



LEGAL SERVICES DEPARTMENT

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TO: Timothy M. Hanna, Mayor
Members of the Common Council

FROM: James P. Walsh, City Attorney *JPW*

DATE: February 6, 2019

RE: Resolution #15-R-18/Meltzer, Raasch, Baker – Truancy
Our File No. A19-0072

This office has been requested for an opinion concerning Resolution #15-R-18 regarding truancy. That information follows.

In reading the resolution as crafted, there are three topics being raised.

The first two topics address the practice of GPS monitoring for truant students and the imposition of jail time for truant students. As a preface to the discussion, it is important to note that the truancy court in Outagamie County was effectively terminated by the directive of the Chief Judge for the 8th Judicial District which encompasses this county. Effective with that letter, dated January 3, 2019, Outagamie County's judges' participation in the truancy program was discontinued. The use of GPS monitoring and jail was imposed by the Court. Jail was used as a contempt penalty, not a truancy disposition sanction. So while the individual reason for being in the judicial process was a truancy violation, the jail term was not a sanction for that activity. Likewise, the GPS process was ordered by the Court and not something the City had control over.

The third request is that the City of Appleton support removing truancy from the Criminal Code in the State of Wisconsin. It is unclear to me what the request is in this regard. Pursuant to Wisconsin Statutes §939.01, the Criminal Code in the State of Wisconsin consists of Chapters 939 through 951 of the Statutes. The Juvenile Justice Code is §938 of the Wisconsin Statutes and therefore, not included in what is referred to as the Criminal Code. Reference to school attendance is contained in Chapter 118 of the Wisconsin Statutes indicating general school operations. It is that chapter in which habitually truant and truancy is contained. My reading of §118.16 of the Statutes does not indicate the criminalization of a truancy violation.

As indicated, with the discontinuance of truancy court, the request to halt the Court's imposition of GPS monitoring or jail for truant students appears to be a resolved issue. Without having more information as to what the authors of the resolution intended concerning truancy and the Criminal Code, it is difficult to provide a more detailed response than that indicated above.

If there are any questions in this regard, please do not hesitate to contact me.

JPW;jlg

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