



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-0917/1
TKK:amn

2017 ASSEMBLY BILL 693

November 29, 2017 - Introduced by Representatives THIESFELDT, KREMER, QUINN, WEATHERSTON, SANFELIPPO, JACQUE, KUGLITSCH, DUCHOW, SKOWRONSKI, HORLACHER, ALLEN, TUSLER, BRANDTJEN, PETERSEN, SCHRAA and WICHGERS. Referred to Committee on Judiciary.

1 **AN ACT** *to renumber and amend* 115.38 (1) (b) 2., 118.125 (3), 118.164 (3) (a)
2 4. and 118.21 (1); *to amend* 118.125 (1) (a), 118.125 (3) (title), 118.127, 118.60
3 (7) (b) 7. b., 119.23 (7) (b) 7. b., 120.13 (1) (b) 2. (intro.), 120.13 (1) (b) 4., 938.396
4 (1) (a), 938.396 (1) (c) 3. (intro.), 938.396 (1) (c) 3. a., 938.396 (1) (c) 3. c., 938.396
5 (1) (c) 3. d., 938.396 (1) (c) 4. and 938.396 (1) (d); and *to create* 115.28 (54t),
6 118.125 (1) (bc), 118.125 (1m), 118.125 (2) (dm), 118.125 (3) (b) 2., 118.1255,
7 118.129, 118.164 (3) (am) 1., 118.164 (3) (am) 2., 118.164 (3) (am) 3., 118.21 (1)
8 (b), 118.40 (4) (ar) 3., 118.60 (1) (ae), 118.60 (7) (b) 4m., 118.60 (7) (b) 5m., 118.60
9 (7) (b) 7m., 119.16 (16), 119.23 (1) (aem), 119.23 (7) (b) 4m., 119.23 (7) (b) 5m.,
10 119.23 (7) (b) 7m., 120.12 (24m), 120.12 (29), 120.13 (1) (a) 5. and 938.396 (1)
11 (cm) of the statutes; **relating to:** rights of and protections for teachers.

Analysis by the Legislative Reference Bureau

Duty to report

This bill generally requires a law enforcement agency to report to the administrator of a school district, charter school, or private school certain

ASSEMBLY BILL 693

information when the agency learns that a pupil who is enrolled in the school is taken into custody in connection with a felony or violent misdemeanor. The law enforcement agency must provide this information to the school within 24 hours after determining the school the pupil attends. The bill also requires the school board of a school district and the governing body of a private or charter school to notify a teacher who is working directly with a pupil who is the subject of such a record as soon as practicable and, if possible, prior to the pupil attending the teacher's class. Finally, the bill requires the principal or administrator of a public, private, or charter school to notify a law enforcement agency within 24 hours after learning of a physical assault or violent crime towards a person by a pupil that takes place at school or at a school-sponsored activity if requested by a witness to or adult victim of the incident.

Notice of teacher rights and protections

This bill creates and modifies certain rights and protections for teachers and requires the Department of Public Instruction to include on its Internet site a summary of the laws governing these rights and protections, which include the following:

1. The right of a teacher to remove a pupil from a classroom under certain circumstances for a period of two consecutive days.
2. The right of a teacher to receive information from a school board about a pupil who was taken into custody based upon a law enforcement officer's belief that the pupil was committing or had committed a felony or violent misdemeanor.
3. The right of a teacher to use reasonable and necessary force under certain circumstances.
4. The right of a teacher to request a school board to schedule a suspension hearing when that teacher has requested that a pupil be suspended and the administrator of the school has denied the request. Under current law, no hearing is required to suspend a pupil.
5. The right of a school district employee or teacher to receive assistance and leave benefits if the teacher is injured as a result of a physical assault or violent crime while performing work duties.
6. The right of a teacher to terminate his or her contract without penalty if the teacher is a victim of a physical assault or violent crime while performing work duties.
7. Civil immunity provided to a teacher under state and federal laws for certain discretionary acts.
8. The right of a teacher to review, upon request, the behavioral records of a pupil enrolled in the teacher's class.

Records and reporting

The bill requires each school board and independent charter school to maintain pupil behavioral records until the pupil has graduated from high school. If the pupil is no longer enrolled in a school in the school district and if the school district has not received a request to transfer the pupil's records to another school, the school district must retain the records until the pupil attains the age of 21. Current law prohibits a school board from maintaining such records for more than one year.

ASSEMBLY BILL 693

The bill also requires private schools participating in the Milwaukee, Racine, or statewide parental choice program to maintain behavioral records for each pupil while the pupil attends the private school for the same period of time as is required of public schools. Current law requires such private schools to maintain a pupil's progress records while the pupil attends the private school and for at least five years after the pupil ceases to attend the school. The bill requires a private school that is not participating in a parental choice program to maintain pupil behavioral records only if the private school has adopted a policy governing the maintenance of pupil progress records and, with one exception, for the same length of time the private school maintains the progress records. The private school is not required to maintain a pupil's behavioral records once the pupil has graduated from the private school. If a private school maintains behavioral records, the private school must keep the information confidential in the same manner as is required of a public school official who maintains behavioral records.

The bill also requires DPI to include additional information about suspensions and expulsions in the school district report it creates for each school district, including the number of physical assaults by pupils on teachers and other school district employees, on other pupils, and on adults not employed by the school district.

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

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

1 **SECTION 1.** 115.28 (54t) of the statutes is created to read:

2 115.28 (54t) NOTICE OF TEACHER RIGHTS AND PROTECTIONS. Include on the
3 department's Internet site a summary of laws governing the rights and protections
4 afforded to a public school teacher under state and federal law. The state
5 superintendent shall include in the summary all of the following, and shall annually
6 provide electronic notice to each school board of the summary described in this
7 subsection:

8 (a) The right of a teacher, under s. 118.164 (2), to remove a pupil from the
9 classroom under certain circumstances.

10 (b) The right of a teacher, under s. 118.129 (3), to receive information from a
11 school board about a pupil who was taken into custody based on a law enforcement

ASSEMBLY BILL 693**SECTION 1**

1 officer's belief that the pupil was committing or had committed a felony or a
2 misdemeanor under s. 939.632 (1) (e) 3.

3 (c) The right of a teacher, under s. 118.31 (3), to use reasonable and necessary
4 force under certain circumstances.

5 (d) The right of a teacher, under s. 120.13 (1) (a) 5., to request a school board
6 to schedule a suspension hearing.

7 (e) The right of a school district employee or teacher, under s. 120.12 (24m), and
8 of a charter school employee or teacher, under s. 118.40 (4) (ar) 3., to receive
9 assistance and leave benefits if the employee or teacher is injured as a result of a
10 physical assault or violent crime while performing work duties.

11 (f) The right of a teacher, under s. 118.21 (1) (b) or 119.16 (16), to terminate his
12 or her contract without penalty if the teacher is a victim of a physical assault or
13 violent crime while performing work duties.

14 (g) Civil immunity provided to a teacher by s. 893.80 (4) and by 20 USC 7941
15 to 7948.

16 (h) The right of a teacher, under s. 118.125 (2) (dm), to, upon request, review
17 the behavioral records of a pupil enrolled in the teacher's class.

18 (i) Any other information the department considers relevant.

19 **SECTION 2.** 115.38 (1) (b) 2. of the statutes is renumbered 115.38 (1) (b) 2. (intro.)
20 and amended to read:

21 115.38 (1) (b) 2. (intro.) The following information about suspensions and
22 expulsions:

23 a. The numbers of suspensions and expulsions; the.

24 b. The reasons for which pupils are suspended or expelled, reported according
25 to categories specified by the state superintendent;, and including all of the following

ASSEMBLY BILL 693

1 categories: physical assaults on teachers; physical assaults on other school district
2 employees; physical assaults on students; and physical assaults on adults not
3 employed by the school district. In this subd. 1. b., “physical assault” has the
4 meaning given in s. 118.129 (1) (b).

5 c. The length of time for which pupils are expelled, reported according to
6 categories specified by the state superintendent; ~~whether,~~ including the categories
7 specified under subd. 2. b.

8 d. Whether pupils return to school after their expulsion; ~~the,~~

9 e. The educational programs and services, if any, provided to pupils during
10 their expulsions, reported according to categories specified by the state
11 superintendent; ~~,~~ including the categories specified under subd. 2. b.

12 f. The schools attended by pupils who are suspended or expelled; ~~and the,~~

13 g. The grade, sex, and ethnicity of pupils who are suspended or expelled and
14 whether the pupils are children with disabilities, as defined in s. 115.76 (5).

15 **SECTION 3.** 118.125 (1) (a) of the statutes is amended to read:

16 118.125 (1) (a) “Behavioral records” means those pupil records that include
17 psychological tests, personality evaluations, records of conversations, any written
18 statement relating specifically to an individual pupil’s behavior, tests relating
19 specifically to achievement or measurement of ability, the pupil’s physical health
20 records other than his or her immunization records or any lead screening records
21 required under s. 254.162, law enforcement officers’ records obtained under s. 48.396
22 (1) or 938.396 (1) (b) 2. ~~or,~~ (c) 3., or (cm), and any other pupil records that are not
23 progress records.

24 **SECTION 4.** 118.125 (1) (bc) of the statutes is created to read:

ASSEMBLY BILL 693**SECTION 4**

1 118.125 (1) (bc) “Governing board” means the governing board of a charter
2 school established under s. 118.40 (2r) or (2x).

3 **SECTION 5.** 118.125 (1m) of the statutes is created to read:

4 118.125 (1m) PUBLIC RECORDS LAWS APPLICABLE TO INDEPENDENT CHARTER
5 SCHOOLS. The duties and responsibilities imposed under this section on school boards
6 and upon a school district clerk or designee apply to a governing board.

7 **SECTION 6.** 118.125 (2) (dm) of the statutes is created to read:

8 118.125 (2) (dm) 1. The school district clerk or his or her designee shall, upon
9 request, make available to a person employed by the school district that the pupil
10 attends and required by the department under s. 115.28 (7) to hold a license the
11 behavioral records of a pupil who is enrolled in the person’s class. A school district
12 may not be held liable for any damages caused by the nondisclosure of any
13 information specified in this subdivision unless the school district or its agent acted
14 with gross negligence or with reckless, wanton, or intentional misconduct in failing
15 to disclose the information.

16 2. A governing board shall, upon request, make available to an instructional
17 staff member employed by the charter school that the pupil attends the behavioral
18 records of a pupil who is enrolled in the instructional staff member’s class. In this
19 subdivision, “instructional staff” has the meaning given in the rules promulgated by
20 the department under s. 121.02 (1) (a) 2. The governing board may not be held liable
21 for any damages caused by the nondisclosure of any information specified in this
22 subdivision unless the governing board or its agent acted with gross negligence or
23 with reckless, wanton, or intentional misconduct in failing to disclose the
24 information.

ASSEMBLY BILL 693

1 3. The governing body of a private school that maintains behavioral records of
2 pupils attending the private school as provided under s. 118.1255 or as required
3 under ss. 118.60 (7) (b) 4m. and 119.23 (7) (b) 4m. shall, upon request, make available
4 to a teacher employed by the private school that the pupil attends the behavioral
5 records of a pupil who is enrolled in the teacher's class. The governing body of a
6 private school may not be held liable for any damages caused by the nondisclosure
7 of any information specified in this subdivision unless the governing body or its agent
8 acted with gross negligence or with reckless, wanton, or intentional misconduct in
9 failing to disclose the information.

10 **SECTION 7.** 118.125 (3) (title) of the statutes is amended to read:

11 118.125 (3) (title) MAINTENANCE OF RECORDS BY A SCHOOL BOARD OR INDEPENDENT
12 CHARTER SCHOOL.

13 **SECTION 8.** 118.125 (3) of the statutes is renumbered 118.125 (3) (a) and
14 amended to read:

15 118.125 (3) (a) Each school board and governing board shall adopt rules in
16 writing specifying the content of pupil records and the time during which pupil
17 records shall be maintained. ~~No~~ A school board or governing board shall publish
18 rules adopted under this subsection as a class 1 notice under ch. 985.

19 (b) 1. Except as provided in subd. 2., a school board or governing board shall
20 maintain behavioral records ~~may be maintained for more than one year after of a~~
21 pupil for as long as the pupil ceases to be remains enrolled in a school in the school,
22 unless district or in the charter school and until the pupil specifies in writing that
23 ~~his or her behavioral records may be maintained for a longer period~~ has graduated
24 from high school in the school district or at the charter school.

ASSEMBLY BILL 693**SECTION 8**

1 (c) A pupil's progress records shall be maintained for at least 5 years after the
2 pupil ceases to be enrolled in a school in the school district or in the charter school.

3 (d) A school board or governing board may maintain ~~the~~ pupil records on
4 microfilm, on an optical disc, or in electronic format if authorized under s. 19.21 (4)
5 (c), or in such other form as the school board or governing board deems appropriate.

6 (e) A school board or governing board shall maintain law enforcement officers'
7 records obtained under s. 48.396 (1) or 938.396 (1) (b) 2. ~~or~~ (c) 3., or (cm) separately
8 from a pupil's other pupil records. ~~Rules adopted under this subsection shall be~~
9 ~~published by the school board as a class 1 notice under ch. 985.~~

10 **SECTION 9.** 118.125 (3) (b) 2. of the statutes is created to read:

11 118.125 (3) (b) 2. A school board or governing board shall maintain behavioral
12 records of a pupil until the pupil has attained the age of 21 if all of the following apply:

13 a. The pupil was enrolled in but is not currently enrolled in a school in the school
14 district or in the charter school.

15 b. The pupil has not graduated from a school in the school district or from the
16 charter school.

17 c. Neither the pupil nor the pupil's parent or guardian nor another school or
18 school district nor a court has submitted to the school board or governing board the
19 written notice described in sub. (4).

20 **SECTION 10.** 118.1255 of the statutes is created to read:

21 **118.1255 Maintenance of records by a private school. (1)** In this section:

22 (a) "Behavioral records" has the meaning given in s. 118.125 (1) (a).

23 (b) "Progress records" has the meaning given in s. 118.125 (1) (c).

24 **(2)** (a) Subject to ss. 118.60 (7) (b) 4., 4m., 7., and 7m. and 119.23 (7) (b) 4., 4m.,
25 7., and 7m., and except as provided in par. (b), if the governing body of a private school

ASSEMBLY BILL 693

1 has adopted a policy governing the maintenance of progress records of a pupil who
2 attends the private school, the governing body shall maintain behavioral records of
3 a pupil for the same duration of time that the governing body is required by that
4 policy to maintain the progress records of the pupil. A private school official who
5 maintains behavioral records under this subsection shall keep the information in
6 those records confidential in the same manner as is required of a public school official
7 under s. 118.125.

8 (b) The governing body of a private school is not required to maintain the
9 behavioral records for a pupil once the pupil has graduated from the private school.

10 **SECTION 11.** 118.127 of the statutes is amended to read:

11 **118.127 Law enforcement agency information.** A school district, charter
12 school established under s. 118.40 (2r) or (2x), private school, or tribal school may
13 disclose information from law enforcement officers' records obtained under s.
14 938.396 (1) (c) 3. and (cm) only to persons employed by the school district who are
15 required by the department under s. 115.28 (7) to hold a license, to persons employed
16 by the private school or tribal school as teachers, to persons employed by the charter
17 school as instructional staff, and to other school district, private school, charter
18 school, or tribal school officials who have been determined by the school board,
19 governing board of the charter school, or governing body of the private school or tribal
20 school to have legitimate educational interests, including safety interests, in that
21 information. In addition, if that information relates to a pupil of the school district,
22 charter school, private school, or tribal school, the school district, charter school,
23 private school, or tribal school may also disclose that information to those employees
24 of the school district, charter school, private school, or tribal school who have been
25 designated by the school board, governing board of the charter school, or governing

ASSEMBLY BILL 693**SECTION 11**

1 body of the private school or tribal school to receive that information for the purpose
2 of providing treatment programs for pupils enrolled in the school district, charter
3 school, private school, or tribal school. A school district may not use law enforcement
4 officers' records obtained under s. 938.396 (1) (c) 3. or (cm) as the sole basis for
5 expelling or suspending a pupil or as the sole basis for taking any other disciplinary
6 action against a pupil, but may use law enforcement officers' records obtained under
7 s. 938.396 (1) (c) 3. or (cm) as the sole basis for taking action against a pupil under
8 the school district's athletic code.

9 **SECTION 12.** 118.129 of the statutes is created to read:

10 **118.129 Report to law enforcement agency; notice of violent pupil**
11 **offenders. (1)** In this section:

12 (a) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

13 (b) "Physical assault" means the knowing or intentional touching of another
14 person, by the use of any body part or object, with the intent to cause physical harm.
15 "Physical assault" does not include the reasonable and necessary use of force for the
16 purpose of self-defense or the defense of others under s. 939.48.

17 (c) "Violent crime" has the meaning given in s. 939.632 (1) (e).

18 **(2)** The principal or administrator of a public school, including a charter school,
19 or of a private school shall, if requested by an adult who witnessed the incident or
20 a victim of the incident, within 24 hours after being informed about the incident,
21 notify a law enforcement agency of an incident involving a physical assault of or
22 violent crime towards a person by a pupil that takes place on school premises or at
23 or in transit to a school-sponsored activity. The principal or administrator shall
24 include a brief summary of the incident in the pupil's records.

ASSEMBLY BILL 693

1 **(3)** The school board of a school district, the governing board of a charter school,
2 and the governing body of a private school shall notify a teacher who is working
3 directly, in the current school year, with a pupil who is the subject of a record received,
4 in the current school year, by the school board, charter school, or private school
5 pursuant to s. 938.396 (1) (cm) of the contents of that record as soon as practicable
6 and, if possible, before the pupil next attends the teacher's class.

7 **SECTION 13.** 118.164 (3) (a) 4. of the statutes is renumbered 118.164 (3) (am)
8 (intro.) and amended to read:

9 118.164 **(3)** (am) (intro.) The school principal or his or her designee may return
10 the pupil to the class from which the pupil was removed if, after weighing the
11 interests of the removed pupil, the other pupils in the class, and the teacher, the
12 school principal or his or her designee determines that readmission to the class is the
13 best or only alternative. and if any of the following applies:

14 **SECTION 14.** 118.164 (3) (am) 1. of the statutes is created to read:

15 118.164 **(3)** (am) 1. The pupil has remained out of the teacher's classroom for
16 one school day following the day on which the pupil was removed from the classroom.

17 **SECTION 15.** 118.164 (3) (am) 2. of the statutes is created to read:

18 118.164 **(3)** (am) 2. The teacher of the pupil, together with the school principal
19 or his or her designee, has met with the pupil regarding the pupil's conduct and the
20 teacher has agreed for the pupil to be readmitted to the class.

21 **SECTION 16.** 118.164 (3) (am) 3. of the statutes is created to read:

22 118.164 **(3)** (am) 3. The teacher has voluntarily waived his or her right to the
23 conditions for return to the classroom under subds. 1. and 2.

24 **SECTION 17.** 118.21 (1) of the statutes is renumbered 118.21 (1) (a) and
25 amended to read:

ASSEMBLY BILL 693**SECTION 17**

1 118.21 (1) (a) The school board shall contract in writing with qualified teachers.
2 The school board shall file a contract, with a copy of the teacher's authority to teach
3 attached, ~~shall be filed~~ with the school district clerk. Such contract, in addition to
4 fixing the teacher's wage, may provide for compensating the teacher for necessary
5 travel expense. A teaching contract with any person not legally authorized to teach
6 the named subject or at the named school shall be void. All teaching contracts shall
7 terminate if, and when, the authority to teach terminates.

8 **SECTION 18.** 118.21 (1) (b) of the statutes is created to read:

9 118.21 (1) (b) Beginning on the effective date of this paragraph [LRB inserts
10 date], the school board shall include in each contract under this section a provision
11 authorizing the teacher to terminate his or her contract without penalty, including
12 the penalty of the payment of liquidated damages, if the teacher is the victim of a
13 physical assault, as defined in s. 118.129 (1) (b), or of a violent crime, as defined in
14 s. 939.632 (1) (e), while the teacher is on school premises, at or in transit to a
15 school-sponsored activity, or otherwise engaged in official duties on behalf of the
16 school district. The provision required under this paragraph shall specify that a
17 teacher may terminate his or her contract as provided under this section only if the
18 teacher provides the school board with a law enforcement report documenting the
19 physical assault or violent crime within 2 months of the incident covered in the
20 report.

21 **SECTION 19.** 118.40 (4) (ar) 3. of the statutes is created to read:

22 118.40 (4) (ar) 3. Ensure that a charter school employee or teacher who is
23 injured as a result of physical assault, as defined in s. 118.129 (1) (b), or of a violent
24 crime, as defined in s. 939.632 (1) (e), upon the person of the employee or teacher
25 while the employee or teacher is in the performance of any duties as a charter school

ASSEMBLY BILL 693

1 employee or teacher is provided with a reasonable paid leave of absence from
2 employment with the governing board without a loss of leave benefits. Where
3 inpatient care involving an overnight stay is required, a reasonable paid leave of
4 absence is the longer of one workweek or the duration of the employee's or teacher's
5 inpatient care. Where inpatient care involving an overnight stay is not required but
6 medical treatment is needed, a reasonable paid leave of absence is the duration of
7 time necessary to receive medical treatment or, if a health care provider certifies in
8 writing that the employee or teacher is unable to return to work due to the injury,
9 the duration of time specified by the health care provider. The governing board is
10 entitled to the right of subrogation for reimbursement to the extent that an employee
11 or teacher who sustains injuries while the employee or teacher is in the performance
12 of his or her duties may recover the reimbursed items in an action or claim in tort
13 against any 3rd party. A repayment made under this subdivision shall be limited to
14 the total sum credited to the injured employee or teacher as damages for pay and
15 fringe benefits actually received in the settlement of any claim caused by the
16 negligence of the 3rd party. The governing board shall designate an employee to
17 provide assistance to the charter school employee or teacher with insurance and
18 benefits questions related to a leave of absence taken under this subdivision.

19 **SECTION 20.** 118.60 (1) (ae) of the statutes is created to read:

20 118.60 (1) (ae) "Behavioral records" has the meaning given in s. 118.125 (1) (a).

21 **SECTION 21.** 118.60 (7) (b) 4m. of the statutes is created to read:

22 118.60 (7) (b) 4m. a. Except as provided in subd. 4m. b., maintain behavioral
23 records for each pupil attending the private school under this section while the pupil
24 attends the school under the program under this section and until the pupil has
25 graduated from high school.

ASSEMBLY BILL 693**SECTION 21**

1 b. Maintain behavioral records of a pupil until the pupil has attained the age
2 of 21 if all of the following apply: the pupil was enrolled in but is not currently
3 enrolled in the private school under this section; the pupil has not graduated from
4 the private school; neither the pupil nor the pupil's parent or guardian nor a school
5 or school district nor a court has submitted to the governing body of the private school
6 the written notice described in s. 118.125 (4).

7 c. A private school official who maintains behavioral records under this
8 subdivision shall keep the information in those records confidential in the same
9 manner as is required of a public school official under s. 118.125.

10 **SECTION 22.** 118.60 (7) (b) 5m. of the statutes is created to read:

11 118.60 (7) (b) 5m. An adult pupil or the parent or guardian of a minor pupil
12 shall, upon request, be shown, in the presence of a person qualified to explain and
13 interpret the records, the pupil's behavioral records. Such pupil or parent or
14 guardian shall, upon request, be provided with a copy of the behavioral records.

15 **SECTION 23.** 118.60 (7) (b) 7. b. of the statutes is amended to read:

16 118.60 (7) (b) 7. b. If the private school is affiliated with an organization that
17 will maintain the progress records of each pupil who attended the school under this
18 section for at least 5 years after the private school ceases operation as a private
19 school, the private school may transfer a pupil's progress records to the organization
20 if the pupil, or the parent or guardian of a minor pupil, consents in writing to the
21 release of the progress records to the affiliated organization. The private school shall
22 send to the department a copy of the consent form for each pupil who consents to the
23 transfer of progress records under this subd. 7. b. The written notice shall be signed
24 by the pupil, or the parent or guardian of a minor pupil, and shall include the name,
25 phone number, mailing address, and other relevant contact information of the

ASSEMBLY BILL 693

1 organization that will maintain the progress records, and a declaration by the
2 affiliated organization that the organization agrees to maintain the progress records
3 for at least 5 years after the private school ceases operation as a private school.

4 **SECTION 24.** 118.60 (7) (b) 7m. of the statutes is created to read:

5 118.60 (7) (b) 7m. If the private school ceases operating as a private school,
6 immediately transfer all of the behavioral records of each pupil who attended the
7 school under this section to the school board of the school district within which the
8 pupil resides. The private school shall send written notice to each pupil, or to the
9 parent or guardian of a minor pupil, of the transfer of behavioral records under this
10 subdivision.

11 **SECTION 25.** 119.16 (16) of the statutes is created to read:

12 119.16 (16) **TEACHER EMPLOYMENT CONTRACTS.** Beginning on the effective date
13 of this subsection [LRB inserts date], the board shall include in any employment
14 contract with a teacher a provision authorizing the teacher to terminate his or her
15 contract without penalty, including the penalty of the payment of liquidated
16 damages, if the teacher is a victim of a physical assault, as defined in s. 118.129 (1)
17 (b), or of a violent crime, as defined in s. 939.632 (1) (e), while the teacher is on school
18 premises, at or in transit to a school-sponsored activity, or otherwise engaged in
19 official duties on behalf of the school district. The provision required under this
20 subsection shall specify that a teacher may terminate his or her contract as provided
21 under this subsection only if the teacher provides the school board with a law
22 enforcement report documenting the physical assault or violent crime within 2
23 months of the incident covered in the report.

24 **SECTION 26.** 119.23 (1) (aem) of the statutes is created to read:

ASSEMBLY BILL 693**SECTION 26**

1 119.23 (1) (aem) "Behavioral records" has the meaning given in s. 118.125 (1)
2 (a).

3 **SECTION 27.** 119.23 (7) (b) 4m. of the statutes is created to read:

4 119.23 (7) (b) 4m. a. Except as provided in subd. 4m. b., maintain behavioral
5 records for each pupil attending the private school under this section while the pupil
6 attends the school under the program under this section and until the pupil has
7 graduated from high school.

8 b. Maintain behavioral records of a pupil until the pupil has attained the age
9 of 21 if all of the following apply: the pupil was enrolled in but is not currently
10 enrolled in the private school under this section; the pupil has not graduated from
11 the private school; neither the pupil nor the pupil's parent or guardian nor a school
12 or school district nor a court has submitted to the governing body of the private school
13 the written notice described in s. 118.125 (4).

14 c. A private school official who maintains behavioral records under this
15 subdivision shall keep the information in those records confidential in the same
16 manner as is required of a public school official under s. 118.125.

17 **SECTION 28.** 119.23 (7) (b) 5m. of the statutes is created to read:

18 119.23 (7) (b) 5m. An adult pupil or the parent or guardian of a minor pupil
19 shall, upon request, be shown, in the presence of a person qualified to explain and
20 interpret the records, the pupil's behavioral records. Such pupil or parent or
21 guardian shall, upon request, be provided with a copy of the behavioral records.

22 **SECTION 29.** 119.23 (7) (b) 7. b. of the statutes is amended to read:

23 119.23 (7) (b) 7. b. If the private school is affiliated with an organization that
24 will maintain the progress records of each pupil who attended the school under this
25 section for at least 5 years after the private school ceases operation as a private

ASSEMBLY BILL 693

1 school, the private school may transfer a pupil's progress records to the organization
2 if the pupil, or the parent or guardian of a minor pupil, consents in writing to the
3 release of the progress records to the affiliated organization. The private school shall
4 send to the department a copy of the consent form for each pupil who consents to the
5 transfer of progress records under this subd. 7. b. The written notice shall be signed
6 by the pupil, or the parent or guardian of a minor pupil, and shall include the name,
7 phone number, mailing address, and other relevant contact information of the
8 organization that will maintain the progress records, and a declaration by the
9 affiliated organization that the organization agrees to maintain the progress records
10 for at least 5 years after the private school ceases operation as a private school.

11 **SECTION 30.** 119.23 (7) (b) 7m. of the statutes is created to read:

12 119.23 (7) (b) 7m. If the private school ceases operating as a private school,
13 immediately transfer all of the behavioral records of each pupil who attended the
14 school under this section to the school board of the school district within which the
15 pupil resides. The private school shall send written notice to each pupil, or to the
16 parent or guardian of a minor pupil, of the transfer of behavioral records under this
17 subdivision.

18 **SECTION 31.** 120.12 (24m) of the statutes is created to read:

19 120.12 (24m) ASSISTANCE AND LEAVE BENEFITS FOR VICTIMS OF PHYSICAL ASSAULT.
20 Ensure that a school district employee or teacher who is injured as a result of
21 physical assault, as defined in s. 118.129 (1) (b), or of a violent crime, as defined in
22 s. 939.632 (1) (e), upon the person of the employee or teacher while the employee or
23 teacher is in the performance of any duties as a school district employee or teacher
24 is provided with a reasonable paid leave of absence from employment with the school
25 district without a loss of leave benefits. Where inpatient care involving an overnight

ASSEMBLY BILL 693**SECTION 31**

1 stay is required, a reasonable paid leave of absence is the longer of one workweek or
2 the duration of the employee's or teacher's inpatient care. Where inpatient care
3 involving an overnight stay is not required but medical treatment is needed, a
4 reasonable paid leave of absence is the duration of time necessary to receive medical
5 treatment or, if a health care provider certifies in writing that the employee or
6 teacher is unable to return to work due to the injury, the duration of time specified
7 by the health care provider. The school board is entitled to the right of subrogation
8 for reimbursement to the extent that an employee or teacher who sustains injuries
9 while the employee or teacher is in the performance of his or her duties may recover
10 the reimbursed items in an action or claim in tort against any 3rd party. A repayment
11 made under this subsection shall be limited to the total sum credited to the injured
12 employee or teacher as damages for pay and fringe benefits actually received in the
13 settlement of any claim caused by the negligence of the 3rd party. The school board
14 shall designate a school district employee to provide assistance to the school district
15 employee or teacher with insurance and benefits questions related to a leave of
16 absence taken under this subsection.

17 **SECTION 32.** 120.12 (29) of the statutes is created to read:

18 120.12 (29) NOTICE OF TEACHER PROTECTIONS. Provide to each teacher employed
19 by the school board the summary described in s. 115.28 (54t).

20 **SECTION 33.** 120.13 (1) (a) 5. of the statutes is created to read:

21 120.13 (1) (a) 5. A procedure under which a teacher may submit a request, in
22 writing, to the president of the school board to request that the school board schedule
23 a suspension hearing before the school board or, if applicable, under par. (e) 3. or s.
24 119.25 (2) (b) before an independent hearing panel or independent hearing officer
25 appointed by the school board under par. (e) 1. or s. 119.25 (1). The procedure under

ASSEMBLY BILL 693

1 this subdivision may be used by a teacher only if the teacher has made a request in
2 writing that a pupil be suspended under par. (b) 2. and the teacher's request has been
3 denied by the school district administrator, principal, or teacher designated by the
4 school district administrator to make the determination under par. (b) 2.
5 Notwithstanding par. (b) 4., the school board shall include in the procedure required
6 under this subdivision a requirement that the school district administrator,
7 principal, or teacher designated by the school district administrator shall approve
8 or deny the suspension request within 24 hours. The school board shall also include
9 in the procedure required under this subdivision a requirement that, if the school
10 district administrator, principal, or teacher designated by the school district
11 administrator denies the request for a suspension, the school board president or, if
12 the president is not available, the vice president of the school board, shall approve
13 or deny the teacher's request to schedule a suspension hearing within 24 hours. The
14 school board shall also include in the procedure required under this subdivision a
15 requirement that, if the school board president agrees to schedule a suspension
16 hearing as requested, the school board may either schedule the suspension hearing
17 at the next regularly scheduled meeting or at a special meeting called for that
18 purpose. The school board shall comply with the provisions under par. (b) 3. and
19 shall, upon the request of the pupil or the pupil's parent or guardian, conduct the
20 suspension hearing in a closed session. If a suspension hearing is held under the
21 procedure established under this subdivision, the school board may suspend a pupil,
22 including through an in-school suspension, for any of the reasons under par. (b) 2.
23 If a school board suspends a pupil following a suspension hearing held under the
24 procedure under this subdivision, the suspension may not exceed 5 school days.

25 **SECTION 34.** 120.13 (1) (b) 2. (intro.) of the statutes is amended to read:

ASSEMBLY BILL 693**SECTION 34**

1 120.13 (1) (b) 2. (intro.) The school district administrator or any principal or
2 teacher designated by the school district administrator may suspend a pupil,
3 including through an in-school suspension, for not more than 5 school days or, if a
4 notice of expulsion hearing has been sent under par. (c) 4. or (e) 4. or s. 119.25 (2) (c),
5 for not more than a total of 15 consecutive school days for any of the following
6 reasons:

7 **SECTION 35.** 120.13 (1) (b) 4. of the statutes is amended to read:

8 120.13 (1) (b) 4. The suspended pupil or the pupil's parent or guardian may,
9 within 5 school days following the commencement of the suspension, have a
10 conference with the school district administrator or his or her designee who shall be
11 someone other than a principal, administrator or teacher in the suspended pupil's
12 school. If the school district administrator or his or her designee finds that the pupil
13 was suspended unfairly or unjustly, or that the suspension was inappropriate, given
14 the nature of the alleged offense, or that the pupil suffered undue consequences or
15 penalties as a result of the suspension, reference to the suspension on the pupil's
16 school record shall be expunged. The administrator, or the administrator's designee,
17 shall make a finding within 15 days of the conference. This subdivision does not
18 apply to a pupil suspended by a school board under the procedure established under
19 par. (a) 5.

20 **SECTION 36.** 938.396 (1) (a) of the statutes is amended to read:

21 938.396 (1) (a) *Confidentiality.* Law enforcement agency records of juveniles
22 shall be kept separate from records of adults. Law enforcement agency records of
23 juveniles may not be open to inspection or their contents disclosed except under par.
24 (b) ~~or~~, (c), or (cm), sub. (1j), (2m) (c) 1p., or (10), or s. 938.293 or by order of the court.

25 **SECTION 37.** 938.396 (1) (c) 3. (intro.) of the statutes is amended to read:

ASSEMBLY BILL 693

1 938.396 (1) (c) 3. (intro.) At the request of a school district administrator,
2 administrator of a charter school established under s. 118.40 (2r) or (2x),
3 administrator of a private school, or administrator of a tribal school, or designee of
4 a school district administrator, charter school administrator, private school
5 administrator, or tribal school administrator, or on its own initiative, a law
6 enforcement agency may, subject to official agency policy, provide to the school
7 district administrator, charter school administrator, private school administrator, or,
8 provided the official agency policy specifies that the information may not be provided
9 to an administrator of a tribal school or a tribal school administrator's designee
10 unless the governing body of the tribal school agrees that the information will be used
11 by the tribal school as provided in s. 118.127, tribal school administrator or designee,
12 for use as provided in s. 118.127, any information in its records relating to any of the
13 following ~~if the official agency policy specifies that the information may not be~~
14 ~~provided to an administrator of a tribal school or a tribal school administrator's~~
15 ~~designee unless the governing body of the tribal school agrees that the information~~
16 ~~will be used by the tribal school as provided in s. 118.127:~~

17 **SECTION 38.** 938.396 (1) (c) 3. a. of the statutes is amended to read:

18 938.396 (1) (c) 3. a. The use, possession, or distribution of alcohol or a controlled
19 substance or controlled substance analog by a juvenile enrolled in the public school
20 district, charter school, private school, or tribal school.

21 **SECTION 39.** 938.396 (1) (c) 3. c. of the statutes is amended to read:

22 938.396 (1) (c) 3. c. An act for which a juvenile enrolled in the school district,
23 charter school, private school, or tribal school was taken into custody under s. 938.19
24 based on a law enforcement officer's belief that the juvenile was committing or had
25 committed a violation of any state or federal criminal law.

ASSEMBLY BILL 693**SECTION 40**

1 **SECTION 40.** 938.396 (1) (c) 3. d. of the statutes is amended to read:

2 938.396 (1) (c) 3. d. An act for which a juvenile enrolled in the public school
3 district, charter school, private school, or tribal school was adjudged delinquent.

4 **SECTION 41.** 938.396 (1) (c) 4. of the statutes is amended to read:

5 938.396 (1) (c) 4. A law enforcement agency may enter into an interagency
6 agreement with a school board, the governing board of a charter school established
7 under s. 118.40 (2r) or (2x), the governing body of a private school, a tribal school, a
8 social welfare agency, or another law enforcement agency providing for the routine
9 disclosure of information under ~~subs. (1) pars.~~ (b) 2. and 2m. and (c) 3. to the school
10 board, ~~private school governing board, governing body~~, tribal school, social welfare
11 agency, or other law enforcement agency.

12 **SECTION 42.** 938.396 (1) (cm) of the statutes is created to read:

13 938.396 (1) (cm) *Duty to disclose.* 1. Notwithstanding par. (a) and subject to
14 subd. 2., a law enforcement agency shall, following the act and within 24 hours after
15 ascertaining the public school, charter school, or private school the pupil attends,
16 provide to the administrator of a school district, the administrator of a charter school
17 established under s. 118.40 (2r) or (2x), or the administrator of a private school, as
18 defined in s. 115.001 (3r), for use as provided in s. 118.127, any information in its
19 records relating to an act for which a pupil enrolled in the school district, charter
20 school, or private school was taken into custody based on a law enforcement officer's
21 belief that the pupil was committing or had committed a felony or a misdemeanor
22 under s. 939.632 (1) (e) 3. The law enforcement agency shall make a reasonable effort
23 to ascertain the public school, charter school, or private school attended by the pupil
24 taken into custody as described in this subdivision.

ASSEMBLY BILL 693

1 2. a. Except as provided in subd. 2. b., a law enforcement agency is not required
2 to provide the information required under subd. 1. if providing the information would
3 jeopardize an ongoing investigation.

4 b. The exception provided in subd. 2. a. does not apply if failure to provide the
5 information required under subd. 1. would place a person or property in imminent
6 danger of harm.

7 **SECTION 43.** 938.396 (1) (d) of the statutes is amended to read:

8 938.396 (1) (d) *Law enforcement access to school records.* On petition of a law
9 enforcement agency to review pupil records, as defined in s. 118.125 (1) (d), other
10 than pupil records that may be disclosed without a court order under s. 118.125 (2)
11 or (2m), for the purpose of pursuing an investigation of any alleged delinquent or
12 criminal activity or on petition of a fire investigator under s. 165.55 (15) to review
13 those pupil records for the purpose of pursuing an investigation under s. 165.55 (15),
14 the court may order the school board of the school district, the governing board of the
15 charter school established under s. 118.40 (2r) or (2x), or the governing body of the
16 private school, in which a juvenile is enrolled to disclose to the law enforcement
17 agency or fire investigator the pupil records of that juvenile as necessary for the law
18 enforcement agency or fire investigator to pursue the investigation. The law
19 enforcement agency or fire investigator may use the pupil records only for the
20 purpose of the investigation and may make the pupil records available only to
21 employees of the law enforcement agency or fire investigator who are working on the
22 investigation.

23

(END)