



## 1995 ASSEMBLY BILL 380

May 18, 1995 - Introduced by Representatives GROTHMAN, AINSWORTH, ALBERS, BRANDEMUEHL, DUFF, GARD, GOETSCH, HANDRICK, KELSO, KRUSICK, LADWIG, LAZICH, MUSSER, NASS, OLSEN, OTT, OWENS, SCHNEIDERS, SERATTI, SILBAUGH, SKINDRUD, UNDERHEIM, WASSERMAN and ZIEGELBAUER, cosponsored by Senators DARLING, HUELSMAN, A. LASEE, PETAK and SCHULTZ. Referred to Committee on Children and Families.

1 **AN ACT to repeal** 48.396 (5) and 48.396 (6); **to amend** 48.27 (4m), 48.299 (1) (am),  
2 48.346 (1) (a), 48.346 (1) (b), 48.346 (1) (d) 1. and 48.396 (1); and **to create**  
3 48.396 (1r) and 48.396 (2) (f) of the statutes; **relating to:** access by the victim  
4 of a delinquent act to proceedings and records relating to that act.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the victim of a child's act or alleged act or a family member of a homicide victim may attend a fact-finding or dispositional hearing before the court assigned to exercise jurisdiction under the children's code (juvenile court) and hearings before the municipal court relating to the act or alleged act, except that a judge may exclude the victim or family member from any portion of the hearing that deals with sensitive personal matters of the child or the child's family and that does not directly relate to the act or alleged act committed against the victim. This bill permits a victim of a child's act or alleged act or a family member of a homicide victim to attend any hearing of the juvenile court or municipal court relating to that act or alleged act, subject to the same restrictions as under current law for attendance at a fact-finding or dispositional hearing.

Under current law, the victim of a child's act or alleged act may, with the approval of the juvenile court, obtain from a law enforcement agency the names of the child and the child's parents. A victim of a child's act may also petition the juvenile court to order a law enforcement agency to disclose to the victim as much information in its records as is necessary to meet the needs of the victim for the information. The juvenile court may order that disclosure only after notifying all interested parties of the request, holding a hearing if there is an objection to the disclosure, inspecting the records requested and balancing the victim's need for the information versus society's interest in its confidentiality. This bill permits a law enforcement agency, without a court order to disclose to a victim of a child's act or alleged act or a family member of a homicide victim any information in its records

relating to that act or alleged act, including the name and address of the child and the child's parents. The law enforcement agency may not, however, disclose any information that deals with sensitive personal matters of the child and the child's family and that does not directly relate to the act or alleged act committed against the victim. The victim or family member may use and further disclose the information only for the purpose of recovering for any injury, loss or damage suffered as a result of the act or alleged act.

Under current law, subject to certain exceptions, the records of the juvenile court are not open to inspection and their contents may not be disclosed to anyone except by order of the juvenile court. This bill requires a juvenile court, on the request of the victim of a child's act or alleged act or a family member of a homicide victim, to open for inspection by the victim or family member the records of the court relating to the act or alleged act. The juvenile court may not, however, open for inspection records that deal with sensitive personal matters of the child and the child's family and that do not directly relate to the act or alleged act committed against the victim. The victim or family member may use and further disclose the records only for the purpose of recovering for any injury, loss or damage suffered as a result of the act or alleged act.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 48.27 (4m) of the statutes is amended to read:

2           48.27 (**4m**) The court shall also notify, under s. 48.273, any victim or alleged  
3 victim of the child's act or alleged act or a family member of a homicide victim of any  
4 hearing under ~~s. 48.31 or 48.335~~ involving the child this chapter relating to that act  
5 or alleged act.

6           **SECTION 2.** 48.299 (1) (am) of the statutes is amended to read:

7           48.299 (**1**) (am) Subject to s. 906.15, if a public hearing is not held, in addition  
8 to persons permitted to attend under par. (a), a victim of a child's act or alleged act  
9 may attend a hearing under ~~s. 48.31, a hearing under s. 48.335~~ and any hearing by  
10 a court exercising jurisdiction under ~~s. 48.17 (2)~~ this chapter, based upon the act or  
11 alleged act, except that a judge may exclude a victim from any portion of a hearing

1 which deals with sensitive personal matters of the child or the child's family and  
2 which does not directly relate to the act or alleged act committed against the victim.  
3 A member of the victim's family and, at the request of the victim, a representative  
4 of an organization providing support services to the victim, may attend the hearing  
5 under this subsection.

6 **SECTION 3.** 48.346 (1) (a) of the statutes is amended to read:

7 48.346 (1) (a) The procedure under s. 48.396 (1r) for obtaining the identity of  
8 the child and the child's parents.

9 **SECTION 4.** 48.346 (1) (b) of the statutes is amended to read:

10 48.346 (1) (b) The procedure under s. 48.396 ~~(5)~~ (1r) for obtaining the child's  
11 police records.

12 **SECTION 5.** 48.346 (1) (d) 1. of the statutes is amended to read:

13 48.346 (1) (d) 1. ~~General information~~ Information regarding any informal  
14 agreement under s. 48.245, any consent decree under s. 48.32 or any dispositional  
15 order under ss. 48.34 to 48.345. The information shall may not include specific  
16 ~~details of the order except for details relating to restitution or repair to property~~ any  
17 information that deals with sensitive personal matters of the child or the child's  
18 family and that does not directly relate to the act or alleged act committed against  
19 the victim. This subdivision does not affect the right of a victim to attend a  
20 dispositional any hearing as provided in that the victim is permitted to attend under  
21 s. 48.299 (1) (am).

22 **SECTION 6.** 48.396 (1) of the statutes is amended to read:

23 48.396 (1) Peace officers' records of children shall be kept separate from records  
24 of persons 18 or older. Peace officers' records of children shall not be open to  
25 inspection or their contents disclosed except under sub. (1m) or ~~(5)~~ (1r) or s. 48.293

1 or by order of the court. This subsection does not apply to the representatives of  
2 newspapers or other reporters of news who wish to obtain information for the  
3 purpose of reporting news without revealing the identity of the child involved, to the  
4 confidential exchange of information between the police and officials of the school  
5 attended by the child or other law enforcement or social welfare agencies or to  
6 children 16 or older who are transferred to the criminal courts.

7 **SECTION 7.** 48.396 (1r) of the statutes is created to read:

8 48.396 (1r) If requested by a victim of a child's act or alleged act or a family  
9 member of a homicide victim, a law enforcement agency may disclose to the victim  
10 or family member any information in its records relating to the act or alleged act,  
11 including the name and address of the child and the child's parents, except that the  
12 law enforcement agency may not disclose any information that deals with sensitive  
13 personal matters of the child or the child's family and that does not directly relate  
14 to the act or alleged act committed against the victim. The victim or family member  
15 may use and further disclose the information only for the purpose of recovering for  
16 any injury, loss or damage suffered as a result of the child's act or alleged act.

17 **SECTION 8.** 48.396 (2) (f) of the statutes is created to read:

18 48.396 (2) (f) Upon request by a victim of a child's act or alleged act or a family  
19 member of a homicide victim, the court shall open for inspection by the victim or  
20 family member the records of the court relating to the act or alleged act, except that  
21 the court may not open for inspection any records that deal with sensitive personal  
22 matters of the child or the child's family and that do not directly related to the act  
23 or alleged act committed against the victim. The victim or family member may use  
24 and further disclose the records only for the purpose of recovering for any injury, loss  
25 or damage suffered as a result of the child's act or alleged act.

