

# State of Wisconsin



2011 Senate Bill 315

Date of enactment: **March 30, 2012**

Date of publication\*: **April 13, 2012**

## 2011 WISCONSIN ACT 165

AN ACT *to amend* 118.127 and 938.396 (2g) (m) 6. of the statutes; **relating to:** use of law enforcement or juvenile court records to take disciplinary action against a pupil under a school district's athletic code and reductions in cost of compensation or fringe benefits to school districts in Milwaukee without modifying an existing collective bargaining agreement for purposes of 2011 Wisconsin Act 10 and 2011 Wisconsin Act 32.

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

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

**118.127 Law enforcement agency information.** A school district, private 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.~~

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

938.396 (2g) (m) 6. Except as required under subs. 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 to the school board of the school district or the governing body of the private school in which the juvenile is enrolled or the designee of the school board or governing body shall be disclosed by the school board, governing body, or designee to employees of the school district or private school who work directly with the juvenile or who have been determined by the school board, governing body, or designee to have legitimate educational interests, including safety

\* Section 991.11, WISCONSIN STATUTES 2009-10 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

interests, in the information. A school district or private school employee to whom that information is disclosed may not further disclose the information. If information is disclosed to the governing body of a tribal school under this subdivision, the court shall request that the governing body of the tribal school or its designee disclose the information to employees who work directly with the juvenile or who have been determined by the governing body or its designee to have legitimate educational interests, including safety interests, in the information, and shall further request that the governing body prohibit any employee to whom information is disclosed under this subdivision from further disclosing the information. A school board may not use any information from a juvenile's court records as the sole basis for expelling or suspending a juvenile or as the sole basis for taking any other disciplinary action, ~~including against a juvenile, but may use information from a juvenile's court records as the sole basis for taking action against a juvenile~~ under the school district's athletic code, ~~against the juvenile~~. A member of a school board or of the governing body of a private school or tribal school or an employee of a school district, private school, or tribal school may not be held personally liable for any damages caused by the nondisclosure of any information specified in this subdivision unless the member or employee acted with actual malice in failing to disclose the information. A school district, private school, or tribal school may not be held liable for any damages caused by the nondisclosure of any information specified in this subdivision unless the school district, private school, or tribal school or its agent acted with gross negligence or with reckless, wanton, or intentional misconduct in failing to disclose the information.

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**SECTION 2v. Nonstatutory provisions.**

(1) Notwithstanding 2011 Wisconsin Act 32, section 9132 (1d) (a), a municipal employer, as defined in section 111.70 (1) (j) of the statutes, that is a school district in a city of the first class and the representative of a collective bargaining unit containing employees of that municipal employer may enter into one memorandum of understanding that reduces the cost of compensation or fringe benefits in the collective bargaining agreement under subchapter IV of chapter 111 of the statutes that covers the employees, that was entered into before February 11, 2011, and that is in effect on the effective date of this subsection. Such a modification is not a modification of the collective bargaining agreement for purposes of 2011 Wisconsin Act 10, sections 9315 (1) and (2) and 9332 (1) or 2011 Wisconsin Act 32, section 9332 (1c), (1q), and (2r), or any provisions that are substantially similar to 2011 Wisconsin Act 10, sections 9315 (1) and (2) and 9332 (1) or 2011 Wisconsin Act 32, section 9332 (1c), (1q), and (2r), that may be enacted under separate legislation. The memorandum of understanding entered into under this subsection remains effective for the duration of the current collective bargaining agreement and continues to be effective after the collective bargaining agreement expires until a new collective bargaining agreement takes effect except that, if the memorandum contains a provision addressing a subject that, at the expiration of the collective bargaining agreement, becomes a prohibited subject of bargaining, that provision is no longer effective. No memorandum of understanding as described in this subsection may be entered into later than 30 days after the effective date of this subsection.