



1995 SENATE BILL 186

May 16, 1995 - Introduced by Senators LEEAN, ELLIS and RUDE, by request of Governor Tommy G. Thompson. Referred to Committee on Judiciary.

1 **AN ACT to amend** 48.34 (intro.) and 48.34 (9) (d); and **to create** 48.34 (7r) and
2 939.632 of the statutes; **relating to:** committing a violent crime at or near a
3 school and providing penalties.

Analysis by the Legislative Reference Bureau

Current law provides a number of penalty enhancement provisions to allow for increased penalties whenever crimes are committed under specified circumstances. This bill provides penalty enhancement for violent crimes committed on or within 1,000 feet of school premises or a school bus. If the underlying crime is a felony, the maximum period of imprisonment is increased by 5 years. If the underlying crime is a misdemeanor, the maximum period of imprisonment is increased by 6 months. In addition, unless the person poses a public safety risk, the court may require the person to complete 100 hours of community service work. A child may be adjudged delinquent on the basis of these violent crimes committed in school zones and the court could similarly require the child to perform 100 hours of community service work. This disposition could be in addition to other delinquency adjudications, including placement in a secured correctional facility.

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

4 **SECTION 1.** 48.34 (intro.) of the statutes, as affected by 1993 Wisconsin Acts 385
5 and 491, is amended to read:

6 **48.34 Disposition of child adjudged delinquent.** (intro.) If the judge
7 adjudges a child delinquent, he or she shall enter an order deciding one or more of

1 the dispositions of the case as provided in this section under a care and treatment
2 plan. Subsections (4m) and (8) are exclusive dispositions, except that either
3 disposition may be combined with the disposition under sub. (4p), (5), (7m), (7r) or
4 (15) and a disposition under sub. (4m) must be combined with a disposition under
5 sub. (4n). The dispositions under this section are:

6 **SECTION 2.** 48.34 (7r) of the statutes is created to read:

7 48.34 **(7r)** (a) If the child is adjudicated delinquent under a violation of a violent
8 crime law specified in s. 939.632 (1) (e) in a school zone, as defined in s. 939.632 (1)
9 (d), the court may require that the child participate for 100 hours in a supervised
10 work program under sub. (9) or perform 100 hours of other community service work.

11 (b) The court shall not impose the requirement under par. (a) if the court
12 determines that the person would pose a threat to public safety while completing the
13 requirement.

14 **SECTION 3.** 48.34 (9) (d) of the statutes is amended to read:

15 48.34 **(9)** (d) Under this subsection, a court may not order a child who is 12 or
16 13 years of age to perform more than 40 total hours of community service work,
17 except as provided in subs. (7m) and (7r).

18 **SECTION 4.** 939.632 of the statutes is created to read:

19 **939.632 Penalties; violent crime in a school zone. (1)** In this section:

20 (a) "School" means a public, parochial or private school that provides an
21 educational program for one or more grades between grades 1 and 12 and that is
22 commonly known as an elementary school, middle school, junior high school, senior
23 high school or high school.

24 (b) "School bus" means any of the following:

1 1. A motor vehicle that is designed to carry 10 or more passengers in addition
2 to the operator or a motor vehicle painted in accordance with s. 347.44 (1), and that
3 is used for the purpose of transporting:

4 a. Pupils to or from a public school, as defined in s. 115.01 (1), or a private school,
5 as defined in s. 115.001 (3r), or pupils to or from a technical college whenever
6 required to do so under s. 118.15 (1).

7 b. Pupils to or from curricular or extracurricular activities.

8 c. Pupils to or from religious instruction on days when school is in session.

9 d. Children, as defined under s. 115.76 (2), with exceptional educational needs
10 of a type specified under s. 115.76 (3) (a) to (L) to or from an educational program
11 approved by the department of public instruction.

12 2. A motor vehicle that is painted in accordance with s. 347.44 (1) and is used
13 for the purpose of transporting disabled persons, as defined in s. 85.21 (2) (cm), or
14 elderly persons, as defined in s. 85.22 (2) (b), in connection with any transportation
15 assistance program for elderly or disabled persons.

16 3. A motor vehicle owned or operated by a parent or guardian transporting
17 children if the school has contracted with or paid compensation to the parent or
18 guardian for the transportation.

19 4. A motor vehicle operated as an alternative method of transportation under
20 s. 121.555.

21 5. A motor bus operated for purposes specified in subd. 1. b.

22 6. A motor vehicle operated in an urban mass transit system, as defined in s.
23 85.20 (1) (e) and (L), for any purpose under subd. 1. a. to d.

1 (c) "School premises" means any school building, grounds, recreation area or
2 athletic field or any other property owned, used or operated for school
3 administration.

4 (d) "School zone" means any of the following:

- 5 1. On the premises of a school.
- 6 2. Within 1,000 feet from the premises of a school.
- 7 3. On a school bus.
- 8 4. Within 1,000 feet of a school bus.

9 (e) "Violent crime" means any crime specified in ch. 940 or in s. 941.20, 941.21,
10 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), (1m) or (1r), 943.32, 946.43,
11 948.02, 948.025, 948.03, 948.055, 948.06 or 948.07.

12 **(2)** If a person commits a violent crime in a school zone, the maximum period
13 of imprisonment is increased as follows:

14 (a) If the violent crime is a felony, the maximum period of imprisonment is
15 increased by 5 years.

16 (b) If the violent crime is a misdemeanor, the maximum period of imprisonment
17 is increased by 6 months and the crime is changed in status from a misdemeanor to
18 a felony.

19 **(3)** (a) In addition to any other penalties that may apply to the crime under sub.
20 (2), the court may require the person to complete 100 hours of community service
21 work for a public agency or a nonprofit charitable organization. The court shall
22 ensure that the defendant is provided a written statement of the terms of the
23 community service order and that the community service order is monitored. Any
24 organization or agency acting in good faith to which a defendant is assigned under

1 an order under this paragraph has immunity from any civil liability in excess of
2 \$25,000 for acts or omissions by or impacting on the defendant.

3 (b) The court shall not impose the requirement under par. (a) if the court
4 determines that the person would pose a threat to public safety while completing the
5 requirement.

6 (4) This section provides for the enhancement of the penalties applicable for
7 the underlying crime. The court shall direct that the trier of fact find a special verdict
8 as to all of the issues specified in sub. (2).

9 **SECTION 5. Initial applicability; other.**

10 (1) VIOLENT CRIME IN SCHOOL ZONES. This act first applies to acts occurring on
11 the effective date of this subsection.

12 (END)