



**SENATE AMENDMENT 3,
TO 1995 SENATE BILL 624**

March 26, 1996 - Offered by COMMITTEE ON JUDICIARY.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 11, line 12: after that line insert:

3 “**SECTION 10m.** 48.02 (1) of the statutes, as affected by 1995 Wisconsin Act 77,
4 is amended to read:

5 48.02 (1) “Adult” means a person who is 18 years of age or older, except that
6 for purposes of investigating or prosecuting a person who is alleged to have violated
7 any state or federal criminal law or any civil law or municipal ordinance, “adult”
8 means a person who has attained 17 years of age.

9 **SECTION 10p.** 48.02 (2) of the statutes, as affected by 1995 Wisconsin Act 77,
10 is amended to read:

11 48.02 (2) “Child” means a person who is less than 18 years of age, except that
12 for purposes of investigating or prosecuting a person who is alleged to have violated
13 a state or federal criminal law or any civil law or municipal ordinance, “child” does
14 not include a person who has attained 17 years of age.”.

15 **2.** Page 12, line 25: after that line insert:

16 “**SECTION 16m.** 48.396 (5) of the statutes is created to read:

1 48.396 (5) (a) Any person who is denied access to a record under sub. (1), (1b)
2 or (1d) may petition the court to order the disclosure of the records governed by the
3 applicable subsection. The petition shall be in writing and shall describe as
4 specifically as possible all of the following:

5 1. The type of information sought.

6 2. The reason the information is being sought.

7 3. The basis for the petitioner's belief that the information is contained in the
8 records.

9 4. The relevance of the information sought to the petitioner's reason for seeking
10 the information.

11 5. The petitioner's efforts to obtain the information from other sources.

12 (b) The court shall notify the child, the child's counsel, the child's parents and
13 appropriate law enforcement agencies in writing of the petition. If any person
14 notified objects to the disclosure, the court may hold a hearing to take evidence
15 relating to the petitioner's need for the disclosure.

16 (c) The court shall make an inspection, which may be in camera, of the child's
17 records. If the court determines that the information sought is for good cause and
18 that it cannot be obtained with reasonable effort from other sources, it shall then
19 determine whether the petitioner's need for the information outweighs society's
20 interest in protecting its confidentiality. In making this determination, the court
21 shall balance the petitioner's interest in obtaining access to the record against the
22 child's interest in avoiding the stigma that might result from disclosure.

23 (d) If the court determines that disclosure is warranted, it shall order the
24 disclosure of only as much information as is necessary to meet the petitioner's need
25 for the information.

1 (e) The court shall record the reasons for its decision to disclose or not to disclose
2 the child's records. All records related to a decision under this subsection are
3 confidential.”.

4 **3.** Page 15, line 15: delete “10 to 13” and substitute “under 14”.

5 **4.** Page 26, line 23: after that line insert:

6 “**SECTION 53m.** 938.02 (1) of the statutes, as created by 1995 Wisconsin Act 77,
7 is amended to read:

8 938.02 (1) “Adult” means a person who is 18 years of age or older, except that
9 for purposes of investigating or prosecuting a person who is alleged to have violated
10 any state or federal criminal law or any civil law or municipal ordinance, “adult”
11 means a person who has attained 17 years of age.

12 **SECTION 53p.** 938.02 (10m) of the statutes, as created by 1995 Wisconsin Act
13 77, is amended to read:

14 938.02 (10m) “Juvenile” means a person who is less than 18 years of age, except
15 that for purposes of investigating or prosecuting a person who is alleged to have
16 violated a state or federal criminal law or any civil law or municipal ordinance,
17 “juvenile” does not include a person who has attained 17 years of age.”.

18 **5.** Page 53, line 7: after “the” insert “Type 2 secured correctional facility or”.

19 **6.** Page 53, line 9: after “county” delete the comma.

20 **7.** Page 55, line 4: after that line insert:

21 “**SECTION 109m.** 938.396 (1) of the statutes, as created by 1995 Wisconsin Act
22 77, is amended to read:

23 938.396 (1) Law enforcement officers' records of juveniles shall be kept
24 separate from records of adults. Law enforcement officers' records of juveniles shall

1 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),
2 (1m), (1r), (1t) or (1v) or s. 938.293 or by order of the court. This subsection does not
3 apply to representatives of the news media who wish to obtain information for the
4 purpose of reporting news without revealing the identity of the juvenile involved, to
5 ~~victim-witness coordinators, to victims of a juvenile's act who wish to obtain~~
6 ~~information for the purpose of recovering for any loss, damage or injury suffered as~~
7 ~~a result of the juvenile's act, to insurance companies that wish to obtain information~~
8 ~~for the purpose of investigating a claim involving the juvenile, to the confidential~~
9 exchange of information between the police and officials of the school attended by the
10 juvenile or other law enforcement or social welfare agencies or to juveniles 10 years
11 of age or older who are subject to the jurisdiction of the court of criminal
12 jurisdiction.”.

13 **8.** Page 55, line 7: after “may” insert: “, subject to official agency policy,”.

14 **9.** Page 55, line 9: after that line insert:

15 “**SECTION 110m.** 938.396 (1r) of the statutes, as created by 1995 Wisconsin Act
16 77, is amended to read:

17 938.396 (1r) If requested by a victim of a juvenile's act, a law enforcement
18 agency may, subject to official agency policy, disclose to the victim any information
19 in its records relating to the injury, loss or damage suffered by the victim, including
20 the name and address of the juvenile and the juvenile's parents. The victim may use
21 and further disclose the information only for the purpose of recovering for the injury,
22 damage or loss suffered as a result of the juvenile's act.

23 **SECTION 110p.** 938.396 (1t) of the statutes, as created by 1995 Wisconsin Act
24 77, is amended to read:

1 938.396 (1t) If a juvenile who has been ordered to make restitution for any
2 injury, loss or damage caused by the juvenile and if the juvenile has failed to make
3 that restitution within one year after the entry of the order, the victim's insurer may
4 request a law enforcement agency to disclose to the insurer any information in its
5 records relating to the injury, loss or damage suffered by the victim, including the
6 name and address of the juvenile and the juvenile's parents, and the law enforcement
7 agency may, subject to official agency policy, disclose to the victim's insurer that
8 information. The insurer may use and further disclose the information only for the
9 purpose of investigating a claim arising out of the juvenile's act.

10 **SECTION 110r.** 938.396 (1v) of the statutes, as created by 1995 Wisconsin Act
11 77, is amended to read:

12 938.396 (1v) If a law enforcement agency discloses information in its records
13 under sub. (1), (1g), (1m) or (1r), the law enforcement agency shall immediately notify
14 the juvenile who is the subject of the record and or, if the juvenile is under 14 years
15 of age, the juvenile's parent, guardian or legal custodian of that disclosure and shall
16 immediately provide to the juvenile and the parent, guardian or legal custodian the
17 information disclosed, unless the law enforcement agency determines that
18 notification of that disclosure would be contrary to public safety or the best interests
19 of the juvenile. The law enforcement agency shall provide that notice to the
20 last-known address of the juvenile, parent, guardian or legal custodian."

21 **10.** Page 56, line 2: after that line insert:

22 **"SECTION 112m.** 938.396 (5) of the statutes is created to read:

23 938.396 (5) (a) Any person who is denied access to a record under sub. (1), (1b),
24 (1d), (1g), (1m), (1r) or (1t) may petition the court to order the disclosure of the records

1 governed by the applicable subsection. The petition shall be in writing and shall
2 describe as specifically as possible all of the following:

3 1. The type of information sought.

4 2. The reason the information is being sought.

5 3. The basis for the petitioner's belief that the information is contained in the
6 records.

7 4. The relevance of the information sought to the petitioner's reason for seeking
8 the information.

9 5. The petitioner's efforts to obtain the information from other sources.

10 (b) The court shall notify the juvenile, the juvenile's counsel, the juvenile's
11 parents and appropriate law enforcement agencies in writing of the petition. If any
12 person notified objects to the disclosure, the court may hold a hearing to take
13 evidence relating to the petitioner's need for the disclosure.

14 (c) The court shall make an inspection, which may be in camera, of the
15 juvenile's records. If the court determines that the information sought is for good
16 cause and that it cannot be obtained with reasonable effort from other sources, it
17 shall then determine whether the petitioner's need for the information outweighs
18 society's interest in protecting its confidentiality. In making this determination, the
19 court shall balance the following private and societal interests:

20 1. The petitioner's interest in recovering for the injury, damage or loss he or she
21 has suffered against the juvenile's interest in rehabilitation and in avoiding the
22 stigma that might result from disclosure.

23 2. The public's interest in the redress of private wrongs through private
24 litigation against the public's interest in protecting the integrity of the juvenile
25 justice system.

1 (d) If the court determines that disclosure is warranted, it shall order the
2 disclosure of only as much information as is necessary to meet the petitioner's need
3 for the information.

4 (e) The court shall record the reasons for its decision to disclose or not to disclose
5 the juvenile's records. All records related to a decision under this subsection are
6 confidential.

7 **SECTION 112p.** 938.396 (6) of the statutes is created to read:

8 938.396 (6) Notwithstanding sub. (5), a victim of a juvenile's act or alleged act
9 may, with the approval of the court, obtain the names of the juvenile and the
10 juvenile's parents.”.

11 **11.** Page 57, line 7: after that line insert:

12 “**SECTION 114m.** 938.51 (1) (c) of the statutes, as created by 1995 Wisconsin Act
13 77, is amended to read:

14 938.51 (1) (c) Notify, if the victim died as a result of the juvenile's delinquent
15 act and if the criteria under par. (b) are met, an adult member of the victim's family
16 or, if the victim is younger than 18 years old and if the criteria under par. (b) are met,
17 the victim's parent or legal guardian of the juvenile's release.”.

18 **12.** Page 57, line 10: after “act” insert “of the juvenile's release”.

19 **13.** Page 65, line 2: after that line insert:

20 “**SECTION 134m.** 990.01 (3) of the statutes, as affected by 1995 Wisconsin Act
21 77, is amended to read:

22 990.01 (3) ADULT. “Adult” means a person who has attained the age of 18 years,
23 except that for purposes of investigating or prosecuting a person who is alleged to

1 have violated any state or federal criminal law or any civil law or municipal
2 ordinance, “adult” means a person who has attained the age of 17 years.

3 **SECTION 134p.** 990.01 (20) of the statutes, as affected by 1995 Wisconsin Act
4 77, is amended to read:

5 990.01 (20) MINOR. “Minor” means a person who has not attained the age of
6 18 years, except that for purposes of investigating or prosecuting a person who is
7 alleged to have violated a state or federal criminal law or any civil law or municipal
8 ordinance, “minor” does not include a person who has attained the age of 17 years.”.

9 (END)