



State of Wisconsin
2005 - 2006 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY BILL 821**

January 6, 2006 – Offered by Representative KRUSICK.

1 **AN ACT to amend** 118.16 (5) (intro.), 118.16 (5m) and 118.16 (6) (a) 2. c.; and **to**
2 **create** 118.16 (5g) of the statutes; **relating to:** eliminating certain conditions
3 that must be met before a proceeding may be brought against a child under 12
4 years of age for habitual truancy.

Analysis by the Legislative Reference Bureau

Current law grants the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) exclusive jurisdiction over a juvenile alleged to be in need of protection or services on the grounds of habitual truancy, which is defined as being absent from school without an acceptable excuse for part or all of five or more days on which school is held during a school semester. Current law also permits counties, cities, villages, and towns to enact ordinances prohibiting habitual truancy. Current law requires, however, that before any proceeding may be brought against a child for habitual truancy, the school attendance officer must provide evidence that appropriate school personnel have done all of the following:

1. Met with the child's parent or guardian to discuss the child's truancy or attempted to meet with the child's parent or guardian but received no response or were refused.

2. Provided an opportunity for educational counseling to determine whether a change in the child's curriculum would resolve the child's truancy.

3. Evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, have taken steps to overcome the learning problems.

4. Conducted an evaluation to determine whether social problems may be a cause of the child's truancy and, if so, have taken appropriate action or made appropriate referrals.

This substitute amendment eliminates for a child under 12 years of age the requirements that appropriate school personnel provide an opportunity for educational counseling for the child, evaluate the child for learning problems, and evaluate the child for social problems before a proceeding may be brought against the child for habitual truancy either in juvenile court or under an ordinance prohibiting habitual truancy. Accordingly, under the substitute amendment, the only requirement that must be met before bringing such a proceeding against a child under 12 years of age is that appropriate school personnel have met or attempted to meet with the child's parent or guardian. The substitute amendment, however, requires appropriate school personnel to provide an opportunity for educational counseling for a child under 12 years of age, to evaluate the child for learning problems, and to evaluate the child for social problems before a dispositional order may be granted in such a proceeding.

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

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

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

10 **SECTION 2.** 118.16 (5g) of the statutes is created to read:

11 118.16 **(5g)** (a) Except as provided in sub. (5m), before any proceeding may be
12 brought against a child under 12 years of age under s. 938.13 (6) for habitual truancy

1 or under s. 938.125 (2) or 938.17 (2) for a violation of an ordinance enacted under s.
2 118.163 (2), the school attendance officer shall provide evidence that appropriate
3 school personnel in the school or school district in which the child is enrolled have,
4 within the school year during which the habitual truancy occurred, met with the
5 child's parent or guardian to discuss the child's truancy or attempted to meet with
6 the child's parent or guardian and received no response or were refused.

7 (b) Except as provided in sub. (5m), before any dispositional order may be
8 granted under s. 938.342 (1g) or 938.345 for the habitual truancy of a child under 12
9 years of age, the school attendance officer shall provide evidence that appropriate
10 school personnel in the school or school district in which the child is enrolled have,
11 within the school year during which the habitual truancy occurred, done all of the
12 following:

13 1. Provided an opportunity for educational counseling to the child to determine
14 whether a change in the child's curriculum would resolve the child's truancy and
15 have considered curriculum modifications under s. 118.15 (1) (d).

16 2. Evaluated the child to determine whether learning problems may be a cause
17 of the child's truancy and, if so, have taken steps to overcome the learning problems,
18 except that the child need not be evaluated if tests administered to the child within
19 the previous year indicate that the child is performing at his or her grade level.

20 3. Conducted an evaluation to determine whether social problems may be a
21 cause of the child's truancy and, if so, have taken appropriate action or made
22 appropriate referrals.

23 **SECTION 3.** 118.16 (5m) of the statutes is amended to read:

24 118.16 (5m) Subsection Subsections (5) (a) does and (5g) (a) do not apply if a
25 meeting under sub. (2) (cg) 3. is not held within 10 school days after the date that the

1 notice under sub. (2) (cg) is sent. ~~Subsection~~ Subsections (5) (b), (c), and (d) ~~does and~~
2 (5g) (b) 1., 2., and 3. do not apply if the school attendance officer provides evidence
3 that appropriate school personnel were unable to carry out the activity due to the
4 child's absences from school.

5 **SECTION 4.** 118.16 (6) (a) 2. c. of the statutes is amended to read:

6 118.16 **(6)** (a) 2. c. The child has not successfully completed participation in a
7 teen court program during the 2 years before the date on which the school attendance
8 officer received evidence that activities under sub. (5) have been completed or were
9 not required to be completed due to the child's absence from school as provided in sub.
10 (5m).

11 **SECTION 5. Initial applicability.**

12 (1) COMPULSORY SCHOOL ATTENDANCE AND HABITUAL TRUANCY VIOLATIONS. This act
13 first applies to truancy that occurs during the 2006-07 school year.

14 (END)