

2011 DRAFTING REQUEST

Bill

Received: **11/27/2011**

Received By: **tkuczens**

Wanted: **As time permits**

Companion to LRB:

For: **Steve Kestell (608) 266-8530**

By/Representing: **Chris Kulow**

May Contact:

Drafter: **tkuczens**

Subject: **Education - school boards**

Addl. Drafters:

Extra Copies: **pg**

Submit via email: **YES**

Requester's email: **Rep.Kestell@legis.wisconsin.gov**

Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

School district use of law enforcement records pertaining to a pupil

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	tkuczens	jdyer	phenry	_____	ggodwin		
	11/27/2011	11/28/2011	11/28/2011	_____	11/28/2011		
	tkuczens	jdyer		_____			
	11/29/2011	11/29/2011		_____			
/1			rschluet	_____	sbasford	ggodwin	
			11/29/2011	_____	11/29/2011	11/29/2011	

FE Sent For:

none

<END>

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	tkuczens	jdyer		_____			
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			11/29/2011	_____	11/29/2011		

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/?	tkuczens	11/28 jld	11/28 ph	X			

FE Sent For:

<END>

Kuczenski, Tracy

From: Kulow, Chris
Sent: Wednesday, November 23, 2011 11:29 AM
To: Kuczenski, Tracy
Cc: 'drossmiller@wasb.org'; Kestell, Steve; Archibald, Sarah
Subject: FW: SB 95 language related to "law enforcement records" and athletic code violations

Tracy,

Can you draft a trailer bill please?

Thanks,

Christopher Kulow
Office of State Representative Steve Kestell
212 North - State Capitol; 266-8530
<http://kestell.assembly.wisconsin.gov>

-----Original Message-----

From: Grant, Peter
Sent: Wednesday, November 23, 2011 9:57 AM
To: Kuczenski, Tracy; Kulow, Chris
Cc: Archibald, Sarah
Subject: RE: SB 95 language related to "law enforcement records" and athletic code violations

I agree, I don't think this can be corrected in a revisor's bill. I think a trailer bill is the way to go.

Peter

-----Original Message-----

From: Kuczenski, Tracy
Sent: Wednesday, November 23, 2011 9:15 AM
To: Kulow, Chris; Grant, Peter
Cc: Archibald, Sarah
Subject: RE: SB 95 language related to "law enforcement records" and athletic code violations

Hi Chris -

I agree with Dan that this is a "glitch" (to put it kindly). I believe this was my draft. Unfortunately, I don't believe this is a correction that can be made through a revisor's bill. Peter, do you agree?

Tracy

-----Original Message-----

From: Kulow, Chris
Sent: Wed 11/23/2011 8:37 AM
To: Grant, Peter; Kuczenski, Tracy
Cc: Archibald, Sarah
Subject: FW: SB 95 language related to "law enforcement records" and athletic code violations

Peter & Tracy,

See below.

I'm not sure which one of you drafted that section of SB 95. Any suggestions on how to address this or if it is accurate?

Thanks!

Christopher Kulow
Office of State Representative Steve Kestell
212 North - State Capitol; 266-8530
<http://kestell.assembly.wisconsin.gov> <<http://kestell.assembly.wisconsin.gov/>>

From: Dan Rossmiller [mailto:drossmiller@wasb.org]
Sent: Tuesday, November 22, 2011 4:09 PM
To: Kulow, Chris; Archibald, Sarah
Subject: SB 95 language related to "law enforcement records" and athletic code violations

Chris and Sarah,

In preparing to inform our members about the changes in SB 95, we found a minor glitch in the drafting. Our attorneys discovered that SB 95 appears to address only one of three instances where the language about "law enforcement records" and athletic code violations appears in the statutes.

In current law, the limitation on use of law enforcement records for athletic code violations shows up in at least three different statutes:

[http://docs.legis.wi.gov/document/statutes/118.125\(5\)\(b\)](http://docs.legis.wi.gov/document/statutes/118.125(5)(b))

<http://docs.legis.wi.gov/document/statutes/118.127>

[http://docs.legis.wi.gov/document/statutes/938.396\(2g\)\(m\)6](http://docs.legis.wi.gov/document/statutes/938.396(2g)(m)6).

Enrolled SB 95 <<https://docs.legis.wisconsin.gov/2011/related/enrolled/sb95>>, awaiting the governor's signature (he plans to sign it tomorrow), amends 118.125(2)(b), but does not appear to change the parallel language in 118.27 or in ch. 938.

Here is the relevant section:

118.125 (5) (b)
Law enforcement officers' records obtained under s. 48.396 (1)
or 938.396 (1) (b) 2. or (c) 3. and records of the court assigned to exercise jurisdiction under chs. 48 and 938 or of a municipal court obtained under s. 938.396 (2g) (m) may not be used by a school district as the sole basis for expelling or suspending a pupil or as the sole basis for taking any other disciplinary action against a pupil, but may be used as the sole basis for taking action against a pupil under the school

district's athletic code.

How do you want to address this? Is this something that gets addressed in a revisor's correction bill?

Thanks for your help.

Dan Rossmiller

Director of Government Relations

Wisconsin Association of School Boards

122 W. Washington Avenue, Suite 400

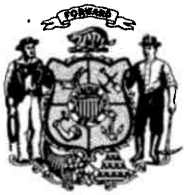
Madison, WI 53703

(608) 512-1720 (direct line)

(608) 257-2622 (general office line)

(608) 333-4923 (cell)

drossmiller@wasb.org



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-35352

TKK: X.....

PI
jld
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 11/27/11
Companion to LRB-3536/P1
wanted by 12/1/11

4

1

Gen

or juvenile court ✓

AN ACT ...; relating to: use of law enforcement records to take disciplinary action

2

against a pupil under a school district's athletic code.

Analysis by the Legislative Reference Bureau

Under current law, law enforcement and juvenile court records obtained by and relating to the conduct of a pupil of a school district may not be used as the sole basis for expelling or suspending the pupil or as the sole basis for taking any other disciplinary action against the pupil, including action under the school district's athletic code. 2011 Wisconsin Act (XX) permits a school district to use law enforcement records as the sole basis for taking action against a pupil under the district's athletic code, but did not make that change to all provisions of current law governing the use of a pupil's law enforcement or juvenile court records. This bill extends the change made under Act (XX) to the other provisions in current law governing the use by a school district of a pupil's law enforcement records for disciplinary purposes. *and juvenile court*

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

3

SECTION 1. 118.127 of the statutes is amended to read:

4

118.127 Law enforcement agency information. A school district, private

5

school, or tribal school may disclose information from law enforcement officers'

records obtained under s. 938.396 (1) (c) 3. only to persons employed by the school district who are required by the department under s. 115.28 (7) to hold a license, to persons employed by the private school or tribal school as teachers, and to other school district, private school, or tribal school officials who have been determined by the school board or governing body of the private school or tribal school to have legitimate educational interests, including safety interests, in that information. In addition, if that information relates to a pupil of the school district, private school, or tribal school, the school district, private school, or tribal school may also disclose that information to those employees of the school district, private school, or tribal school who have been designated by the school board or governing body of the private school or tribal school to receive that information for the purpose of providing treatment programs for pupils enrolled in the school district, private school, or tribal school. A school district may not use law enforcement officers' records obtained under s. 938.396 (1) (c) 3. as the sole basis for expelling or suspending a pupil or as the sole basis for taking any other disciplinary action, including against a pupil, but may use law enforcement officers' records obtained under s. 938.396 (1) (c) 3. as the sole basis for taking action against a pupil under the school district's athletic code, ~~against a pupil.~~

History: 1991 a. 39; 1995 a. 77, 173, 352; 1997 a. 27, 205; 2005 a. 344; 200~~7~~⁶ a. 302, 309.

SECTION 2. 938.396 (2g) (m) 6. of the statutes is amended to read:

938.396 (2g) (m) 6. Except as required under subds. 1. to 5. or by order of the court, no information from the juvenile's court records may be disclosed to the school board of the school district, the governing body of the private school, or the governing body of the tribal school in which the juvenile is enrolled or the designee of the school board or governing body. Any information from a juvenile's court records provided

1 to the school board of the school district or the governing body of the private school
2 in which the juvenile is enrolled or the designee of the school board or governing body
3 shall be disclosed by the school board, governing body, or designee to employees of
4 the school district or private school who work directly with the juvenile or who have
5 been determined by the school board, governing body, or designee to have legitimate
6 educational interests, including safety interests, in the information. A school district
7 or private school employee to whom that information is disclosed may not further
8 disclose the information. If information is disclosed to the governing body of a tribal
9 school under this subdivision, the court shall request that the governing body of the
10 tribal school or its designee disclose the information to employees who work directly
11 with the juvenile or who have been determined by the governing body or its designee
12 to have legitimate educational interests, including safety interests, in the
13 information, and shall further request that the governing body prohibit any
14 employee to whom information is disclosed under this subdivision from further
15 disclosing the information. A school board may not use any information from a
16 juvenile's court records as the sole basis for expelling or suspending a juvenile or as
17 the sole basis for taking any other disciplinary action, including against a juvenile,
18 but may use information from a juvenile's court records as the sole basis for taking
19 action against a juvenile✓ under the school district's athletic code, ~~against the~~
20 ~~juvenile~~. A member of a school board or of the governing body of a private school or
21 tribal school or an employee of a school district, private school, or tribal school may
22 not be held personally liable for any damages caused by the nondisclosure of any
23 information specified in this subdivision unless the member or employee acted with
24 actual malice in failing to disclose the information. A school district, private school,
25 or tribal school may not be held liable for any damages caused by the nondisclosure

1 of any information specified in this subdivision unless the school district, private
2 school, or tribal school or its agent acted with gross negligence or with reckless,
3 wanton, or intentional misconduct in failing to disclose the information.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 80, 95, 181, 205, 252, 258, 281; 1999 a. 9, 32, 89; 2001 a. 95; 2003 a. 82, 292; 2005 a. 344, 434; 2005 a. 443 s. 265; 2007 a. 20 ss. 3826 to 3827, 9121 (6) (a); 2007 a. 97; 2009 a. 302, 309, 338; 2011 a. 35; s. 13.92 (2) (i).

4

(END)



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3535/PT

TKK:jld:ph

PMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

11/27/11

Today

X

Regen

- 1 AN ACT *to amend* 118.127 and 938.396 (2g) (m) 6. of the statutes; **relating to:**
- 2 use of law enforcement or juvenile court records to take disciplinary action
- 3 against a pupil under a school district's athletic code.

Analysis by the Legislative Reference Bureau

Under current law, law enforcement and juvenile court records obtained by and relating to the conduct of a pupil of a school district may not be used as the sole basis for expelling or suspending the pupil or as the sole basis for taking any other disciplinary action against the pupil, including action under the school district's athletic code. 2011 Wisconsin Act (XX) permits a school district to use law enforcement records as the sole basis for taking action against a pupil under the district's athletic code, but did not make that change to all provisions of current law governing the use of a pupil's law enforcement or juvenile court records. This bill extends the change made under Act (XX) to the other provisions in current law governing the use by a school district of a pupil's law enforcement and juvenile court records for disciplinary purposes.

Senate Bill 95
which has passed in
both the Senate
and assembly but
as of November
29, 2011, had
not been signed
by the governor

SB-95

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

- 4 SECTION 1. 118.127 of the statutes is amended to read:

1 **118.127 Law enforcement agency information.** A school district, private
2 school, or tribal school may disclose information from law enforcement officers'
3 records obtained under s. 938.396 (1) (c) 3. only to persons employed by the school
4 district who are required by the department under s. 115.28 (7) to hold a license, to
5 persons employed by the private school or tribal school as teachers, and to other
6 school district, private school, or tribal school officials who have been determined by
7 the school board or governing body of the private school or tribal school to have
8 legitimate educational interests, including safety interests, in that information. In
9 addition, if that information relates to a pupil of the school district, private school,
10 or tribal school, the school district, private school, or tribal school may also disclose
11 that information to those employees of the school district, private school, or tribal
12 school who have been designated by the school board or governing body of the private
13 school or tribal school to receive that information for the purpose of providing
14 treatment programs for pupils enrolled in the school district, private school, or tribal
15 school. A school district may not use law enforcement officers' records obtained
16 under s. 938.396 (1) (c) 3. as the sole basis for expelling or suspending a pupil or as
17 the sole basis for taking any other disciplinary action, ~~including against a pupil, but~~
18 may use law enforcement officers' records obtained under s. 938.396 (1) (c) 3. as the
19 sole basis for taking action against a pupil under the school district's athletic code,
20 ~~against a pupil.~~

21 **SECTION 2.** 938.396 (2g) (m) 6. of the statutes is amended to read:

22 938.396 (2g) (m) 6. Except as required under subds. 1. to 5. or by order of the
23 court, no information from the juvenile's court records may be disclosed to the school
24 board of the school district, the governing body of the private school, or the governing
25 body of the tribal school in which the juvenile is enrolled or the designee of the school

1 board or governing body. Any information from a juvenile's court records provided
2 to the school board of the school district or the governing body of the private school
3 in which the juvenile is enrolled or the designee of the school board or governing body
4 shall be disclosed by the school board, governing body, or designee to employees of
5 the school district or private school who work directly with the juvenile or who have
6 been determined by the school board, governing body, or designee to have legitimate
7 educational interests, including safety interests, in the information. A school district
8 or private school employee to whom that information is disclosed may not further
9 disclose the information. If information is disclosed to the governing body of a tribal
10 school under this subdivision, the court shall request that the governing body of the
11 tribal school or its designee disclose the information to employees who work directly
12 with the juvenile or who have been determined by the governing body or its designee
13 to have legitimate educational interests, including safety interests, in the
14 information, and shall further request that the governing body prohibit any
15 employee to whom information is disclosed under this subdivision from further
16 disclosing the information. A school board may not use any information from a
17 juvenile's court records as the sole basis for expelling or suspending a juvenile or as
18 the sole basis for taking any other disciplinary action, including against a juvenile,
19 but may use information from a juvenile's court records as the sole basis for taking
20 action against a juvenile under the school district's athletic code, ~~against the~~
21 ~~juvenile~~. A member of a school board or of the governing body of a private school or
22 tribal school or an employee of a school district, private school, or tribal school may
23 not be held personally liable for any damages caused by the nondisclosure of any
24 information specified in this subdivision unless the member or employee acted with
25 actual malice in failing to disclose the information. A school district, private school,

1 or tribal school may not be held liable for any damages caused by the nondisclosure
2 of any information specified in this subdivision unless the school district, private
3 school, or tribal school or its agent acted with gross negligence or with reckless,
4 wanton, or intentional misconduct in failing to disclose the information.

5 (END)

Godwin, Gigi

From: Kestell, Steve
Sent: Tuesday, November 29, 2011 1:51 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-3535/1 Topic: School district use of law enforcement records pertaining to a pupil

Please Jacket LRB 11-3535/1 for the ASSEMBLY.