

CITY OF MILWAUKEE

Form CA-43

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
Deputy City Attorney

THOMAS E. HAYES
PATRICK B. McDONNELL
LINDA ULISS BURKE
Special Deputy City Attorneys



OFFICE OF CITY ATTORNEY
800 CITY HALL
200 EAST WELLS STREET
MILWAUKEE, WISCONSIN 53202-3551
TELEPHONE (414) 286-2601
TDD 286-2025
FAX (414) 286-8550

BEVERLY A. TEMPLE
THOMAS O. GARTNER
BRUCE D. SCHRIMPF
ROXANE L. CRAWFORD
SUSAN D. BICKERT
HAZEL MOSLEY
HARRY A. STEIN
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
MICHAEL G. TOBIN
DAVID J. STANOSZ
SUSAN E. LAPPEN
DAVID R. HALBROOKS
JAN A. SMOKOWICZ
PATRICIA A. FRICKER
HEIDI WICK SPOERL
KURT A. BEHLING
GREGG C. HAGOPIAN
ELLEN H. TANGEN
MELANIE R. SWANK
JAY A. UNORA
DONALD L. SCHRIEFER
EDWARD M. EHRlich
LEONARD A. TOKUS
MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY

Assistant City Attorneys

July 15, 2002

Alderman Thomas G. Nardelli, Chairman
Public Safety Committee
Room 205, City Hall

RE: File No. 011343
An Ordinance Prohibiting Habitual Truancy and Providing Penalties

Dear Alderman Nardelli:

On July 8, 2002, the above ordinance was referred to this office for a legal opinion. We have several recommendations regarding this ordinance.

First, we note that both the state statute and the ordinance set forth the definitions of a "truant" and an "habitual truant," using these terms as nouns. The ordinance, however, prohibits any person under the age of 18 from being "truant" or "habitually truant," using the word "truant" as a verb and in a manner not defined by the statute or ordinance. While we know what is meant, we suggest that, for the sake of consistency and clarity, the prohibition in section 106-23.1-2 of the code read as follows: "It is a violation of this section for any person under 18 years of age to be a truant or a habitual truant."

Second, section 106-23.1-3.a-3 provides for a forfeiture of not more than \$200, plus court costs, for a second or subsequent violation committed within 12 months of a previous violation. Section 118.163(1m), Wis. Stats., however, allows for only a \$100 forfeiture, plus costs, for a second or subsequent violation. We therefore advise that the reference to \$200 be amended to \$100.


Finally, section 106-23.1-3.a-4 provides that any truant may be subject to "[a]n order to pay court costs, subject to s. 938.37, Wis. Stats." We advise that similar language be

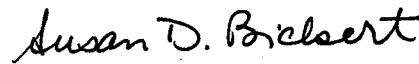
Alderman Thomas G. Nardelli
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included in reference to the forfeiture for habitual truancy. Thus, section 106-23.1-3.b-5 should be amended to read: "A forfeiture of not more than \$500, plus court costs, subject to s. 938.37, Wis. Stats."

If you have any further questions regarding this matter, please contact the undersigned.

Very truly yours,


GRANT F. LANGLEY
City Attorney


SUSAN D. BICKERT
Assistant City Attorney

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