

1999 ASSEMBLY BILL 72

February 2, 1999 – Introduced by Representatives LADWIG, GOETSCH, KRUSICK, ALBERS, DUFF, GROTHMAN, GUNDERSON, HAHN, HUEBSCH, KELSO, KREUSER, F. LASEE, LASSA, J. LEHMAN, M. LEHMAN, MUSSER, NASS, OLSEN, OWENS, PLALE, POWERS, SERATTI, SKINDRUD, STASKUNAS and VRAKAS, cosponsored by Senators PLACHE, DARLING, ROSENZWEIG, COWLES, FITZGERALD, HUELSMAN, PANZER and WELCH. Referred to Committee on Children and Families.

1 **AN ACT to amend** 118.125 (5) (b), 938.396 (2) (ag), 938.396 (2) (am), 938.396 (2)
2 (gm), 938.396 (4), 938.396 (7) (am) and 938.396 (7) (c); and **to create** 938.342
3 (1r) of the statutes; **relating to:** the disclosure of juvenile records by a juvenile
4 court or a municipal court.

Analysis by the Legislative Reference Bureau

Under current law, records of the court assigned to exercise jurisdiction under the children's code and the juvenile justice code (juvenile court) and of a municipal court, subject to certain exceptions, are not open to inspection and their contents may not be disclosed except by order of the juvenile court. If, however, school attendance is a condition of a juvenile court dispositional order for a juvenile who is delinquent or in need of protection or services, current law requires the order to specify what constitutes a violation of the condition and to direct the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled to notify the county department of human services or social services that is responsible for supervising the juvenile of any violation of that condition. Current law also requires the juvenile court clerk to notify the school board or governing body of the fact that school attendance is a condition of the juvenile's dispositional order.

This bill requires a dispositional order of the juvenile court or of a municipal court that requires school attendance of a person who is truant or habitually truant to specify what constitutes a violation of that disposition and to 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 agency that is responsible for supervising the person

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or, if the person is not under the supervision of an agency, the juvenile court or municipal court of any violation of that disposition. The bill also requires the juvenile court clerk or the municipal court clerk to notify the school board or governing body of the fact that school attendance is a condition of the person's dispositional order.

Current law requires the juvenile court to open its records of a juvenile for inspection by certain persons under certain circumstances or for certain purposes. Those persons, and circumstances or purposes, include the parent, guardian or legal custodian of the juvenile or the juvenile, if 14 years of age or over, upon request of the parent, guardian, legal custodian or juvenile; any third person, upon the written permission of the parent, guardian or legal custodian of the juvenile or the juvenile, if 14 years of age or over; and any other juvenile court for purposes of proceedings in that other juvenile court.

This bill requires a municipal court to open its records of a juvenile for inspection by the parent, guardian or legal custodian of a juvenile or the juvenile, if 14 years of age or over, upon request of the parent, guardian, legal custodian or juvenile; by any third person, upon the written permission of the parent, guardian or legal custodian of the juvenile or the juvenile, if 14 years of age or over; or by any other municipal court or city, village or town attorney for purposes of proceedings in that other municipal court.

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

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

2 118.125 **(5)** (b) Law enforcement officers' records obtained under s. 48.396 (1)
3 or 938.396 (1) or (1m) ~~and~~, records of the court assigned to exercise jurisdiction under
4 chs. 48 and 938 obtained under s. 938.396 (7) (a), (am), (ar), (b) or (bm) and records
5 of a court exercising jurisdiction under s. 938.17 (2) obtained under s. 938.396 (7) (ar)
6 may not be used by a school district as the sole basis for expelling or suspending a
7 pupil or as the sole basis for taking any other disciplinary action, including action
8 under the school district's athletic code.

9 **SECTION 2.** 938.342 (1r) of the statutes is created to read:

10 938.342 **(1r)** If a person is ordered to attend school as a disposition under sub.
11 (1d) (a) or (1g) (g), the order shall specify what constitutes a violation of the
12 disposition and shall direct the school board of the school district, or the governing

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1 body of the private school, in which the person is enrolled to notify the court or, if the
2 person is under the supervision of an agency under sub. (1g) (j), the agency that is
3 responsible for supervising the person within 5 days after any violation of the
4 disposition by the person.

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

6 938.396 (2) (ag) Upon request of the parent, guardian or legal custodian of a
7 juvenile who is the subject of a record of a court ~~specified in par. (a)~~ assigned to
8 exercise jurisdiction under this chapter and ch. 48 or of a court exercising jurisdiction
9 under s. 938.17 (2), or upon request of the juvenile, if 14 years of age or over, the court
10 that is the custodian of the record shall open for inspection by the parent, guardian,
11 legal custodian or juvenile ~~the its records of the court~~ relating to that juvenile, unless
12 ~~the that~~ court finds, after due notice and hearing, that inspection of those records by
13 the parent, guardian, legal custodian or juvenile would result in imminent danger
14 to anyone.

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

16 938.396 (2) (am) Upon the written permission of the parent, guardian or legal
17 custodian of a juvenile who is the subject of a record of a court ~~specified in par. (a)~~
18 assigned to exercise jurisdiction under this chapter and ch. 48 or of a court exercising
19 jurisdiction under s. 938.17 (2), or upon written permission of the juvenile if 14 years
20 of age or over, the court that is the custodian of the record shall open for inspection
21 by the person named in the permission any records specifically identified by the
22 parent, guardian, legal custodian or juvenile in the written permission, unless ~~the~~
23 that court finds, after due notice and hearing, that inspection of those records by the
24 person named in the permission would result in imminent danger to anyone.

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

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1 938.396 (2) (gm) Upon request of any other court assigned to exercise
2 jurisdiction under this chapter and ch. 48, any other court exercising jurisdiction
3 under s. 938.17 (2), or a district attorney or, corporation counsel or city, village or
4 town attorney to review court records for the purpose of any proceeding in that other
5 court, the court shall open for inspection by any authorized representative of the
6 requester the records of the court relating to any juvenile who has been the subject
7 of a proceeding under this chapter.

8 **SECTION 6.** 938.396 (4) of the statutes is amended to read:

9 938.396 (4) When a court assigned to exercise jurisdiction under this chapter
10 and ch. 48 or a court exercising jurisdiction under s. 938.17 (2) revokes, suspends or
11 restricts a juvenile's operating privilege under this chapter, the department of
12 transportation shall may not disclose information concerning or relating to the
13 revocation, suspension or restriction to any person other than a court, assigned to
14 exercise jurisdiction under this chapter and ch. 48, a court exercising jurisdiction
15 under s. 938.17 (2), a district attorney, a county corporation counsel, a city, village
16 or town attorney, a law enforcement agency, or the juvenile whose operating privilege
17 is revoked, suspended or restricted, or his or her parent or guardian. Persons
18 entitled to receive this information may not disclose the information to other persons
19 or agencies.

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

21 938.396 (7) (am) Notwithstanding sub. (2) (a) and subject to par. (b), if a
22 juvenile is adjudged delinquent, within 5 days after the date on which the
23 dispositional order is entered, the court clerk shall notify the school board of the
24 school district, or the governing body of the private school, in which the juvenile is
25 enrolled or the designee of the school board or governing body of the fact that the

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1 juvenile has been adjudicated delinquent, the nature of the violation committed by
2 the juvenile and the disposition imposed on the juvenile under s. 938.34 as a result
3 of that the violation.

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

12 **SECTION 8.** 938.396 (7) (c) of the statutes is amended to read:

13 938.396 (7) (c) No information from the juvenile's court records, other than
14 information disclosed under par. (a), (am), (ar), (b) or (bm), may be disclosed to the
15 school board of the school district, or the governing body of the private school, in
16 which the juvenile is enrolled or the designee of the school board or governing body
17 except by order of the court. Any information provided under this subsection to the
18 school board of the school district, or the governing body of the private school, in
19 which the juvenile is enrolled or the designee of the school board or governing body
20 shall be disclosed by the school board, governing body or designee to employes of the
21 school district or private school who work directly with the juvenile or who have been
22 determined by the school board, governing body or designee to have legitimate
23 educational interests, including safety interests, in the information. A school district
24 or private school employe to whom information is disclosed under this paragraph
25 may not further disclose the information. A school board ~~shall~~ may not use any

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

11 (END)