

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 474**

October 25, 1999 – Offered by Representatives NASS and PETTIS.

1 **AN ACT to create** 118.135 of the statutes; **relating to:** surveys and
2 questionnaires of pupils and providing a 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:

4 **118.135 Surveys and questionnaires of pupils. (1)** INSTRUCTIONAL
5 MATERIALS AVAILABLE; CONSENT REQUIRED. (a) Each school board shall make available
6 for inspection by the parents and guardians of pupils enrolled in the school district
7 all instructional material, including teacher’s manuals, films, tapes and other
8 supplementary material, that will be used in connection with any written or recorded
9 survey or questionnaire of pupils.

10 (b) No official, employe or agent of a school board may conduct any written or
11 recorded survey or questionnaire of pupils that may reveal information about any of
12 the following with respect to a pupil or the pupil’s family without the written consent

1 of the pupil, if the pupil is an adult or an emancipated minor, or without the written
2 consent of the pupil's parent or guardian, if the pupil is an unemancipated minor,
3 unless the primary purpose of the survey or questionnaire is academic:

4 1. Political affiliations.

5 2. Mental or psychological problems that may embarrass the pupil or the pupil's
6 family.

7 3. Sexual behavior or attitudes.

8 4. Illegal, antisocial, self-incriminating or demeaning behavior.

9 5. Critical appraisals of individuals with whom the pupil has close family
10 relationships.

11 6. Legally recognized privileged or analogous relationships, including
12 relationships with lawyers, physicians or members of the clergy.

13 7. Income, unless the information is required by law to determine eligibility for
14 participation in a program or for receiving financial assistance.

15 8. Religious beliefs or practices.

16 (c) An official, employe or agent of a school board shall obtain written consent
17 under par. (b) for each survey or questionnaire conducted. The official, employe or
18 agent shall mail a request for consent at least 10 days before conducting the survey
19 or questionnaire. In seeking consent, the official, employe or agent shall explicitly
20 describe, in writing, the specific survey or questionnaire to which the consent will
21 apply.

22 (d) No official, employe or agent of a school board may require a pupil to
23 participate in a survey or questionnaire that may reveal information about any of the
24 subjects specified in par. (b) if the pupil requests to discuss the content of the survey
25 or questionnaire with his or her parent or guardian before completing the survey or

1 questionnaire. The prohibition under this paragraph applies only the first time that
2 the pupil is requested to participate in the survey or questionnaire.

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 or questionnaire of each
7 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 mandamus, injunction or declaratory judgment, as may
19 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 the complaint may bring an action under pars. (a) and (b) on his or her
23 relation in the name, and on behalf, of the state. In such an action, the court may
24 award actual and necessary costs of prosecution, including reasonable attorney fees,

1 to the relator if he or she prevails, but any forfeiture recovered shall be paid to the
2 state.

3 **(5) SUNSET.** This section does not apply to any survey or questionnaire
4 conducted on or after the first day of the 36th month beginning after the effective date
5 of this subsection [revisor inserts date].

6 **(END)**