (1g) (j), the agency that is responsible for supervising the  
8 person, within 5 days after any 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 5 days of a violation of this condition. The draft requires that the court order request that a tribal school do so.

9           **SECTION 101.** 938.355 (2) (c) of the statutes is amended to read:

10           938.355 **(2)** (c) If school attendance is a condition of an order under par. (b) 7., the order  
11 shall specify what constitutes a violation of the condition and shall direct the school board of  
12 the school district, or the governing body of the private school, in which the juvenile is  
13 enrolled, or shall request the governing body of the tribal school in which the juvenile is  
14 enrolled, to notify the county department that is responsible for supervising the juvenile within  
15 5 days after any violation of the condition by the 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 5 days of a violation of this condition. The draft requires that the court order request that a tribal school do so.

1           **SECTION 102.** 938.396 (1) (b) 2. of the statutes is amended to read:

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

8           **SECTION 103.** 938.396 (1) (b) 2m. of the statutes is created to read:

9           938.396 (1) (b) 2m. The confidential exchange of information between a law  
10 enforcement agency and officials of the tribal school attended by the juvenile if the law  
11 enforcement agency determines that enforceable protections are provided by a tribal school  
12 policy or tribal law that requires tribal school officials to keep the information confidential in  
13 a manner at least as stringent as is required of a public 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.

SECTION 103 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 school officials to keep the information confidential in a manner at least as stringent as is required of public and private school officials.

14           **SECTION 104.** 938.396 (1) (c) 3. and 4. of the statutes are amended to read:

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

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

15           b. The illegal possession by a juvenile of a dangerous weapon, as defined in s. 939.22  
16 (10).

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

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

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

1 (c) 3. to the school board, private school, tribal school, social welfare agency, or other law  
2 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.

The draft 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. The draft 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.

3 **SECTION 105.** 938.396 (2g) (m) of the statutes is amended to read:

4 938.396 (2g) (m) *Notification of juvenile's school.* 1. If a petition under s. 938.12 or  
5 938.13 (12) is filed alleging that a juvenile has committed a delinquent act that would be a  
6 felony if committed by an adult, the court clerk shall notify the school board of the school  
7 district, ~~or the governing body of the private school,~~ or the governing body of the tribal school  
8 in which the juvenile is enrolled or the designee of the school board or governing body of the  
9 fact that the petition has been filed and the nature of the delinquent act alleged in the petition.  
10 If later the proceeding on the petition is closed, dismissed, or otherwise terminated without  
11 a finding that the juvenile has committed a delinquent act, the court clerk shall notify the  
12 school board of the school district, ~~or the governing body of the private school,~~ or tribal school  
13 in which the juvenile is enrolled or the designee of the school board or governing body that  
14 the proceeding has been terminated without a finding that the juvenile has committed a  
15 delinquent act.

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

8           3. If school attendance is a condition of a dispositional order under s. 938.342 (1d) or  
9 (1g) or 938.355 (2) (b) 7., within 5 days after the date on which the dispositional order is  
10 entered, the clerk of the court assigned to exercise jurisdiction under this chapter and ch. 48  
11 or the clerk of the municipal court exercising jurisdiction under s. 938.17 (2) shall notify the  
12 school board of the school district, ~~or~~ the governing body of the private school, or the  
13 governing body of the tribal school in which the juvenile is enrolled or the designee of the  
14 school board or governing body of the fact that the juvenile's school attendance is a condition  
15 of a dispositional order.

16           4. If a juvenile is found to have committed a delinquent act at the request of or for the  
17 benefit of a criminal gang, as defined in s. 939.22 (9), that would have been a felony under  
18 chs. 939 to 948 or 961 if committed by an adult and is adjudged delinquent on that basis, within  
19 5 days after the date on which the dispositional order is entered, the court clerk shall notify  
20 the school board of the school district, ~~or~~ the governing body of the private school, or the  
21 governing body of the tribal school in which the juvenile is enrolled or the designee of the  
22 school board or governing body of the fact that the juvenile has been adjudicated delinquent  
23 on that basis, the nature of the violation committed by the juvenile, and the disposition  
24 imposed on the juvenile under s. 938.34 as a result of that violation.

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

13           6. Except as required under subds. 1. to 5. or by order of the court, no information from  
14 the juvenile's court records may be disclosed to the school board of the school district, ~~or~~ the  
15 governing body of the private school, or the governing body of the tribal school in which the  
16 juvenile is enrolled or the designee of the school board or governing body. Any information  
17 from a juvenile's court records provided to the school board of the school district, ~~or~~ the  
18 governing body of the private school, ~~in~~ in which the juvenile is enrolled or the designee of the  
19 school board or governing body shall be disclosed by the school board, governing body, or  
20 designee to employees of the school district or private school who work directly with the  
21 juvenile or who have been determined by the school board, governing body, or designee to  
22 have legitimate educational interests, including safety interests, in the information. A school  
23 district or private school employee to whom that information is disclosed may not further  
24 disclose the information. If information is disclosed to the governing body of a tribal school

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

1           **SECTION 106.** 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 enforcement agency,  
4 the victim-witness coordinator, a fire investigator under s. 165.55 (15), a public school district  
5 or a private school regarding an individual in the care or legal custody of the agency. A social  
6 welfare agency that obtains information under this paragraph shall keep the information  
7 confidential as required under this section and s. 48.78. A law enforcement agency that  
8 obtains information under this paragraph shall keep the information confidential as required  
9 under ss. 48.396 (1) and 938.396 (1) (a). A public school that obtains information under this  
10 paragraph shall keep the information confidential as required under s. 118.125, and a private  
11 school that obtains information under this paragraph shall keep the information confidential  
12 in the same manner as is required of a public school under s. 118.125. Paragraph (a) does not  
13 apply to the confidential exchange of information between an agency and officials of a tribal  
14 school regarding an individual in the care or legal custody of the agency if the agency  
15 determines that enforceable protections are provided by a tribal school policy or tribal law that  
16 requires tribal school officials to keep the information confidential in a manner at least as  
17 stringent as is required of a public school official under s. 118.125.



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

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

The draft 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. The draft also permits interagency agreements for the disclosure of 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 107.** 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 tribal  
3 school, as defined in s. 115.001 (16), that provides an educational program for one or more  
4 grades between grades 1 and 12 and that is commonly known as an elementary school, middle  
5 school, junior high school, senior high school, or high school.

6           (d) 3. On a school bus or public transportation transporting students to and from a public  
7 or private school or to and from a tribal school, as defined in s. 115.001 (16).

**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. The draft adds tribal schools to the definition of a “school” for the purpose of the penalty enhancement.

8           **SECTION 108.** 944.21 (8) (b) 2. of the statutes is amended to read:

9           944.21 (8) (b) 2. A private school, as defined in s. 115.001 (3r), or a tribal school, as  
10 defined in s. 115.001 (16).

**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).

11           **SECTION 109.** 948.095 (1) (a) of the statutes is amended to read:

12           948.095 (1) (a) “School” means a public or private elementary or secondary school, or  
13 a tribal school, as defined in s. 115.001 (16).

**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. The draft 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.)

1       **SECTION 110.** 948.11 (4) (b) 2. of the statutes is amended to read:

2       948.11 (4) (b) 2. A private school, as defined in s. 115.001 (3r), or a tribal school, as  
3 defined in s. 115.001 (16).

**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).

4       **SECTION 111.** 948.50 (2) (a) of the statutes is amended to read:

5       948.50 (2) (a) “School” means a public school, parochial or private school, or tribal  
6 school, as defined in s. 115.001 (16), which provides an educational program for one or more  
7 grades between kindergarten and grade 12 and which is commonly known as a kindergarten,  
8 elementary school, middle school, junior high school, senior high school, or high school.

**NOTE:** Current statutes provide a criminal penalty for strip searches of pupils by school employees. The draft 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 112.** 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 tribal  
11 school, as defined in s. 115.001 (16), which provides an educational program for one or more  
12 grades between grades 1 and 12 and which is commonly known as an elementary school,  
13 middle school, junior high school, senior high school, or high 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. The draft 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. 973.135, stats., information about a conviction must be forwarded to DOT.

1           **SECTION 113.** 961.49 (1m) (b) 6. of the statutes is amended to read:

2           961.49 **(1m)** (b) 6. Any private or public school premises and any premises of a tribal  
3 school, as defined in s. 115.001 (16).

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

4           **SECTION 114.** 961.495 of the statutes is amended to read:

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

1 faith to which a defendant is assigned pursuant to an order under this section has immunity  
2 from any civil liability in excess of \$25,000 for acts or omissions by or impacting on the  
3 defendant.

**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. The draft specifies that the penalty enhancement also applies for possession on or within 1,000 feet of the premises of a tribal school.

4 **SECTION 115. Initial applicability.**

5 (1) The treatment of sections 15.377 (4) (f) and (8) (c) 14. and 15.57 (3) of the statutes  
6 first applies to appointments made on the effective date of this subsection.

7 (2) The treatment of section 45.20 (2) of the statutes first applies to courses completed  
8 on the effective date of this subsection.

9 (3) The treatment of sections 48.345 (12) (a) 5., 48.355 (2) (c), 938.34 (7d) (a) 5.,  
10 938.342 (1r), 938.355 (2) (c), and 938.396 (2g) (m) 2. to 6. of the statutes first applies to  
11 dispositional orders issued on the effective date of this subsection.

12 (4) The treatment of section 938.396 (2g) (m) 1. of the statutes first applies to petitions  
13 filed on the effective date of this subsection.

14 (END)