

State of Wisconsin



2015 Assembly Bill 478

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2015 WISCONSIN ACT 161

AN ACT *to amend* 118.125 (2) (intro.); and *to create* 115.298 and 118.125 (2) (q) of the statutes; **relating to:** disclosure of pupil records that are pertinent to addressing a pupil's educational needs to the Department of Children and Families, a county department of human services or social services, or a tribal organization that is legally responsible for the care and protection of the pupil.

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

SECTION 1. 115.298 of the statutes is created to read:

115.298 Disclosure of pupil records. (1) (a) The department of public instruction may enter into a memorandum of understanding with the department of children and families that permits the department of public instruction to disclose information contained in pupil records, as defined in s. 118.125 (1) (d), that is pertinent to addressing a pupil's educational needs to a caseworker or other representative of the department of children and families, a county department under s. 46.215, 46.22, or 46.23, or a tribal organization, as defined in [25 USC 450b \(L\)](#), that is legally responsible for the care and protection of the pupil, if the caseworker or other representative is authorized by that department, county department, or tribal organization to access the pupil's case plan.

(b) A school board may enter into a memorandum of understanding with a county department under s. 46.215, 46.22, or 46.23 or a tribal organization, as defined in [25 USC 450b \(L\)](#), that permits the school board to disclose information contained in pupil records as provided under s. 118.125 (2) (q) in cases in which the pupil's parent or guardian, if the pupil is a minor, or the pupil, if the pupil is an adult, does not grant permission for such disclosure.

(2) A department, county department, or tribal organization that receives information contained in pupil records under sub. (1) (a) or (b) may not further disclose that information except as follows:

(a) To a person who is engaged in addressing the pupil's educational needs, who is authorized by that department, county department, or tribal organization to receive that disclosure, and to whom that disclosure is authorized under s. 118.125 or under a substantially similar tribal law.

(b) Upon request, to any court of this state or of the United States that needs to review those records or that information for the purpose of addressing the educational needs of a pupil who is the subject of a proceeding in that court.

(c) In response to an order of a court conducting proceedings under s. 48.135, 48.21, 938.135, 938.18, 938.183, or 938.21, proceedings related to a petition under s. 48.13, 48.133, 48.42, 938.12, or 938.13, or dispositional proceedings under subch. VI or VIII of ch. 48 or subch. VI of ch. 938 or in response to a subpoena issued in such a proceeding, to any person who is engaged in addressing the educational needs of the pupil and who is authorized to receive that disclosure under that order or subpoena. Except as provided in [20 USC 1232g \(b\) \(2\) \(B\)](#), a department, county department, or tribal organiza-

* Section 991.11, WISCONSIN STATUTES: 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."

tion that is issued an order or subpoena described in this paragraph shall provide notice of the order or subpoena to the pupil's parent or guardian before complying with the order or subpoena.

SECTION 2. 118.125 (2) (intro.) of the statutes is amended to read:

118.125 (2) **CONFIDENTIALITY AND DISCLOSURE OF PUPIL RECORDS.** (intro.) All pupil records maintained by a public school shall be confidential, except as provided in pars. (a) to ~~(p)~~ (q) and sub. (2m). The school board shall adopt policies to maintain the confidentiality of such records and may adopt policies to promote the disclosure of pupil records and information permitted by law for purposes of school safety.

SECTION 3. 118.125 (2) (q) of the statutes is created to read:

118.125 (2) (q) On request, a school board may disclose pupil records that are pertinent to addressing a pupil's educational needs to a caseworker or other representative of the department of children and families, a county department under s. 46.215, 46.22, or 46.23, or a tribal organization, as defined in [25 USC 450b](#) (L), that is legally responsible for the care and protection of the pupil, if the caseworker or other representative is authorized by that department, county department, or tribal organization to access the pupil's case plan. A department, county department, or tribal organization that receives pupil records under this paragraph may not further disclose those pupil records or any personally identi-

fiable information contained in those pupil records except as follows:

1. To a person who is engaged in addressing the pupil's educational needs, who is authorized by that department, county department, or tribal organization to receive that disclosure, and to whom that disclosure is authorized under this section or under a substantially similar tribal law.

2. Upon request, to any court of this state or of the United States that needs to review those records or that information for the purpose of addressing the educational needs of a pupil who is the subject of a proceeding in that court.

3. In response to an order of a court conducting proceedings under s. 48.135, 48.21, 938.135, 938.18, 938.183, or 938.21, proceedings related to a petition under s. 48.13, 48.133, 48.42, 938.12, or 938.13, or dispositional proceedings under subch. VI or VIII of ch. 48 or subch. VI of ch. 938 or in response to a subpoena issued in such a proceeding, to any person who is engaged in addressing the educational needs of the pupil and who is authorized to receive that disclosure under that order or subpoena. Except as provided in [20 USC 1232g](#) (b) (2) (B), a department, county department, or tribal organization that is issued an order or subpoena described in this subdivision shall provide notice of the order or subpoena to the pupil's parent or guardian before complying with the order or subpoena.