

23.45 TRUANCY AND HABITUAL TRUANCY.

- (1) It shall be unlawful for any person in the City of Madison to be a truant or to be a habitual truant.
- (2) Definitions.
 - (a) “Acceptable excuse” has the meaning given that term in Sec. 118.15 and 118.16(4), Wis. Stats.
 - (b) “Habitual truant” means a pupil who is absent from school without an acceptable excuse for part or all of 5 or more days on which school is held during a school semester.
 - (c) “Operating privilege” has the meaning given in Sec. 340.01, Wis. Stats.
 - (d) “Truant” means a pupil who is absent from school without an acceptable excuse for part or all of any day on which school is held during a school semester.
- (3) Dispositions and Sanctions In A Case Where a Child Is Adjudged To Be A Truant.
 - (a) Dispositions.

If a person under the age of 18 is adjudged to be a truant, the municipal court may enter one or more of the following dispositions:

 1. An order for the person to attend school.
 2. A forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus costs for any 2nd or subsequent violation committed within 12 months of a previous violation, subject to Sec. 938.37, Wis. Stats. and subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
 - (b) Sanctions for Violation of Dispositional Order.

If the court finds that a person violates a condition of his or her dispositional order under sec. 23.45(3), MGO, the court may impose as a sanction on the person, any combination of the following, if at the time of judgment the court explained the conditions to the person and informed the person of those possible sanctions:

 1. Suspend the person’s operating privilege, as defined in sec. 340.01(40), for not less than 30 days nor more than one year. If the person does not hold a valid operator’s license under ch. 343, other than an instruction permit under s. 343.07 or a restricted license under s. 343.08, on the date of the order issued under this subsection, the court may order the suspension or limitation to begin on the date that the operator’s license would otherwise be reinstated or issued after the person applies and qualifies for issuance or 2 years after the date of the order issued under this subsection, whichever occurs first. If the court suspends the person’s operating privilege or an approval issued under ch. 29, the court shall immediately take possession of the suspended license or approval and forward it to the department that issued the license or approval with a notice stating the reason for and the duration of the suspension.
 2. An order for the person to participate in counseling or a supervised work program or other community service work as described in Sec. 938.34(5g), Wis. Stats. The cost of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. Any county department of human services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this paragraph acting in good faith has immunity from civil liability in excess of \$25,000 for any act or omission by or impacting on that person.
 3. An order for the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.

4. An order for the person to attend an educational program as described in Sec. 938.34(7d), Wis. Stats.
 5. An order for the department of workforce development to revoke, under Sec. 103.72, Wis. Stats., a permit under Sec. 103.70, Wis. Stats., authorizing the employment of the person.
 6. An order for the person to be placed in a teen court program as described in Sec. 938.342(1g)(f), Wis. Stats.
 7. An order for the person to attend school.
 8. A forfeiture of not more than \$500 plus costs, subject to Sec. 938.37, Wis. Stats. All of part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
 9. Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
 10. An order placing the person under formal or informal supervision, as described in Sec. 938.34(2), Wis. Stats., for up to one year.
 11. An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.
- (4) Dispositions and Sanctions In A Case Where a Child Is Adjudged To Be An Habitual Truant.
- (a) Dispositions.

If a person under the age of 18 is adjudged to be an habitual truant, the municipal court may enter one or more of the following dispositions:

1. Suspension of the person's operating privilege for not less than 30 days nor more than one year. The court shall immediately take possession of any suspended license and forward it to the department of transportation together with a notice stating the reason for and the duration of the suspension.
2. An order for the person to participate in counseling or a supervised work program or other community service work as described in Sec. 938.34(5g), Wis. Stats. The cost of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. Any county department of human services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this paragraph acting in good faith has immunity from any civil liability in excess of \$25,000 for any act or omission by or impacting on that person
3. An order for the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.
4. An order for the person to attend an educational program as described in Sec. 938.34(7d), Wis. Stats.
5. An order for the department of workforce development to revoke, under Sec. 103.72, Wis. Stats., a permit under Sec. 103.70, Wis. Stats., authorizing the employment of the person.
6. An order for the person to be placed in a teen court program as described in Sec. 938.342(1g)(f), Wis. Stats.
7. An order for the person to attend school.

8. A forfeiture of not more than \$500 plus costs, subject to Sec. 938.37, Wis. Stats. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
9. Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
10. An order placing the person under formal or informal supervision, as described in Sec. 938.34(2), Wis. Stats., for up to one year.
11. An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.

(b) Sanctions For Violation of Dispositional Order.

If the court finds that a person violates a condition of his or her dispositional order under sec. 23.45(4), MGO, the court may impose as a sanction on the person, any of the following:

1. Suspension or limitation on the use of the person's operating privilege as defined under Sec. 340.01(40), or of any approval issued under ch. 29 for not more than one year. If the person does not hold a valid operator's license under ch. 343, other than an instruction permit under s. 343.07 or a restricted license under s. 343.08, on the date of the order issued under this subsection, the court may order the suspension or limitation to begin on the date that the operator's license would otherwise be reinstated or issued after the person applies and qualifies for issuance or 2 years after the date of the order issued under this subsection, whichever occurs first. If the court suspends the person's operating privilege or an approval issued under ch. 29, the court shall immediately take possession of the suspended license or approval and forward it to the department that issued the license or approval with a notice stating the reason for and the duration of the suspension.
2. Counseling or participation for not more than 25 hours in a supervised work program or other community service work under s. 938.34(5g).
3. Detention in the person's home or current residence for a period of not more than 30 days except during hours which the person is attending religious worship or a school program, including travel time required to get to and from the place of worship or school program. The order may permit a person to leave his or her home or current residence if he or she is accompanied by a parent guardian.
4. The court may petition the court assigned to exercise jurisdiction under ch. 938 and ch. 48 to impose on the person the sanction specified in 938.355(6m)(a)1g. if, at the time of the judgment the court explained the conditions to the person and informed the person of that possible sanction for a violation.
5. An order for the person to attend an educational program as described in Sec. 938.34(7d), Wis. Stats.
6. An order for the department of workforce development to revoke, under Sec. 103.72, Wis. Stats., a permit under Sec. 103.70, Wis. Stats., authorizing the employment of the person.
7. An order for the person to be placed in a teen court program pursuant to Sec. 938.342(1g)(f), Wis. Stats.
8. An order for the person to attend school.
9. A forfeiture of not more than \$500 plus costs, subject to Sec. 938.37, Wis. Stats. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

10. Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
 11. An order placing the person under formal or informal supervision, as described in Wis. Stat. § 938.34(2), for up to one year.
 12. An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.
- (5) Exception for Habitual Truants.
- (a) A person incurs no liability under this ordinance if appropriate personnel of the school or school district in which the child is enrolled have not, within one year prior to the commencement of prosecution under this ordinance, 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 and received no response or were refused;
 2. Provided an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and considered curriculum modifications under Wis. Stat. § 118.15(1)(d);
 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 except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his or her grade level; and
 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.
 - (b) Paragraph (5)(a)1. of this section does not apply if a meeting under Wis. Stat. § 118.16(2)(cg)(3), is not held within 10 school days after the date that the notice under subsection (2)(cg) is sent.
 - (c) Paragraphs (5)(a)2., 3. and 4. of this section do not apply if the school attendance officer provides evidence that appropriate school personnel were unable to carry out the activity due to the child's absences from school.
- (6) References to Statutes. References to specific statutory sections wherever used in this ordinance shall mean the Wisconsin Statutes of 1987-88 as from time to time amended, modified, repealed or otherwise altered by the State Legislature.
- (7) Severability. If any section or part of this ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the validity of the remainder of this ordinance shall not be affected thereby and shall be in full force and effect as if the said unlawful section or sections were not originally a part hereof.
- (8) The court shall report by January 31 of each year to the Public Safety Review Committee, the Board of Education-Common Council Liaison Committee and Common Council on the number and dispositions of truancy cases referred to it. The Common Council shall request similar information from the Madison Metropolitan School District no later than January 31 of each year regarding the number of truants and frequency of use of this Ordinance. (Am. by Ord. 13,113, 8-2-02; ORD-09-00052, Pub. 4-2-09, Eff. 8-1-09)
- (9) The Madison Metropolitan School District shall continue to monitor the truancy process to determine the effect of truancy citations and the possibility of a driver's license suspension on school attendance. The District shall report its findings in an annual "Truancy Report" which shall be submitted to the Common Council and made available to the public. (Am. by Ord. 10,682, 6-25-93)

(Sec. 23.45 Cr. by Ord. 10,181, 1-17-91; Am. by Ord. 12,525, 1-21-00)