



## 1997 SENATE BILL 123

March 18, 1997 - Introduced by Senators BRESKE, RUDE, JAUCH, A. LASEE, GROBSCHMIDT, BUETTNER, WEEDEN and PLACHE, cosponsored by Representatives MUSSER, ZIEGELBAUER, RYBA, LORGE, HASENOHRL, R. YOUNG, REYNOLDS, LAZICH, PLOUFF, GRONEMUS, GROTHMAN and SPRINGER. Referred to Committee on Education.

1     **AN ACT to amend** 938.396 (7) (a), 938.396 (7) (bm) and 938.396 (7) (c) of the  
2             statutes; **relating to:** notification of a juvenile's school if a juvenile delinquency  
3             proceeding is terminated without a finding that the juvenile has committed a  
4             delinquent act.

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### *Analysis by the Legislative Reference Bureau*

Under current law, subject to certain exceptions, records of the court assigned to exercise jurisdiction under the juvenile justice code (juvenile court) are not open to inspection and their contents may not be disclosed except by order of the juvenile court. Currently, however, if a petition is filed alleging that a juvenile has committed an act that would be a felony if committed by an adult, the juvenile court clerk must notify the school board of the school district in which the juvenile is enrolled that a petition has been filed and of the nature of the act alleged in the petition.

Under this bill, if later the proceeding on the petition is closed, dismissed or otherwise terminated without a finding that the juvenile has committed a delinquent act, the juvenile court clerk must notify the school board of the school district in which the juvenile is enrolled that the proceeding has been terminated without a finding that the juvenile has committed a delinquent act.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 938.396 (7) (a) of the statutes is amended to read:

2           938.396 (7) (a) Notwithstanding sub. (2) (a), if a petition under s. 938.12 or  
3           938.13 (12) is filed alleging that a juvenile has committed a delinquent act that would  
4           be a felony if committed by an adult, the court clerk shall notify the school board of  
5           the school district in which the juvenile is enrolled or the school board's designee of  
6           the fact that the petition has been filed and the nature of the delinquent act alleged  
7           in the petition. Notwithstanding sub. (2) (a), if later the proceeding on the petition  
8           is closed, dismissed or otherwise terminated without a finding that the juvenile has  
9           committed a delinquent act, the court clerk shall notify the school board of the school  
10          district in which the juvenile is enrolled or the school board's designee that the  
11          proceeding has been terminated without a finding that the juvenile has committed  
12          a delinquent act.

13          (am) Notwithstanding sub. (2) (a) and subject to par. (b), if a juvenile is  
14          adjudged delinquent, within 5 days after the date on which the dispositional order  
15          is entered, the court clerk shall notify the school board of the school district in which  
16          the juvenile is enrolled or the school board's designee of the fact that the juvenile has  
17          been adjudicated delinquent, the nature of the violation committed by the juvenile  
18          and the disposition imposed on the juvenile under s. 938.34 as a result of that  
19          violation. Notwithstanding sub. (2) (a), if school attendance is a condition of a  
20          dispositional order under s. 938.355 (2) (b) 7., within 5 days after the date on which  
21          the dispositional order is entered, the court clerk shall notify the school board of the

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1 school district in which the juvenile is enrolled or the school board's designee of the  
2 fact that the juvenile's school attendance is a condition of a dispositional order.

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

4 938.396 (7) (bm) Notwithstanding sub. (2) (a), in addition to the disclosure  
5 made under par. ~~(a)~~ (am) or (b), if a juvenile is adjudicated delinquent and as a result  
6 of the dispositional order is enrolled in a different school district from the school  
7 district in which the juvenile is enrolled at the time of the dispositional order, the  
8 court clerk, within 5 days after the date on which the dispositional order is entered,  
9 shall provide the school board of the juvenile's new school district or the school  
10 board's designee with the information specified in par. ~~(a)~~ (am) or (b), whichever is  
11 applicable, and, in addition, shall notify that school board or designee of whether the  
12 juvenile has been adjudicated delinquent previously by that court, the nature of any  
13 previous violations committed by the juvenile and the dispositions imposed on the  
14 juvenile under s. 938.34 as a result of those previous violations.

15 **SECTION 3.** 938.396 (7) (c) of the statutes is amended to read:

16 938.396 (7) (c) No information from the juvenile's court records, other than  
17 information disclosed under par. (a), (am), (b) or (bm), may be disclosed to the school  
18 board of the school district in which the juvenile is enrolled or the school board's  
19 designee except by order of the court. Any information provided under this  
20 subsection to the school board of the school district in which the juvenile is enrolled  
21 or the school board's designee shall be disclosed by the school board or designee to  
22 employes of the school district who work directly with the juvenile or who have been  
23 determined by the school board or designee to have legitimate educational interests,  
24 including safety interests, in the information. A school district employe to whom  
25 information is disclosed under this paragraph shall not further disclose the

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1 information. A school board shall not use any information provided under this  
2 subsection as the sole basis for expelling or suspending a juvenile. A school board  
3 member or an employe of a school district may not be held personally liable for any  
4 damages caused by the nondisclosure of any information specified in this paragraph  
5 unless the member or employe acted with actual malice in failing to disclose the  
6 information. A school district may not be held liable for any damages caused by the  
7 nondisclosure of any information specified in this paragraph unless the school  
8 district or its agent acted with gross negligence or with reckless, wanton or  
9 intentional misconduct in failing to disclose the information.

**SECTION 4. Initial applicability.**

10  
11 (1) This act first applies to a proceeding on a petition under section 938.12 or  
12 938.13 (12) of the statutes that is closed, dismissed or otherwise terminated on the  
13 effective date of this subsection.

14 (END)