

2173 CONTRIBUTING TO TRUANCY — § 948.45**Statutory Definition of the Crime**

Section 948.45 of the Wisconsin Statutes is violated by any person 17 years of age or older who, by any act or omission, knowingly encourages or contributes to the truancy of a child.

State's Burden of Proof

Before you may find the defendant guilty of this offense, the State must prove by evidence which satisfies you beyond a reasonable doubt that the following four elements were present.

Elements of the Crime That the State Must Prove

1. The defendant had attained the age of 17 years.
2. (Name of child) was under the age of 18 years.¹

Knowledge of (name of child)'s age is not required and mistake regarding of (name of child)'s age is not a defense.²

3. (Name of child) was truant.

"Truant" means being absent from school for part or all of one or more days during which the school attendance officer, principal, or teacher has not been notified of the legal cause of the absence.³

4. The defendant, by any act or omission, knowingly encouraged or contributed⁴ to the truancy of (name of child).

"Knowingly" requires that the defendant knew or believed that the defendant's act or omission would contribute to truancy.⁵

Jury's Decision

If you are satisfied beyond a reasonable doubt that all four elements of this offense have been proved, you should find the defendant guilty.

If you are not so satisfied, you must find the defendant not guilty.

COMMENT

Wis JI-Criminal 2173 was originally published in 1998. This revision was approved by the Committee in August 2005.

This instruction is drafted for violations of § 948.45(1). Subsection (2) provides: "Subsection (1) does not apply to a person who has under his or her control a child who has been sanctioned under s. 49.26(1)(h)." That reference is to sanctions under the "learnfare" program.

A related offense is defined in § 188.15, Compulsory school attendance. See Wis JI-Criminal 2174.

1. This is the definition of "child" provided in § 948.01(1).
2. This statement is typically included in all instructions involving offenses against children; it states the general rules set forth in §§ 939.23(6) and 939.43(2).
3. This definition is based on the definition of "truancy" in provided in § 118.16(1)(c), which is expressly cross-referenced in § 948.45(1).
4. Section 948.45(3) provides: "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 actor or omission would be to cause the child to be truant."
5. "'Know' requires only that the actor believes that the specified fact exists." § 939.23(2).