



2011 ASSEMBLY BILL 415

December 7, 2011 – Introduced by Representative KESTELL, cosponsored by Senator OLSEN. Referred to Committee on Education.

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

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:

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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

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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,

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SECTION 2

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.

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(END)