

1999 DRAFTING REQUEST

Bill

Received: 08/26/1999

Received By: grantpr

Wanted: As time permits

Identical to LRB:

For: Assembly Republican Caucus

By/Representing: Matt Sande

This file may be shown to any legislator: NO

Drafter: grantpr

May Contact:

Alt. Drafters:

Subject: Education - school boards

Extra Copies: MJL

Pre Topic:

No specific pre topic given

Topic:

Surveys, analyses and evaluations of pupils

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	grantpr 08/26/1999	csicilia 08/31/1999 gilfokm 09/01/1999		_____			S&L
/1			kfollet 09/02/1999	_____	lrb_docadmin 09/02/1999	lrb_docadmin 09/08/1999	

FE Sent For:

09-10-99
"/1"

Requested
By
Matt
Sande

<END>

sent to
Rep Pettis

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1?	grantpr	1-9-1-99 kmq	kgf 9/2	kgf/ch 9/2			

FE Sent For:

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1995 ASSEMBLY BILL 693

Dueghers 9/2
LRB-3540/1
PG:Kmg
By 3 p.m.

November 21, 1995 - Introduced by Representatives GROTHMAN, WOOD, ALBERS, DUFF, FREESE, GOETSCH, GREEN, HAHN, KREIBICH, LADWIG, LAZICH, LEHMAN, NASS, OTTE, OURADA, OWENS, PORTER, SCHNEIDERS, SERATTI, WALKER and ZUKOWSKI, cosponsored by Senators WELCH, DRZEWIECKI, FITZGERALD, PETAK, SCHULTZ and ZIEN. Referred to Committee on Education.

- 1 **AN ACT to create** 118.135 of the statutes; **relating to:** surveys, analyses and
- 2 evaluations of pupils and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill requires school boards to make available to their pupils' parents or guardians all instructional material that will be used in connection with any survey, analysis or evaluation of pupils. The bill also prohibits any official, employe or agent of a school board from conducting any survey, analysis or evaluation of pupils that may reveal information with respect to a pupil or the pupil's family about political affiliations, mental or psychological problems, sexual behavior or attitudes, illegal or antisocial behavior, critical appraisals of family members, privileged relationships, income or religious beliefs or practices, without the pupil's written consent if he or she is an adult or emancipated minor, or without the written consent of the pupil's parent or guardian if the pupil is an unemancipated minor.

The bill directs each school board to annually notify the pupils enrolled in the school district and their parents or guardians of the above provisions. The bill provides a ~~civil~~ forfeiture for those school board officers, employes or agents who require pupils to participate in a survey, analysis or evaluation that may reveal the information specified above without the required consent, and also provides an enforcement mechanism.

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

(civil penalty)

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

- 3 **SECTION 1.** 118.135 of the statutes is created to read:

1 **118.135 Surveys, analyses and evaluations of pupils. (1)** INSTRUCTIONAL
2 MATERIALS AVAILABLE; CONSENT REQUIRED. (a) Each school board shall make available
3 for inspection by the parents and guardians of pupils enrolled in the school district
4 all instructional material, including teacher's manuals, films, tapes and other
5 supplementary material, that will be used in connection with any survey, analysis
6 or evaluation of pupils.

7 (b) No official, employe or agent of a school board may conduct any survey,
8 analysis or evaluation of pupils that may reveal information about any of the
9 following with respect to a pupil or the pupil's family without the written consent of
10 the pupil, if the pupil is an adult or an emancipated minor, or without the written
11 consent of the pupil's parent or guardian, if the pupil is an unemancipated minor:

- 12 1. Political affiliations.
- 13 2. Mental or psychological problems that may embarrass the pupil or the pupil's
14 family.
- 15 3. Sexual behavior or attitudes.
- 16 4. Illegal, antisocial, self-incriminating or demeaning behavior.
- 17 5. Critical appraisals of individuals with whom the pupil has close family
18 relationships.
- 19 6. Legally recognized privileged or analogous relationships, including
20 relationships with lawyers, physicians or members of the clergy.
- 21 7. Income, unless the information is required by law to determine eligibility for
22 participation in a program or for receiving financial assistance.
- 23 8. Religious beliefs or practices.

24 (c) An official, employe or agent of a school board shall obtain written consent
25 under par. (b) for each survey, analysis or evaluation conducted. In seeking consent,

1 the official, employe or agent shall explicitly describe, in writing, the specific survey,
2 analysis or evaluation to which the consent will apply.

3 (2) NOTICE. Annually each school board shall notify the pupils enrolled in the
4 school district and their parents or guardians of the provisions of sub. (1).

5 (3) PENALTY. Any person who knowingly violates sub. (1)(b) shall forfeit not less
6 than \$25 nor more than \$300 for each violation. Each survey, analysis or evaluation
7 of each pupil constitutes a separate violation.

8 (4) ENFORCEMENT. (a) Forfeitures under this section shall be enforced by action
9 on behalf of the state by the attorney general or, upon the verified complaint of any
10 person, by the district attorney of any county where a violation occurs. In actions
11 brought by the attorney general, the court shall award any forfeiture recovered
12 together with reasonable costs to the state; and in actions brought by the district
13 attorney, the court shall award any forfeiture recovered together with reasonable
14 costs to the county.

15 (b) In addition and supplementary to the remedy provided in sub. (3), the
16 attorney general or the district attorney may commence an action, separately or in
17 conjunction with an action brought under sub. (3), to obtain such other legal or
18 equitable relief, including ~~but not limited to~~ mandamus, injunction or declaratory
19 judgment, as may be appropriate under the circumstances.

20 (c) If the district attorney refuses or otherwise fails to commence an action to
21 enforce this section within 20 days after receiving a verified complaint, the person
22 making ~~such~~ ^{the} complaint may bring an action under par. ^s(a) and (b) on his or her
23 relation in the name, and on behalf, of the state. In such ^{an} actions, the court may award

1 actual and necessary costs of prosecution, including reasonable attorney fees to the
2 relator if he or she prevails, but any forfeiture recovered shall be paid to the state.

3 (END)

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 09/02/1999

To: Assembly Republican Caucus

Relating to LRB drafting number: LRB-3510

Topic

Surveys, analyses and evaluations of pupils

Subject(s)

Education - school boards

1. **JACKET** the draft for introduction

Mark L. Pettis

in the **Senate** _____ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Peter R. Grant, Managing Attorney
Telephone: (608) 267-3362