

State of Wisconsin



1995 Assembly Bill 609

Date of enactment: **March 22, 1996**

Date of publication*: **April 5, 1996**

1995 WISCONSIN ACT 173

AN ACT *to renumber and amend* 48.396 (1m); *to amend* 48.396 (1), 118.125 (1) (a), 118.125 (2) (d), 118.125 (2) (e), 118.125 (3), 118.127 (1) and 118.127 (2); *to repeal and recreate* 48.396 (1); and *to create* 48.396 (1m) (a) 2. and 118.127 (3) of the statutes; **relating to:** disclosure of certain law enforcement agency records relating to a child to a school district administrator.

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

SECTION 1. 48.396 (1) of the statutes is amended to read:

48.396 (1) Peace officers' records of children shall be kept separate from records of persons 18 or older. Peace officers' records of children shall not be open to inspection or their contents disclosed except under sub. (1m) (a) or (5) or s. 48.293 or by order of the court. This subsection does not apply to the representatives of newspapers or other reporters of news who wish to obtain information for the purpose of reporting news without revealing the identity of the child involved, to the confidential exchange of information between the police and officials of the school attended by the child or other law enforcement or social welfare agencies or to children 16 or older who are transferred to the criminal courts.

SECTION 2. 48.396 (1) of the statutes, as affected by 1995 Wisconsin Acts 27 and ... (this act), is repealed and recreated to read:

48.396 (1) Peace officers' records of children shall be kept separate from records of adults. Peace officers' records of children shall not be open to inspection or their contents disclosed except under sub. (1m) (a) or (5) or s. 48.293 or by order of the court. This subsection does not

apply to the representatives of newspapers or other reporters of news who wish to obtain information for the purpose of reporting news without revealing the identity of the child involved, to the confidential exchange of information between the police and officials of the school attended by the child or other law enforcement or social welfare agencies or to children 16 or older who are transferred to the criminal courts.

SECTION 3. 48.396 (1m) of the statutes is renumbered 48.396 (1m) (a) (intro.) and amended to read:

48.396 (1m) (a) (intro.) If requested by the school district administrator of a public school district, a law enforcement agency may provide to the school district administrator any information in its records relating to the any of the following:

1. The use, possession or distribution of alcohol or a controlled substance by a pupil enrolled in the public school district. The information

(b) Any information provided under par. (a) 1. may be used by the school district only as provided under s. 118.127 (2). In this subsection, "controlled substance" has the meaning given in s. 161.01 (4).

SECTION 4. 48.396 (1m) (a) 2. of the statutes is created to read:

48.396 (1m) (a) 2. The illegal possession by a child of a dangerous weapon, as defined in s. 939.22 (10).

* Section 991.11, WISCONSIN STATUTES 1993-94: 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].

SECTION 5. 118.125 (1) (a) of the statutes is amended to read:

118.125 (1) (a) "Behavioral records" means those pupil records which include psychological tests, personality evaluations, records of conversations, any written statement relating specifically to an individual pupil's behavior, tests relating specifically to achievement or measurement of ability, the pupil's physical health records other than his or her immunization records or any lead screening records required under s. 254.162, peace officers' records obtained under s. 48.396 (1m) (a) and any other pupil records that are not progress records.

SECTION 6. 118.125 (2) (d) of the statutes is amended to read:

118.125 (2) (d) Pupil records may be made available to persons employed by the school district which the pupil attends who are required by the department under s. 115.28 (7) to hold a license and other school district officials who have been determined by the school board to have legitimate educational interests, including safety interests, in the pupil records. Peace officers' records obtained under s. 48.396 (1m) (a) 1. may be made available under this paragraph only for the purposes of s. 118.127 (2) and only to those designated personnel involved in alcohol and other drug abuse programs.

SECTION 7. 118.125 (2) (e) of the statutes is amended to read:

118.125 (2) (e) Upon the written permission of an adult pupil, or the parent or guardian of a minor pupil, the school shall make available to the person named in the permission the pupil's progress records or such portions of the pupil's behavioral records as determined by the person authorizing the release. Peace officers' records obtained under s. 48.396 (1m) (a) may not be made available under this paragraph unless specifically identified by the adult pupil or by the parent or guardian of a minor pupil in the written permission.

SECTION 8. 118.125 (3) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

118.125 (3) MAINTENANCE OF RECORDS. Each school board shall adopt rules in writing specifying the content of pupil records and the time during which pupil records shall be maintained. No behavioral records may be maintained for more than one year after the pupil ceases to be enrolled in the school, unless the pupil specifies in writ-

ing that his or her behavioral records may be maintained for a longer period. A pupil's progress records shall be maintained for at least 5 years after the pupil ceases to be enrolled in the school. A school board may maintain the records on microfilm, optical disk or in electronic format if authorized under s. 19.21 (4) (c), or in such other form as the school board deems appropriate. A school board shall maintain peace officers' records obtained under s. 48.396 (1m) (a) separately from a pupil's other pupil records. Rules adopted under this subsection shall be published by the school board as a class 1 notice under ch. 985.

SECTION 9. 118.127 (1) of the statutes is amended to read:

118.127 (1) Upon receipt of information from peace officers' records obtained under s. 48.396 (1m) (a), the school district administrator shall notify any pupil named in the records, and the parent or guardian of any minor pupil named in the records, of the information.

SECTION 10. 118.127 (2) of the statutes is amended to read:

118.127 (2) A school district may use information from peace officers' records obtained under s. 48.396 (1m) (a) 1. only for the purpose of providing alcohol and other drug abuse programs for pupils enrolled in the school district.

SECTION 11. 118.127 (3) of the statutes is created to read:

118.127 (3) A school district may disclose information from peace officers' records obtained under s. 48.396 (1m) (a) 2. relating to a pupil of the school district as provided in s. 118.125 (2) (d). A school district may disclose information from peace officers' records obtained under s. 48.396 (1m) (a) 2. relating to a person who is not a pupil of the school district to any person employed by the school district who is required by the department under s. 115.28 (7) to hold a license and to other school district officials who have been determined by the school board to have legitimate safety interests in that information.

SECTION 12. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The repeal and recreation of section 48.396 (1) of the statutes takes effect on January 1, 1996, or on the day after publication, whichever is later.