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School Crime Reporting Guide

Legal Obligations and Best Practices for Compliance

WISCONSIN INSTITUTE
FOR LAW & LIBERTY

Reporting Crime, Reducing Risk: School Compliance with Act 12

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In 2023, the Wisconsin Legislature enacted Act 12, creating Wisconsin statute § 118.124. This statute requires all public high schools (including charter schools) and all private high schools participating in a parental choice program, to collect, maintain, and report data on specific criminal incidents. This new requirement seeks to promote transparency, improve school safety, and ensure consistent statewide reporting of school-based criminal activity.

However, this statute leaves some key questions unanswered—particularly regarding what incidents qualify for reporting, how schools should collect the necessary data, and what tools are available to ensure compliance.

This guide provides school leaders and administrators with a clear, practical overview of how to comply with Act 12. It highlights statutory requirements, explains common ambiguities, outlines best practices, and includes tools like a model crime reporting policy and an open records request template to help schools meet their obligations under the law. While not a substitute for legal advice, this document is intended to equip schools with the information and resources necessary to implement Act 12 effectively and with confidence.

Wisconsin Statute § 118.124

To effectively comply with the law, schools and Districts need to understand what is included in Wisconsin statute § 118.124. This explainer is organized into five subsections that correspond to the statute's core requirements: (1) who is required to collect crime statistics; (2) what statistics need to be included in the reporting; (3) when the reporting needs to occur; (4) how this new requirement should be administered; and (5) what reporting system will be utilized.

Who needs to collect the statistics and when do they need to report them?

Wisconsin statute § 118.124 begins by explaining who is required to collect statistics. Beginning in the 2024–25 school year, public high schools (including charter high

schools) and private high schools participating in a parental choice program must collect and maintain statistics of specified crimes.[1]

Each high school must report the required statistics to the school board, operator of a charter school, or governing body of the private school.[2]

Finally, by July 31 of each year, each school board, operator of a charter school, or governing body of a private school participating in a parental choice program shall submit a report to the Department of Public Instruction (DPI) that includes the statistics reported by each high school and aggregate statistics collected for all of the high schools in the district, if applicable.[3]

What crimes need to be included in statistics collection and reporting, and when do they need to be included?

Not all crimes need to be included in the statistics collected, maintained, and reported by schools. Additionally, even the crimes specified by this statute only need to be included in the statistics under certain circumstances.

The statute says that high schools must collect and maintain statistics of incidents of eight crimes:[4]

1. Homicide;
2. Sexual assault;
3. Burglary, robbery, or theft;
4. Battery, substantial battery, or aggravated battery under Wis. Stat. § 940.19;
5. Arson;
6. Use or possession of alcohol, a controlled substance, as defined in Wis. Stat. § 961.01(4), or a controlled substance analog, as defined in Wis. Stat. § 961.01(4m);
7. Possession of a firearm in violation of Wis. Stat. § 948.605(2);
8. A violation of a municipal ordinance relating to disorderly conduct.

However, not every instance of one of these crimes needs to be reported under this statute.[5] Reporting is required only if the following conditions are met:

1. The incident occurs:[6]

[1] Wis. Stat. § 118.124(2)(a).
[2] Wis. Stat. § 118.124(3)(a–b).
[3] Wis. Stat. § 118.124(3)(a–b).
[4] Wis. Stat. § 118.124(2)(a).
[5] Wis. Stat. § 118.124(2)(b).
[6] Wis. Stat. § 118.124(2)(b)1.

a. During school hours;
b. At a school sanctioned event (before or after school hours); or
c. While transporting students to or from school; and

2. The incident takes place:[7]
    a. On property owned or leased by the school; or
    b. On transportation provided by the school; and
3. The incident resulted in:[8]
    a. A report to law enforcement; and
    b. Either a citation being issued or a criminal charge being filed.

In other words, an incident only needs to be included in the statistics if it: (a) is one of the eight crimes listed in statute, **and** (b) if it occurred on school property, during school hours or at a school sanctioned event before or after school hours, or on school-provided transportation, **and** (c) a report of the incident was made to law enforcement, **and** (d) the report resulted in a citation issued or charge filed.

While most of the statute is relatively intuitive and straightforward, a few of the terms or phrases used are not defined by this statute and may create confusion in practice. We will discuss the ambiguous terms below.

School Hours and School Sanctioned Events

What does the statute mean for an incident to occur "during school hours" and what is a "school-sanctioned event that occurred before or after school hours"? The statute does not define either phrase.

It is likely that the two phrases were meant to be read together to mean that the reporting requirements apply to incidents which occur at times when students are expected to be at the school. This would include any time the school building is open for students before school (meaning before instructional hours), during all school instructional hours, and any times the school building is open for students after school (meaning after instructional hours). The statute is obviously intended to provide information about incidents in which students are subject to physical harm when they are at school (broadly speaking). It would mean that incidents which occur when the building is closed and when the school property would normally be vacant are not included.

This reading would mean that school sponsored club activities, sports activities, outdoor school assemblies, plays, concerts and other performances, tournaments,

[7] Wis. Stat. § 118.124(2)(b)2.
[8] Wis. Stat. § 118.124(2)(b)3.

fundraisers, etc. held at the school (inside the building or outside the building but on school property) likely are included. Incidents which occur overnight when the school is closed, and the building and property would normally be vacant likely are not included.

A Citation is Issued or a Charge is Filed

Wis. Stat. 118.124(2)(b)3 provides that incidents must only be reported if the incident itself was reported to law enforcement, **and**, as a result of the incident, a charge was filed or a citation was issued.

The first requirement—that the incident was reported to law enforcement—seems clear. The school would know this information either because someone from the school reported the incident to law enforcement or because law enforcement showed up at the school (or the school bus). But the second requirement—that as a result of the incident, a charge was filed or a citation was issued—may be more difficult for the school. The school may not know this information. The police may show up at the school, diffuse the situation and the school may or may not find out if a charge was filed or a citation was issued.

In general, a "charge" is filed for criminal offenses and listed in a criminal complaint. A "citation" is issued for non-criminal offenses, things that are punished by fines rather than jail, like local ordinance violations. The important point is that incidents are reportable whether they are crimes or non-criminal offenses like ordinance violations, if the police or the district attorney indicate that they are taking formal action against the individual(s) involved.

But the question remains, how does the school know if the police or district attorney are planning to take such actions?

The answer to that question is not clear but in many cases the school will know because a third party tells the school. It could be the parent of an involved student. It could be the local police or district attorney, or it could be someone else. In some cases, the school is entitled to formal notice. For example, if it is a student of the school that is involved, the district attorney will provide notice to the school pursuant to Wis. Stat. 950.08(2w) or there may be an interagency agreement pursuant to Wis. Stat. § 938.396(1)(c)4 under which law enforcement provides information to the school.

A second point is that, in some cases, a school can search public records to determine if a person has been charged with a crime. In certain instances that would be a reasonable effort for a school to undertake.

We note that DPI released "Guidance for Complying with Reporting Requirements under Wis. Stat. § 118.124 (2023 Wisconsin Act 12)."[9]

The guidance explains that DPI takes the position that a "good-faith effort to comply with § 118.124" is all that is required, and that means reporting:

1. Adult criminal charges sent to the school by the District Attorney's Office pursuant to Wis. Stat. § 950.08(2w);
2. Searching for juvenile delinquency charges that "permit public access to the court file";
3. Juvenile and adult citations that are disclosed by an agreement between the local law enforcement agency and school pursuant to Wis. Stat. § 938.396(1)(c)4.[10]

DPI's position effectively means that if a school isn't explicitly given the information by the District Attorney or local law enforcement agency, or if the school cannot access any juvenile delinquency charges online, then the school does not have to report anything that it does not already know.

The only reasonable reading of the statute is that the school can only report what it knows. If the school knows that the incident resulted in a charge being filed or a citation being issued (and the other requirements for reporting all exist), then the incident is reportable. If the school does not know, then the incident is not reportable. But if the incident is serious, the school should take reasonable steps to follow up to determine the result.

Until there is a more definitive process, schools should consider a two-part approach to satisfying this requirement.

First, schools should adopt a policy that establishes a process for collecting reports of all law enforcement related incidents that occur throughout the year from school administration, staff, and employees. Second, if the school believes that there are gaps in this information available, the school should take reasonable steps to supplement this information by checking public sources of information including sending public records request to their local law enforcement agency (or the law enforcement agency who has jurisdiction over where the incident occurred) to verify

[9] Wisconsin Department of Public Instruction, *Guidance for Complying with Reporting Requirements Under Wis. Stat. § 118.124 (2023 Wisconsin Act 12)*, May 2025 (available at: https://dpi.wi.gov/sites/default/files/imce/sspw/pdf/118.124_School_Guidance.pdf).
[10] *Id.* at 8.

the information they have gathered or to see if any incidents resulted in a citation or charge.

There may still be grey areas, but for now, it is up to schools to use their best judgment when determining whether one of the crimes specified by this statute met the conditions necessary to be included in the statistics. The situation will change when DPI promulgates rules (as discussed below) that will hopefully provide more clarification.

DPI Rulemaking Underway for New Reporting Requirement

Wisconsin law allows state agencies (like the DPI) that enforce or administer a statute to adopt "rules" under certain circumstances to explain how the agency interprets the statute.[11] These rules, if legally created via the process set out in state statute, have the force of law.

Wisconsin statute § 118.124(4) commands the DPI to promulgate rules to administer this reporting requirement, including a rule that requires high schools to collect and report statistics of incidents under this section in accordance with the uniform crime reporting system of the department of justice.

To create the new rules the DPI must first issue a "statement of scope."[12] For this particular requirement, the DPI submitted Scope-Statement 033-24, which was approved by Governor Evers on February 29, 2024.[13] This statement outlines the DPIs intent to create a new administrative code chapter, PI 42, to govern the reporting of crime and other safety related incidents. The next step is for DPI to draft the proposed rules, which it has not yet done. The DPI has until September 25, 2026, when the scope statement expires, to submit proposed rules to the legislature for review.[14] These new rules will hopefully provide clarity on some of the practical questions raised by this statute.

Additionally, in order to promulgate these rules, the DPI will have to have a public comment period.[15] When these new rules are being written, you can ensure that your voice is heard by participating in these public commentary periods.

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[11] Wis. Stat. § 227.10(1).
[12] Wis. Stat. § 227.135.
[13] Wisconsin State Legislature, *SS 033-24 Department of Public Instruction (PI)*, February 29, 2024 (available at: https://docs.legis.wisconsin.gov/code/register/2024/819b/register/ss/ss_033_24/ss_033_24).
[14] Wis. Stat. § 227.135(5); *see also* Wisconsin State Legislature, *Scope Statement SS 033-24* (available at: https://docs.legis.wisconsin.gov/code/scope_statements/all/033_24).
[15] Wis. Stat. § 227.136(1).

How Should Schools Collect These Crime Statistics?

The best and easiest way for schools to collect and maintain statistics on these incidents is to have a reporting policy requiring school employees to report information of law enforcement related incidents to a central source such as the school principal and then have that person review the information to determine which incidents are reportable and then prepare a report compliant with the statute. To help schools and districts do this, WILL has created a model school board policy to use. WILL has also created a model form for district personnel to file these reports in conjunction with this model policy. A printable version of this form is available at the end of this document.

Open Record Requests

One of the ways that schools or Districts can verify the statistics they gathered throughout the year or follow up to see if incidents resulted in a citation or charge is via an open records request to their local law enforcement agency or agencies.

Wisconsin statute § 118.124 does not require schools to use open records requests to gather statistics, so taking such action is optional, but these requests can be, depending on the level of cooperation from the relevant police department, a relatively easy and straightforward way to gather the most accurate information possible to report to the DPI.

WILL has created a template open records request for schools to use at the end of the school year to obtain information about incidents that fall under the parameters of Wis. Stat. § 118.124(2). This template request can be modified to fit your school's specific needs while still requesting all the information necessary under Wis. Stat. § 118.124(2). This template also can be sent to multiple law enforcement agencies if your school transports students across jurisdictions or your property spans more than one jurisdiction.

WILL has used this template open record request to ask various law enforcement agencies across the state for records of incidents that fall under the parameters of Wis. Stat. § 118.124(2). Most of the time, these requests were answered very quickly and without issue. However, it is important to keep in mind:

1. Open records law requires that the law enforcement agency respond to the request "as soon as practicable and without delay," but there is no specific time limit, and some agencies will respond quickly and efficiently and some will not.[16]

[16] Wis. Stat. § 19.35(4)(a).

2. The law enforcement agency may charge for "actual, necessary, and direct cost of reproduction."[17]
3. Some law enforcement agencies will provide information in your preferred format, while others may not.[18]
4. For more information on open record requests, see WILL's "Citizen's Guide to Open Government" that explains how to send open record requests.

Memorandum Between School and Police Department(s)

Another way schools or Districts can obtain relevant information is through a memorandum between the school or District and the local law enforcement agency to provide "routine disclosure of information."

Specifically, Wisconsin statute § 938.396(1)(c)4. allows law enforcement agencies to enter into an "interagency agreement" with a school board or private school to provide routine disclosure of information to the school board or private school. This disclosure may include information on juveniles attending the school.[19]

Schools can enter into an "interagency agreement" with their local law enforcement agency for information on instances of crime that fall into the parameters of Wis. Stat. § 118.124(2). Using this method would allow the school and the local law enforcement agency to exchange information on a routine basis and help a school with its reporting obligation.

How Should Schools Report These Crime Statistics?

This year, DPI has provided a form for schools and or districts to fill out and send back. This form is basic and consists of three main parts:

1. Information on the individual completing the form;
2. A number of each qualifying incident for each reportable crime, broken down by high school; and
3. An affirmation that the information provided is complete and accurate to the best of the school's ability.

As stated above, this form must be completed and returned to the DPI by July 31, 2025.

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[17] Wis. Stat. § 19.35(3)(a).
[18] *WIREdata, Inc. v. Vill. of Sussex*, 2008 WI 69 (an authority should provide a copy in an appropriate format, but providing a PDF of a record as opposed to the format the records are typically kept in did not run afoul of open records law).
[19] Wis. Stat. § 938.396(1)(b)2.

It is likely that this reporting form will change as the DPI works with the Wisconsin Department of Justice (DOJ) to develop a reporting system that incorporates the uniform crime reporting system as is required by Wis. Stat. § 118.124(5).

Compliance with the Family Educational Rights and Privacy Act ("FERPA")

The required reporting statistics are just that—statistics. The school or District is not required to maintain any police or other records that include information directly relating to a student. The only information a school or District needs to collect and track is: (1) the incident that occurred; and (2) whether the incident falls within the criteria specified by the statute. Thus, nothing in the statute should create problems for a school under FERPA.

Conclusion

Wisconsin's new crime reporting law places clear responsibilities on schools but leaves many details to be worked out in practice. As the DPI develops new administrative rules and collaborates with the DOJ to align school reporting with the state's uniform crime reporting system, schools and Districts will need to use good judgment and proactive planning to ensure compliance.

The Wisconsin Institute for Law & Liberty remains committed to supporting school during this transition and ensuring Act 12 is implemented in a way that is both lawful and workable. With the right policies and procedures in place, Wisconsin schools can meet their reporting obligations and contribute to safer, more transparent learning environments.

Incidents of Crime Reporting Form

Name: _____

Title: _____

Date and estimated time of incident: _____

Location of Incident: _____

Brief Description of Incident (attach extra pages if necessary):

_____

_____

_____

_____

_____

_____

_____

_____

_____ _____

Signature Date