



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 119**

March 31, 2009 – Offered by Representative SMITH.

1 **AN ACT to amend** 118.16 (2) (cg) 1., 118.16 (2) (cg) 4., 118.165 (1) (e) and 938.345
2 (2); and **to create** 118.15 (1) (am) and 118.33 (6) (c) of the statutes; **relating to:**
3 requirements for pupils enrolled in five-year-old kindergarten.

Analysis by the Legislative Reference Bureau

Under current law, attendance in school is compulsory for children between the ages of six and 18. A child who has reached the age of four years may enroll in four-year-old kindergarten if the school district in which the child resides operates a four-year-old kindergarten program, and a child who has reached the age of five years may enroll in five-year-old kindergarten. However, enrollment in and the completion of kindergarten is not required.

Beginning in the 2011-12 school year, with certain exceptions, this substitute amendment requires a child to complete five-year-old kindergarten as a prerequisite to being admitted to first grade in a public school, including a charter school. The substitute amendment requires a school board and the operator of an independent charter school to establish procedures, conditions, and standards for the parent or guardian of a child to seek an exemption from the requirement that the child complete kindergarten and to seek review of a decision by the school board or operator of the independent charter school to deny an exemption. The substitute amendment also requires a child who is enrolled in five-year-old kindergarten in a public or private school to regularly attend kindergarten during the school year.

Finally, the substitute amendment requires a school board and the operator of an independent charter school to enroll in the first grade a child who has not completed kindergarten but is otherwise eligible to be enrolled in first grade if that child moves into Wisconsin from a state, country, or territory in which completion of kindergarten is not a prerequisite to entering first grade or if the child was exempted from the requirement to complete kindergarten in the state, country, or territory from which the child moved.

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

1 **SECTION 1.** 118.15 (1) (am) of the statutes is created to read:

2 118.15 (1) (am) Except as provided under par. (d), unless the child is excused
3 under sub. (3), any person having under his or her control a child who is enrolled in
4 5-year-old kindergarten shall cause the child to attend school regularly, religious
5 holidays excepted, during the full period and hours that kindergarten is in session
6 at the public or private school in which the child is enrolled until the end of the school
7 term.

8 **SECTION 2.** 118.16 (2) (cg) 1. of the statutes is amended to read:

9 118.16 (2) (cg) 1. A statement of the parent's or guardian's responsibility, under
10 s. 118.15 (1) (a) and (am), to cause the child to attend school regularly.

11 **SECTION 3.** 118.16 (2) (cg) 4. of the statutes is amended to read:

12 118.16 (2) (cg) 4. A statement of the penalties, under s. 118.15 (5), that may be
13 imposed on the parent or guardian if he or she fails to cause the child to attend school
14 regularly as required under s. 118.15 (1) (a) and (am).

15 **SECTION 4.** 118.165 (1) (e) of the statutes is amended to read:

16 118.165 (1) (e) The program is not operated or instituted for the purpose of
17 avoiding or circumventing the compulsory school attendance requirement under s.
18 118.15 (1) (a) and (am).

1 **SECTION 5.** 118.33 (6) (c) of the statutes is created to read:

2 118.33 **(6)** (c) 1. Except as provided in subds. 2. and 3., beginning on September
3 1, 2011, a school board may not enroll a child in the first grade in a school in the school
4 district, including in a charter school located in the school district, unless the child
5 has completed 5-year-old kindergarten. Each school board that operates a
6 5-year-old kindergarten program shall adopt a written policy specifying the criteria
7 for promoting a pupil from 5-year-old kindergarten to the first grade.

8 2. Each school board that operates a 5-year-old kindergarten program shall
9 establish procedures, conditions, and standards for exempting a child from the
10 requirement that the child complete kindergarten as a prerequisite to enrollment in
11 the first grade and for reviewing the denial of an exemption upon the request of the
12 pupil's parent or guardian.

13 3. A school board that operates a 5-year-old kindergarten program shall enroll
14 in the first grade a child who has not completed kindergarten but who is otherwise
15 eligible to be admitted to and to enroll in first grade as a new or continuing pupil at
16 the time the child moves into this state if one of the following applies:

17 a. Before either commencing or completing first grade, the child moved into this
18 state from a state, country, or territory in which completion of 5-year-old
19 kindergarten is a prerequisite to entering first grade and the child was exempted
20 from the requirement to complete 5-year-old kindergarten in the state, country, or
21 territory from which the child moved.

22 b. Before either commencing or completing first grade the child moved into this
23 state from a state, country, or territory in which completion of 5-year-old
24 kindergarten is not a prerequisite to entering first grade.

1 4. Except as provided in subds. 5. and 6., beginning on September 1, 2011, the
2 operator of a charter school under s. 118.40 (2r) may not enroll a child in the first
3 grade in the school unless the child has completed 5-year-old kindergarten. Each
4 operator of a charter school under s. 118.40 (2r) that operates a 5-year-old
5 kindergarten program shall adopt a written policy specifying the criteria for
6 promoting a pupil from 5-year-old kindergarten to the first grade.

7 5. Each operator of a charter school under s. 118.40 (2r) that operates a
8 5-year-old kindergarten program shall establish procedures, conditions, and
9 standards for exempting a child from the requirement that the child complete
10 kindergarten as a prerequisite to enrollment in the first grade and for reviewing the
11 denial of an exemption upon the request of the pupil's parent or guardian.

12 6. The operator of a charter school under s. 118.40 (2r) that operates a
13 5-year-old kindergarten program shall enroll in the first grade a child who has not
14 completed kindergarten but who is otherwise eligible to be admitted to and to enroll
15 in first grade as a new or continuing pupil at the time the child moves into this state
16 if one of the following applies:

17 a. Before either commencing or completing first grade, the child moved into this
18 state from a state, country, or territory in which completion of 5-year-old
19 kindergarten is a prerequisite to entering first grade and the child was exempted
20 from the requirement to complete 5-year-old kindergarten in the state, country, or
21 territory from which the child moved.

22 b. Before either commencing or completing first grade the child moved into this
23 state from a state, country, or territory in which completion of 5-year-old
24 kindergarten is not a prerequisite to entering first grade.

25 **SECTION 6.** 938.345 (2) of the statutes is amended to read:

1 938.345 **(2) SCHOOL DROPOUTS AND HABITUAL TRUANTS.** If the court finds that a
2 juvenile is in need of protection or services based on the fact that the juvenile is a
3 school dropout, as defined in s. 118.153 (1) (b), or based on habitual truancy, and the
4 court also finds that the juvenile has dropped out of school or is a habitual truant as
5 a result of the juvenile’s intentional refusal to attend school rather than the failure
6 of any other person to comply with s. 118.15 (1) (a) and (am), the court, instead of or
7 in addition to any other disposition imposed under sub. (1), may enter an order
8 permitted under s. 938.342.

9 **(END)**