



1997 ASSEMBLY BILL 14

January 28, 1997 - Introduced by Representatives LADWIG, KRUG, ZUKOWSKI, PORTER, HUEBSCH, SKINDRUD, TURNER, ZIEGELBAUER, GUNDERSON, GREEN, DOBYNS, FREESE, WALKER, M. LEHMAN, SERATTI, OTT, AINSWORTH, KAUFERT, MUSSER, OTTE, LA FAVE, PLALE, KREIBICH, GOETSCH, KREUSER, HAHN, NASS, GROTHMAN, OLSEN, HASENOHRL, OWENS, HUBER, SYKORA, KELSO, LAZICH, SCHAFFER, POWERS and KEDZIE, cosponsored by Senators FITZGERALD, HUELSMAN, DRZEWIECKI, BUETTNER, ZIEN, ROSENZWEIG, COWLES and FARROW. Referred to Committee on Children and Families.

1 **AN ACT to amend** 938.396 (1) and 938.78 (2) (b) 1.; and **to create** 165.55 (15),
2 938.396 (1x) and 938.396 (2) (g) of the statutes; **relating to:** access to juvenile
3 records by an arson investigator.

Analysis by the Legislative Reference Bureau

Under current law, the fire chief of a city, village or town fire department or company or, if the city, village or town does not have a fire department or company, the mayor, village president or town clerk must investigate every fire causing damage in excess of \$500. If the fire may be of incendiary origin, the fire chief, mayor, village president or town clerk must report the matter to the state fire marshal who may investigate further if necessary.

Under current law, subject to certain exceptions, law enforcement officers' records of juveniles are not open to inspection and may not be disclosed except by order of the court assigned to exercise jurisdiction under the children's code and juvenile justice code (juvenile court) or under the discovery procedures of the juvenile court. Those records may also be disclosed, subject to certain conditions, to the parent, guardian or legal custodian of the juvenile who is the subject of the record, the juvenile if 14 years of age or over, the victim-witness coordinator, a school district administrator, the victim of the juvenile's act or the victim's insurer. This bill permits a law enforcement agency, subject to official agency policy, to disclose to an arson investigator any information in its records relating to a juvenile as necessary for the arson investigator to pursue his or her investigation.

Under current law, subject to certain exceptions, the records of a juvenile court are not open to inspection and their contents may not be disclosed. Current law,

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however, permits juvenile court records to be disclosed, subject to certain conditions, to the parent, guardian or legal custodian of the juvenile who is the subject of the record, the juvenile if 14 years of age or over, a law enforcement agency, a court of criminal jurisdiction, a district attorney, a defense counsel, a victim-witness coordinator or the victim's insurer. This bill requires the juvenile court to open for inspection by an arson investigator the records of the juvenile court relating to a juvenile who has been adjudicated delinquent for the unsafe burning of a building, criminal damage to property, criminal damage to religious or other property, criminal damage to the property of a judge or arson.

Under current law, subject to certain exceptions, the department of corrections (DOC), a county department of human services or social services (county department) and a licensed child welfare agency (collectively referred to as an "agency") may not make available for inspection or disclose the contents of any record kept or information received about an individual in its care or custody, except by order of the juvenile court. Current law, however, permits an agency to exchange information confidentially with another social welfare agency, a law enforcement agency, the victim-witness coordinator or a public school district about an individual in the care or custody of the agency. This bill permits an agency to exchange confidential information with an arson investigator.

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

1 **SECTION 1.** 165.55 (15) of the statutes is created to read:

2 165.55 (15) The state fire marshal, any deputy fire marshal or any fire chief
3 may obtain information relating to a juvenile from a law enforcement agency, a court
4 assigned to exercise jurisdiction under chs. 48 and 938 or an agency, as defined in s.
5 938.78 (1), as provided in ss. 938.396 (1x) and (2) (g) and 938.78 (2) (b) 1.

6 **SECTION 2.** 938.396 (1) of the statutes is amended to read:

7 938.396 (1) Law enforcement officers' records of juveniles shall be kept
8 separate from records of adults. Law enforcement officers' records of juveniles shall
9 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),
10 (1m), (1r) ~~or~~, (1t) or (1x) or s. 938.293 or by order of the court. This subsection does
11 not apply to representatives of the news media who wish to obtain information for
12 the purpose of reporting news without revealing the identity of the juvenile involved,

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1 to the confidential exchange of information between the police and officials of the
2 school attended by the juvenile or other law enforcement or social welfare agencies
3 or to juveniles 10 years of age or older who are subject to the jurisdiction of the court
4 of criminal jurisdiction.

5 **SECTION 3.** 938.396 (1x) of the statutes is created to read:

6 938.396 (1x) If requested by an arson investigator under s. 165.55 (15), a law
7 enforcement agency may, subject to official agency policy, disclose to the arson
8 investigator any information in its records relating to a juvenile as necessary for the
9 arson investigator to pursue his or her investigation under s. 165.55. The arson
10 investigator may use and further disclose the information only for the purpose of
11 pursuing that investigation.

12 **SECTION 4.** 938.396 (2) (g) of the statutes is created to read:

13 938.396 (2) (g) Upon request of an arson investigator under s. 165.55 (15) to
14 review court records for the purpose of pursuing an investigation under s. 165.55, the
15 court shall open for inspection by authorized representatives of the requester the
16 records of the court relating to any juvenile who has been adjudicated delinquent for
17 a violation of s. 941.11, 943.01, 943.012, 943.013, 943.03 or 943.04.

18 **SECTION 5.** 938.78 (2) (b) 1. of the statutes is amended to read:

19 938.78 (2) (b) 1. Paragraph (a) does not apply to the confidential exchange of
20 information between an agency, another social welfare agency, a law enforcement
21 agency, the victim-witness coordinator, an arson investigator under s. 165.55 (15) or
22 a public school district regarding an individual in the care or legal custody of the
23 agency.

24 **SECTION 6. Initial applicability.**

