



Legislation Text

File #: 07459, Version: 1

**Fiscal Note**

Minimal increase in General Fund revenues.

**Title**

Creating Section 26.13 of the Madison General Ordinances that prohibits individuals convicted of serious child sex offenses from loitering in child safety zones and contacting children in these zones, establishes a bail deposit for a violation.

**Body**

DRAFTER'S ANALYSIS: This creates Section 26.13 of the Madison General Ordinances entitled "Unlawful Behavior in Child Safety Zone". It creates various definitions, including child safety zone and serious child sex offense. It prohibits individuals convicted of a serious child sex offense from being within 250 feet of a child safety zone and acting in a manner that exhibits the individual's intent of inducing, enticing or luring a child from the child's location. It also creates a bail deposit for violating this Section.

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The Common Council of the City of Madison do hereby ordain as follows:

1. New Section 26.13 entitled " of the Madison General Ordinance is hereby created as follows:

**"26.13 UNLAWFUL BEHAVIOR IN CHILD SAFETY ZONE.**

(1) Definitions.

"Charter school" has the meaning as defined by Wis. Stat. § 115.001(1).

"Child" means a person who is under eighteen (18) years of age.

"Child safety zone" means all areas within two hundred and fifty (250) feet from the edge of any parcel of real property upon which any school, day care center or playgrounds are located and all areas within twenty-five (25) feet of school bus stops.

"Custodian" means a person at least eighteen (18) years of age who has been authorized by a parent or guardian to have the care and custody of the child.

"Day care center" means a facility that has been licensed under Wis. Stat. § 48.65 to provide care and supervision of children and includes "before-and after- school day care" which has the meaning as defined by Wis. Stat. § 120.125(1).

"Playground" means any public outdoor or public indoor area set aside for recreation and play and includes any area with playground equipment including but not limited to, swings, slides, sandboxes, seesaws and any area where athletics may be played and is public property.

"Private school" has the meaning as defined by Wis. Stat. § 115.001(3r).

"Public school" has the meaning as defined by Wis. Stat. § 115.01(1).

"School" shall mean any charter, public or private school.

"Serious child sex offense" has the meaning as defined by Wis. Stat. § 948.13(1).

(2) Legislative Findings and Intent.

(a) The Common Council finds that the increased number of child abductions from public places by known child sex offenders throughout the nation has become a public safety threat.

(b) Individuals convicted of serious sex offenses against children pose a clear threat to children residing or visiting in the community. Further, there are no guarantees that these individuals will not re-offend. Convicted sex offenders are more likely than any other type of offender to re-offend for another sexual assault. This high recidivism rate results in an increased risk to the children in our City.

(c) The City has a strong interest in insuring that citizens, including children, feel safe in public places.

(d) In order to reduce the potential risk of harm to children in our City, there is a need to limit the opportunity for offenders of serious crimes against children from having an opportunity to have contact with unsupervised children. This ordinance covers locations that are primarily designed for use by, or are primarily used by children, namely: school grounds, playgrounds and daycare facilities.

- (e) For these reasons, the Council finds that a threat to public safety exists that affects the life, health and public welfare of children and that for the immediate preservation of the public peace, health and safety of these children an urgency exists to require the adoption of this ordinance. The City enacts this ordinance pursuant to its power as set forth in Wis. Stat. § 62.11(5).
  - (f) This ordinance is not intended to limit any persons from exercising their right to assemble or engage in any other constitutionally protected activity. The ordinance only applies to individuals with the requisite intent to induce or lure a child away from a child's location within a child safety zone.
- (3) It shall be unlawful for any individual convicted of a serious child sex offense to loiter in a child safety zone in a manner and under circumstances manifesting the purpose of inducing, enticing or luring a child from the child's location.
- (a) Among the circumstances that may be considered in determining whether such purpose is manifested is that the person:
    - 1. Frequent, either on foot or by motor vehicle, a known child safety zone;
    - 2. Repeatedly beckons to or attempts to contact a child, without the permission of the child's parent, guardian or custodian;
    - 3. Takes flight upon the appearance of a police officer.
  - (b) The circumstance stated in (2)(a)1. or (2)(a)3 is not enough by itself to manifest the purpose of inducing, enticing or luring a child.
  - (c) The violator's conduct must be such as to demonstrate a specific intent to induce, entice or lure a child from the child's location.
  - (d) No arrest may be made for a violation of this section unless the arresting officer first affords the person the opportunity to explain the person's presence and conduct, unless flight by the person or other circumstances make it impracticable to afford such an opportunity. No arrest shall be made for violating this section if the explanation given was true and disclosed a lawful purpose.
- (4) The penalty for violation of this section shall be not less than two hundred dollars (\$200) no more than five thousand dollars (\$5000)."
2. Current Section 26.13 entitled "Severability" of the Madison General Ordinance is hereby renumbered to Section 26.24.
3. Section 26.25 entitled "Penalty" of the Madison General Ordinances is amended to read as follows:  
**"26.25 PENALTY.** Any person violating any of the provisions of this chapter for which no penalty is specifically provided shall be subject to a forfeiture of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500)."
4. Subdivision (a) of Subsection (3) entitled "Schedule of Deposits" of Section 1.08 entitled "Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by creating the following:  
"Unlawful behavior in child safety zone. 26.13(2) \$1000"
- EDITOR'S NOTE: New bail deposits must be approved by the Municipal Judge prior to adoption. This deposit has been so approved.