



# City of Milwaukee

## Text File

### Ordinance

200 E. Wells Street  
Milwaukee, Wisconsin  
53202

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**Introduced:** 4/12/2005

**File Number:** 041757

**Status:** Passed

**Version:** 2

**Sponsors:** Ald. Puente, Ald. Zielinski, Ald. McGee Jr., Ald. Donovan and Ald. Witkowski

..Number

041757

..Version

SUBSTITUTE 2

..Reference

..Sponsor

ALD. PUENTE, ZIELINSKI, MCGEE, DONOVAN AND WITKOWSKI

..Title

A substitute ordinance relating to parental responsibility for the misconduct of juveniles.

..Sections

106-23.5 cr

..Analysis

This ordinance establishes that a parent of a juvenile who is convicted of ordinance violations 2 times within a 6-month period or 3 or more times within a 12-month period is guilty of failing to properly supervise the juvenile and is subject to a forfeiture of not less than \$200 nor more than \$400. A parent may be exempt from prosecution under this ordinance if the parent can prove any one of 6 certain defenses.

..Body

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 106-23.5 of the code is created to read:

106-23.5. Parental Responsibility for Misconduct of Juveniles.

1. PURPOSE. The purpose of this section is to require proper supervision on the part of custodial parents in order to reduce the number of ordinance violations by juveniles from occurring.

2. DEFINITIONS. In this section:

a. "Custodial parent" means a parent or legal guardian of a juvenile who has custody of the juvenile.

b. "Custody" means either physical custody of a juvenile under a court order under s. 767.23 or 767.24, Wis. Stats., custody of a juvenile under a stipulation under s. 767.10, Wis. Stats., or actual physical custody of the juvenile. Custody does not include legal custody, as defined under s. 48.02(12), Wis. Stats., by an agency or a person other than a juvenile's birth or

adoptive parent. In determining which parent has custody of a juvenile for purposes of this section, the court shall consider which parent had responsibility for caring for and supervising the juvenile at the times that the juvenile's ordinance violations occurred.

c. "Juvenile" means any person less than 17 years of age.

d. "Parental responsibility" means a custodial parent of a juvenile residing with such custodial parent shall meet his or her duty to supervise the juvenile.

3. PROHIBITED CONDUCT. a. It shall be unlawful for the custodial parent of a juvenile to not properly supervise the juvenile. Any custodial parent of a juvenile who is convicted of ordinance violations 2 times within a 6-month period or 3 or more times within a 12-month period is guilty of failing to properly supervise the juvenile where the violations were a foreseeable consequence of the breach of the duty, in that:

a-1. The parent aided or abetted the juvenile during an act forming the basis of a violation; or  
a-2. The parent acted or failed to act to impose reasonable supervisory controls on the juvenile that made the violation foreseeable.

b. The 6 and 12-month periods shall be measured from the date of the first conviction. Adjudication in the court that the juvenile has violated an ordinance shall bar a juvenile's custodial parent from denying that the juvenile committed the violation.

4. DEFENSE OF PARENT. The following shall be among the defenses to a violation of sub. 3 where proven by the parent by clear and convincing evidence:

a. The parent was not legally responsible for the supervision of the juvenile at the times the juvenile's ordinance violations occurred.

b. The parent had a physical or mental disability or incompetence rendering him or her incapable of supervising the juvenile at the times the juvenile's ordinance violations occurred.

c. The parent had reported to the appropriate authorities the juvenile's ordinance violations at the times the violations occurred or as soon as the parent learned of the violations.

d. The parent is the victim of the acts underlying the juvenile's ordinance violations.

e. A competent physician or licensed psychologist had diagnosed the juvenile before the times the juvenile's ordinance violations occurred as suffering from a mental disorder that renders parental supervision and control ineffective.

f. The parent can provide specific evidence of on-going participation in or recent completion of parenting classes, family therapy, group counseling or AODA counseling which includes the parent or family.

5. PENALTY. A person who is convicted of violating sub. 3 shall forfeit not less than \$200 nor more than \$400, and in default of payment thereof shall be imprisoned in the house of correction or the county jail not more than 16 days.

..LRB

APPROVED AS TO FORM

\_\_\_\_\_  
Legislative Reference Bureau  
Date:\_\_\_\_\_

..Attorney

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

\_\_\_\_\_  
Office of the City Attorney

Date: \_\_\_\_\_  
..Drafter  
LRB05097-3  
RGP  
5/12/05