

# State of Wisconsin



2003 Assembly Bill 62

Date of enactment: **November 20, 2003**

Date of publication\*: **December 5, 2003**

## 2003 WISCONSIN ACT 82

AN ACT *to amend* 48.396 (2) (g), 118.125 (5) (b), 938.396 (2) (a), 938.396 (2) (ag), 938.396 (2) (am), 938.396 (2) (gm), 938.396 (2) (h), 938.396 (4), 938.396 (7) (am) and 938.396 (7) (c); and *to create* 938.342 (1r) of the statutes; **relating to:** dispositional orders for truancy or habitual truancy and the disclosure of juvenile records by a juvenile court or a municipal court.

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

**SECTION 1.** 48.396 (2) (g) of the statutes is amended to read:

48.396 (2) (g) Upon request of any ~~other~~ court assigned to exercise jurisdiction under this chapter and ch. 938, any municipal court exercising jurisdiction under s. 938.17 (2), or a district attorney or, corporation counsel, or city, village, or town attorney to review court records for the purpose of any proceeding in that ~~other~~ court or upon request of the attorney or guardian ad litem for a party to a proceeding in that court to review court records for the purpose of that proceeding, the court shall open for inspection by any authorized representative of the requester the records of the court relating to any child who has been the subject of a proceeding under this chapter.

**SECTION 2.** 118.125 (5) (b) of the statutes is amended to read:

118.125 (5) (b) Law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) or (1m) ~~and~~, records of the court assigned to exercise jurisdiction under chs. 48 and 938 obtained under s. 938.396 (7) (a), (am), (ar), (b), or (bm), and records of a municipal court

obtained under s. 938.396 (7) (ar) may not be used by a school district as the sole basis for expelling or suspending a pupil or as the sole basis for taking any other disciplinary action, including action under the school district's athletic code, against a pupil.

**SECTION 3.** 938.342 (1r) of the statutes is created to read:

938.342 (1r) If school attendance under sub. (1d) (a) or (1g) (g) is a condition of an order under sub. (1d) or (1g), the order shall specify what constitutes a violation of the condition and shall direct the school board of the school district, or the governing body of the private school, in which the person is enrolled to notify the court or, if the person is under the supervision of an agency under sub. (1g) (j), the agency that is responsible for supervising the person within 5 days after any violation of the condition by the person.

**SECTION 4.** 938.396 (2) (a) of the statutes is amended to read:

938.396 (2) (a) Records of the court assigned to exercise jurisdiction under this chapter and ch. 48 and of municipal courts exercising jurisdiction under s. 938.17 (2) shall be entered in books or deposited in files kept for that purpose only. ~~They~~ Those records shall not be open to inspection or their contents disclosed except by order

\* Section 991.11, WISCONSIN STATUTES 2001-02 : 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].

of the court assigned to exercise jurisdiction under this chapter and ch. 48 or as permitted under this section.

**SECTION 5.** 938.396 (2) (ag) of the statutes is amended to read:

938.396 (2) (ag) Upon request of the parent, guardian, or legal custodian of a juvenile who is the subject of a record of a court ~~specified in par. (a) assigned to exercise jurisdiction under this chapter and ch. 48 or of a municipal court exercising jurisdiction under s. 938.17 (2)~~, or upon request of the juvenile, if 14 years of age or over, the court that is the custodian of the record shall open for inspection by the parent, guardian, legal custodian, or juvenile ~~the its records of the court~~ relating to that juvenile, unless ~~the that~~ court finds, after due notice and hearing, that inspection of those records by the parent, guardian, legal custodian, or juvenile would result in imminent danger to anyone.

**SECTION 6.** 938.396 (2) (am) of the statutes is amended to read:

938.396 (2) (am) Upon the written permission of the parent, guardian, or legal custodian of a juvenile who is the subject of a record of a court ~~specified in par. (a) assigned to exercise jurisdiction under this chapter and ch. 48 or of a municipal court exercising jurisdiction under s. 938.17 (2)~~, or upon written permission of the juvenile if 14 years of age or over, the court that is the custodian of the record shall open for inspection by the person named in the permission any records specifically identified by the parent, guardian, legal custodian, or juvenile in the written permission, unless ~~the that~~ court finds, after due notice and hearing, that inspection of those records by the person named in the permission would result in imminent danger to anyone.

**SECTION 7.** 938.396 (2) (gm) of the statutes is amended to read:

938.396 (2) (gm) Upon request of any ~~other~~ court assigned to exercise jurisdiction under this chapter and ch. 48, any municipal court exercising jurisdiction under s. 938.17 (2), or a district attorney or, corporation counsel, or city, village, or town attorney to review court records for the purpose of any proceeding in that ~~other~~ court or upon request of the attorney or guardian ad litem for a party to a proceeding in that court to review court records for the purpose of that proceeding, the court assigned to exercise jurisdiction under this chapter and ch. 48 or the municipal court exercising jurisdiction under s. 938.17 (2) shall open for inspection by any authorized representative of the requester ~~the its records of the court~~ relating to any juvenile who has been the subject of a proceeding under this chapter.

**SECTION 8.** 938.396 (2) (h) of the statutes is amended to read:

938.396 (2) (h) Upon request of the court having jurisdiction over an action affecting the family or of an attorney for a party or a guardian ad litem in an action affecting the family to review court records for the pur-

pose of considering the custody of a juvenile, the court assigned to exercise jurisdiction under this chapter and ch. 48 or a municipal court exercising jurisdiction under s. 938.17 (2) shall open for inspection by an authorized representative of the requester ~~the its records of the court~~ relating to any juvenile who has been the subject of a proceeding under this chapter.

**SECTION 9.** 938.396 (4) of the statutes is amended to read:

938.396 (4) When a court assigned to exercise jurisdiction under this chapter and ch. 48 or a municipal court exercising jurisdiction under s. 938.17 (2) revokes, suspends, or restricts a juvenile's operating privilege under this chapter, the department of transportation shall may not disclose information concerning or relating to the revocation, suspension, or restriction to any person other than a court, assigned to exercise jurisdiction under this chapter and ch. 48, a municipal court exercising jurisdiction under s. 938.17 (2), a district attorney, county corporation counsel, or city, village, or town attorney, a law enforcement agency, or the juvenile whose operating privilege is revoked, suspended, or restricted, or his or her the juvenile's parent or guardian. Persons entitled to receive this information may not disclose the information to other persons or agencies.

**SECTION 10.** 938.396 (7) (am) of the statutes is amended to read:

938.396 (7) (am) Notwithstanding sub. (2) (a) and subject to par. (b), if a juvenile is adjudged delinquent, within 5 days after the date on which the dispositional order is entered, the court clerk shall notify the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the designee of the school board or governing body of the fact that the juvenile has been adjudicated delinquent, the nature of the violation committed by the juvenile, and the disposition imposed on the juvenile under s. 938.34 as a result of ~~that the~~ violation.

(ar) Notwithstanding sub. (2) (a), if school attendance is a condition of a dispositional order under s. 938.342 (1d) or (1g) or 938.355 (2) (b) 7., within 5 days after the date on which the dispositional order is entered, the ~~court~~ clerk of the court assigned to exercise jurisdiction under this chapter and ch. 48 or the clerk of the municipal court exercising jurisdiction under s. 938.17 (2) shall notify the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the designee of the school board or governing body of the fact that the juvenile's school attendance is a condition of a dispositional order.

**SECTION 11.** 938.396 (7) (c) of the statutes is amended to read:

938.396 (7) (c) No information from the juvenile's court records, other than information disclosed under par. (a), (am), (ar), (b), or (bm), may be disclosed to the school board of the school district, or the governing body of the

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private school, in which the juvenile is enrolled or the designee of the school board or governing body except by order of the court. Any information provided under this subsection to the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the designee of the school board or governing body shall be disclosed by the school board, governing body, or designee to employees of the school district or private school who work directly with the juvenile or who have been determined by the school board, governing body, or designee to have legitimate educational interests, including safety interests, in the information. A school district or private school employee to whom information is disclosed under this paragraph may not further disclose the information. A school board shall may not use any information provided under this subsec-

tion as the sole basis for expelling or suspending a juvenile or as the sole basis for taking any other disciplinary action, including action under the school district's athletic code, against the juvenile. A member of a school board or of the governing body of a private school or an employee of a school district or private school may not be held personally liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the member or employee acted with actual malice in failing to disclose the information. A school district or private school may not be held liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the school district, private school, or its agent acted with gross negligence or with reckless, wanton, or intentional misconduct in failing to disclose the information.

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