

## Chapter 5

# Offenses by Juveniles

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### Sec. 11-5-1 Curfew.

- a) **Curfew Established.** It shall be unlawful for any person under age eighteen (18) to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, place of amusement and entertainment, cemetery, playground, public building or any other public place in the Village of Belleville between the hours of 11:00 p.m. and 6:00 a.m. the next day, unless accompanied by his or her parent or guardian, or person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefor. The fact that said child, unaccompanied by parent, guardian or other person having legal custody is found upon any such public place during the aforementioned hours shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefor.
- b) **Exceptions.**
- 1) This Section shall not apply to a child:

- a. Who is performing an errand as directed by his or her parent, guardian or person having lawful custody;
  - b. Who is on his or her own premises or in the areas immediately adjacent thereto;
  - c. Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours;
  - d. Who is returning home from a supervised school, church or civic function, but not later than sixty (60) minutes after the ending of such function.
- 2) These exceptions shall not, however, permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.
- c) **Parental Responsibility.** It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under age eighteen (18) to allow or permit such person to violate the provisions of (a) or (b) above. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (30) days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian or custodian herein who shall have made a missing person notification to the police department shall not be considered to have allowed or permitted any person under age eighteen (18) to violate this Section.
- d) **Taking a Child Into Custody.**
- 1) Every law enforcement officer while on duty is hereby authorized to take into custody any child violating the provisions of Subsection (a) above. Children taken into custody shall be released from custody as soon as is reasonably possible. A person taking a child into custody shall make every effort immediately to release the child to the child's parent, guardian, or legal custodian or, if the parent, guardian, or legal custodian is unavailable, unwilling, or unable to provide supervision for the child, may release the child to a responsible adult and verbally counsel or warn as may be appropriate or, in the case of a runaway child, may release the child to a home authorized under Sec. 48.277, Wis. Stats. The parent, guardian, legal custodian, or other responsible adult to whom the child is released shall sign a release for the child.
  - 2) If the child is not released under this Subsection, the officer shall deliver the child to the County Juvenile Court Intake Worker in a manner determined by the court and law enforcement agencies, stating in writing with support facts the reasons why the child was taken into physical custody and giving any child twelve (12) years of age or older a copy of the statement in addition to giving a copy to the Intake Worker. A juvenile violating these curfews regularly may be warned by an officer on duty in his or her discretion and sent home in lieu of taking the juvenile into custody.
  - 3) If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, the officer shall take such action as is required under Sec. 48.20(4), Wis. Stats. If the child is believed to be mentally ill, drug dependent, or developmentally disabled and exhibits conduct which constitutes a substantial risk of physical harm to the child or to others, the officer shall take such action as is required under Sec. 48.20(5), Wis. Stats. If the child is believed to be an intoxicated person who has threatened, attempted, or inflicted physical harm on himself or herself or on another and is likely to inflict such physical harm unless committed or is

incapacitated by alcohol, the officer shall take such action as is required under Sec. 48.20(6), Wis. Stats.

e) **Warning and Penalty.**

- 1) **Warning.** The first time a parent, guardian, or person having legal custody of a child who is taken into custody by a law enforcement officer as provided in Subsection (d) above, such parent, guardian, or person having such legal custody shall be advised as to the provisions of this Section and further advised that any violation of this Section occurring thereafter by this child or any other child under his or her care or custody shall result in a penalty being imposed as hereinafter provided.
- 2) **Penalty.** Any parent, guardian, or person having legal custody of a child described in Subsection (a) above who has been warned in the manner provided in Subsection (d)(1) herein and who thereafter violates this Section shall be subject to a penalty as provided in Section 1-1-6 of this Code of Ordinances. After a second violation within a six (6) month period, if the defendant, in a prosecution under this Section, proves that he or she is unable to comply with this Section because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under Chapter 48, Wis. Stats. Any minor person under sixteen (16) years of age who shall violate this Section shall, upon conviction thereof, forfeit not less than One Dollar (\$1.00) nor more than Twenty-five Dollars (\$25.00), together with the costs of prosecution.

## **Sec. 11-5-2 Possession of Controlled Substances by Juveniles.**

It shall be unlawful for any person under the age of eighteen (18) to possess a controlled substance contrary to the Uniform Controlled Substances Act, Chapter 161, Wis. Stats.

## **Sec. 11-5-3 Petty Theft by Juveniles.**

It shall be unlawful for any person under the age of eighteen (18), with intent, to steal or take property from the person or presence of the owner without the owner's consent and with the intent to deprive the owner of the use thereof.

## **Sec. 11-5-4 Receiving Stolen Goods.**

It shall be unlawful for a person under the age of eighteen (18) to intentionally receive or conceal property he knows to be stolen.

**Sec. 11-5-5 Village Jurisdiction Over Persons 12 through 17 Years of Age.**

- a) **Adoption of State Statute.** Section 48.17(2), Wis. Stats., is hereby adopted and by reference made a part of this Section as if fully set forth herein.

- b) **Provisions of Ordinance Applicable to Persons 12 through 17 Years of Age.** Subject to the provisions and limitations of Sec. 48.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code of Ordinances against persons 12 through 17 years of age may be brought on behalf of the Village of Belleville and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.
- c) **No Incarceration as Penalty.** The Court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this Section.
- d) **Additional Prohibited Acts.** In addition to any other provision of the Village of Belleville Code of Ordinances, no person age 12 through 17 shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Chapter 125, Wis. Stats.
- e) **Penalty for Violations of Subsection (d).** Any person 12 through 17 years of age who shall violate the provisions of Subsection (d) shall be subject to the same penalties as are provided in Section 1-1-6 of these Ordinances exclusive of the provisions therein relative to commitment in the County Jail.

*Cross-Reference:* Section 11-4-7.

## **Sec. 11-5-6 Possession, Manufacture and Delivery of Drug Paraphernalia by a Minor Prohibited.**

- a) **Definition.** In this Section, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance, as defined in Ch. 161, Wis. Stats., in violation of this Section. It includes but is not limited to:
  - 1) Kits used, intended for use, or designed for use, in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
  - 2) Kits used, intended for use, or designed for use, in manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, or preparing controlled substances.
  - 3) Isomerization devices used, intended for use, or designed for use, in increasing the potency of any species of plant which is a controlled substance.
  - 4) Testing equipment used, intended for use, or designed for use, in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
  - 5) Scales and balances used, intended for use, or designed for use, in weighing or measuring controlled substances.
  - 6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.

- 7) Separation gins and sifters used, intended for use, or designed for use, in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
  - 8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use, in compounding controlled substances.
  - 9) Capsules, balloons, envelopes or other containers used, intended for use, or designed for use, in packaging small quantities of controlled substances.
  - 10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
  - 11) Hypodermic syringes, needles, or other objects used, intended for use, or designed for use, in parenterally injecting controlled substances into the human body.
  - 12) Objects used, intended for use, or designed for use, in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil, into the human body, including but not limited to:
    - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
    - b. Water pipes;
    - c. Carburetion tubes and devices;
    - d. Smoking and carburetion masks;
    - e. Objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
    - f. Miniature cocaine spoons and cocaine vials;
    - g. Chamber pipes;
    - h. Carburetor pipes;
    - i. Electric pipes;
    - j. Air-driven pipes;
    - k. Chillums;
    - l. Bongs;
    - m. Ice pipes or chillers.
- b) **Determination of Drug Paraphernalia.** In determining whether an object is drug paraphernalia, the following shall be considered, without limitation, of such other considerations a court may deem relevant:
- 1) Statements by an owner or by anyone in control of the object concerning its use.
  - 2) Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance.
  - 3) The proximity of the object in time and space to a direct violation of this Section.
  - 4) The proximity of the object to controlled substances.
  - 5) The existence of any residue of controlled substance on the object.
  - 6) Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this Section. The innocence of an owner, or of anyone in control of this

object, as to a direct violation of this Section, shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.

- 7) Oral or written instructions provided with the object concerning its use.
- 8) Descriptive materials accompanying the object which explain or depict its use.
- 9) National and local advertising concerning its use.
- 10) The manner in which the object is displayed for sale.
- 11) Direct or circumstantial evidence of the ratio of sales of the object to the total sale of the business enterprise.
- 12) The existence and scope of legitimate uses for the object in the community.
- 13) Expert testimony concerning its use.

c) **Prohibited Uses.**

- 1) **Possession of Drug Paraphernalia.** No person who is under eighteen (18) years of age may use, or possess with the sole intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this Subsection.
- 2) **Manufacture or Delivery of Drug Paraphernalia.** No person who is under eighteen (18) years of age may deliver, or possess with intent to deliver, drug paraphernalia, knowing that it will be solely used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this Subsection.
- 3) **Delivery of Drug Paraphernalia By a Minor to Minor.** Any person who is under eighteen (18) years of age, who violates Subsection (3) by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years younger than the violator, is guilty of a special offense.
- 4) **Exemption.** This Section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Chapter 161, Wis. Stats. This Section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Chapter 161, Wis. Stats.

- d) **Penalties.** Any person who violates Subsection (c)(1), (2) or (3), shall, upon conviction, be subject to disposition under Sec. 48.344, Wis. Stats.

## Sec. 11-5-7      **Truancy.**

a) **Contributing to Truancy.**

- 1) Except as provided in Subsection (a)(2) below, any person eighteen (18) years of age or older, who, by an act or omission, knowingly encourages or contributes to the truancy, as defined in Subsection (a)(4), of a child shall be subject to a forfeiture pursuant to Section 1-1-6.

- 2) Subsection (1) above does not apply to a person who has under his or her control a child who has been sanctioned under Sec. 49.50(7)(h), Wis. Stats.
- 3) An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be a truant.
- 4) "Truancy" means any absence of part or all of one (1) or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or guardian of the absent pupil, and also means intermittent attendance carried on for the purpose of defeating the intent of Sec. 118.15, Wis. Stats.

**b) Parent of Guardian Liability for Truancy.**

- 1) Unless the child is excepted or excused under Sec. 118.15, Wis. Stats., or has graduated from high school, any person having under control a child who is between the ages of six (6) and eighteen (18) years shall cause the child to attend school regularly during the full period of hours, religious holidays excepted, that the public or private school in which the child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes eighteen (18) years of age.
- 2) a. A person found to have violated Subsection (b)(1) above, after evidence is provided by a school official that the activities under Sec. 118.16(5), Wis. Stats., have been completed, shall be subject to a forfeiture pursuant to Section 1-1-6.
- b. Subsection (b)(2)a above does not apply to a person who has under his or her control a child who has been sanctioned under Sec. 49.50(7)(h), Wis. Stats., nor does it apply if the person proves that he or she is unable to comply with Subsection (b)(1) because of the disobedience of the child.

**Sec. 11-5-8 Unlawful Sheltering of Minors.**

- a) No person shall intentionally shelter or conceal a minor child who:
  - 1) Is a "runaway child", meaning a child who has run away from his or her parent, guardian or legal or physical custodian;
  - 2) Is a child who may be taken into custody pursuant to Sec. 48.19, Wis. Stats.
- b) Subsection (a) applies when the following conditions are present:
  - 1) The person knows or should have known that the child is a child described in either Subsection (a)(1) or (a)(2); and
  - 2) The child has been reported to a law enforcement agency as a missing person or as a child described in Subsection (a)(1) or (a)(2).
- c) Subsection (a) does not apply to any of the following:
  - 1) A person operating a runaway home in compliance with Sec. 48.227, Wis. Stats.; or

- 2) A person who shelters or conceals a child at the request or with the consent of the child's parent, guardian or legal or physical custodian except if the sheltering or concealment violates Sec. 946.71 or 946.715, Wis. Stats.; or
- 3) A person who immediately notifies a law enforcement agency, county department of public welfare or social services, or the intake worker of the court exercising jurisdiction under Chapter 48, Wis. Stats., that he or she is sheltering or concealing such child and provides the person or agency notified with all information requested.

### **Sec. 11-5-9 Purchase or Possession of Tobacco Products.** (Recreated 04-08-01)

The provisions of Secs. 48.983 and 778.25, Wis. Stats., as amended, are hereby adopted by reference and made a part of this Section as if fully set forth herein. The provisions of Section 254.92, Wis. Stats., are hereby adopted by reference and made a part of this Section as follows:

- a) No person under 18 years of age may falsely represent his or her age for the purpose of receiving a cigarette or tobacco product.
- b) No person under 18 years of age may purchase, attempt to purchase or possess any cigarette or tobacco product except as follows:
  - 1) A person under 18 years of age may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer.
  - 2) A person under 18 years of age, but not under 15 years of age, may purchase, attempt to purchase or possess cigarettes or tobacco products in the course of his or her participation in and investigation under s. 254.916 that is conducted in accordance with s. 254.916(3).
- c) A law enforcement officer shall seize any cigarette or tobacco product that has been sold to and in the possession of a person under 18 years of age.

### **Sec. 11-5-10 Restrictions on Sale or Gifts of Cigarettes or Tobacco Products – Retail Sales.** (Recreated 04-08-01)

The provisions of Section 134.66, as amended, is hereby adopted by reference and made a part of this Section as if fully set forth herein.

### **Sec. 11-5-11 Enforcement and Penalties.** (Recreated 04-08-01)

- a) **Citation Process.** For violations of Sections 11-5-2 through 11-5-9, juveniles may be cited by the citation process on a form approved by the Village Attorney and shall contain on the reverse side the

penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A carbon copy will be mailed to the parent or legal guardian.

- b) **Penalties.** Violations of Sections 11-5-2 through 11-5-9 by a person under the age of eighteen (18) shall be punishable according to Secs. 48.17(2), 48.343, 48.344 and 48.345, Wis. Stats. Nothing in this Section shall prevent the juvenile officer, in his or her discretion, from referring cases directly to the District Attorney's office.
- c) **Penalties.** Violations of Section 11-5-10 shall be punishable according to Section 134.66(4), Wis. Stats.