

1999 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB474)

Received: 10/14/1999

Received By: grantpr

Wanted: As time permits

Identical to LRB:

For: Stephen Nass (608) 266-5715

By/Representing: Jane Henkel

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 or questionnaires 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>
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/2	grantpr 10/20/1999	chanaman 10/20/1999	martykr 10/20/1999	_____	lrb_docadmin 10/20/1999	lrb_docadmin 10/20/1999	

FE Sent For:

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FE Sent For:

<END>

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

September 22, 1999 – Offered by COMMITTEE ON CHILDREN AND FAMILIES.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 1: delete the material beginning with “, analyses” and ending
3 with “evaluations” on line 2 and substitute “and questionnaires”.

4 **2.** Page 2, line 2: delete “, **analyses and evaluations**” and substitute “**and**
5 **questionnaires**”.

6 **3.** Page 2, line 6: delete the material beginning with “survey” and ending with
7 “evaluation” on line 7 and substitute “written or recorded survey or questionnaire”.

8 **4.** Page 2, line 8: delete the material beginning with “survey,” and ending with
9 “evaluation” on line 9 and substitute “written or recorded survey or questionnaire”.

10 **5.** Page 2, line 12: after “minor” insert “, unless the primary purpose of the
11 survey or questionnaire is academic”.

12 **6.** Page 3, line 5: on lines 5 and 11, delete “, analysis or evaluation” and
13 substitute “or questionnaire”.

LRB 3516/1
PK
CmH

A. SUBST. AMPT.
TO 1999 ASSEMBLY BILL 474

Soon

September 20, 1999 - Introduced by Representatives PETTIS, GROTHMAN, HUNDERTMARK, LADWIG, SKINDRUD, JENSEN, GARD, KEDZIE, AINSWORTH, ALBERS, GUNDRUM, HAHN and HUEBSCH, cosponsored by Senators WELCH and FARROW. Referred to Committee on Children and Families.

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AN ACT to create 118.135 of the statutes; relating to: surveys ~~and~~ and questionnaires and 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 notify annually the pupils enrolled in the school district and their parents or guardians of the above provisions. The bill provides a forfeiture (civil penalty) 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.

ASSEMBLY BILL 474

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

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

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

2 118.135 ~~Surveys~~ *analyses and evaluations* of pupils. (1) INSTRUCTIONAL

3 MATERIALS AVAILABLE; CONSENT REQUIRED. (a) Each school board shall make available

4 for inspection by the parents and guardians of pupils enrolled in the school district

5 all instructional material, including teacher's manuals, films, tapes and other

6 supplementary material, that will be used in connection with any *written or recorded* survey ~~analysis~~

7 ~~or evaluation~~ *questionnaire* of pupils. *written or recorded*

8 (b) No official, employe or agent of a school board may conduct any *survey* ~~or~~

9 ~~analysis or evaluation~~ *questionnaire* of pupils that may reveal information about any of the

10 following with respect to a pupil or the pupil's family without the written consent of

11 the pupil, if the pupil is an adult or an emancipated minor, or without the written

12 consent of the pupil's parent or guardian, if the pupil is an unemancipated minor:

13 1. Political affiliations.

14 2. Mental or psychological problems that may embarrass the pupil or the pupil's

15 family.

16 3. Sexual behavior or attitudes.

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

18 5. Critical appraisals of individuals with whom the pupil has close family
19 relationships.

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

Unless the primary purpose of the survey or questionnaire is academic

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

3 8. Religious beliefs or practices.

4 (c) An official, employe or agent of a school board shall obtain written consent
5 under par. (b) for each survey, ~~analysis or evaluation~~ ^{questionnaire} conducted. In seeking consent,

6 the official, employe or agent shall explicitly describe, in writing, the specific survey
7 ~~analysis or evaluation~~ ^{questionnaire} to which the consent will apply.

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

10 (3) PENALTY. Any person who knowingly violates sub. (1) (b) shall forfeit not less
11 than \$25 nor more than \$300 for each violation. Each survey ~~analysis or evaluation~~ ^{questionnaire}
12 of each pupil constitutes a separate violation.

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

20 (b) In addition and supplementary to the remedy provided in sub. (3), the
21 attorney general or the district attorney may commence an action, separately or in
22 conjunction with an action brought under sub. (3), to obtain such other legal or
23 equitable relief, including mandamus, injunction or declaratory judgment, as may
24 be appropriate under the circumstances.

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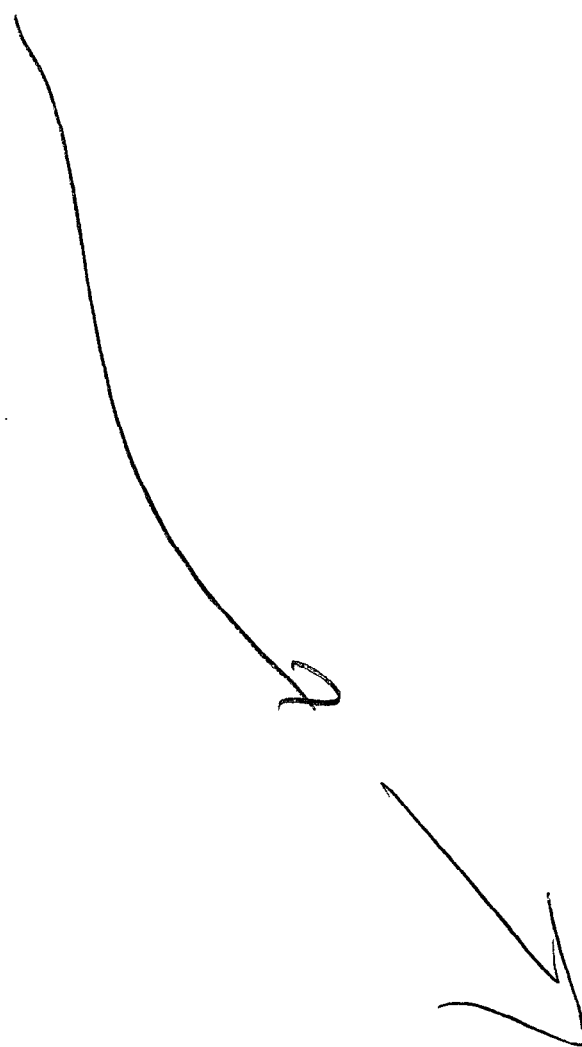
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1 (c) If the district attorney refuses or otherwise fails to commence an action to
2 enforce this section within 20 days after receiving a verified complaint, the person
3 making the complaint may bring an action under pars. (a) and (b) on his or her
4 relation in the name, and on behalf, of the state. In such an action, the court may
5 award actual and necessary costs of prosecution, including reasonable attorney fees,
6 to the relator if he or she prevails, but any forfeiture recovered shall be paid to the
7 state.

8

~~(END)~~



CS
① ② { (S) SUNSET. This section does not
apply to any survey ^{or} or questionnaire
conducted ^{on} on ^{or} or ^{after} after the first day
of the 36th month beginning after
the effective date of this subsection. [Even/Date] ^{inserts}
A A

(End)

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**ASSEMBLY AMENDMENT 5,
TO 1999 ASSEMBLY BILL 474**

September 30, 1999 – Offered by Representative DUFF.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 7: after that line insert:

3 “(d) No official, employe or agent of a school board may require a pupil to
4 participate in a survey or questionnaire that may reveal information about any of the
5 subjects specified in par. (b) if the pupil requests to discuss the content of the survey
6 or questionnaire with his or her parent or guardian before completing the survey or
7 questionnaire. The prohibition under this paragraph applies only the first time that
8 the pupil is requested to participate in the survey or questionnaire.”

9 (END) of insert

Soon

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

repeal

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. In seeking consent, the
18 official, employe or agent shall explicitly describe, in writing, the specific survey or
19 questionnaire to which the consent will apply.

20 (d) No official, employe or agent of a school board may require a pupil to
21 participate in a survey or questionnaire that may reveal information about any of the
22 subjects specified in par. (b) if the pupil requests to discuss the content of the survey
23 or questionnaire with his or her parent or guardian before completing the survey or
24 questionnaire. The prohibition under this paragraph applies only the first time that
25 the pupil is requested to participate in the survey or questionnaire.

INSERT
2-17

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

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

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

13 (b) In addition and supplementary to the remedy provided in sub. (3), the
14 attorney general or the district attorney may commence an action, separately or in
15 conjunction with an action brought under sub. (3), to obtain such other legal or
16 equitable relief, including mandamus, injunction or declaratory judgment, as may
17 be appropriate under the circumstances.

18 (c) If the district attorney refuses or otherwise fails to commence an action to
19 enforce this section within 20 days after receiving a verified complaint, the person
20 making the complaint may bring an action under pars. (a) and (b) on his or her
21 relation in the name, and on behalf, of the state. In such an action, the court may
22 award actual and necessary costs of prosecution, including reasonable attorney fees,
23 to the relator if he or she prevails, but any forfeiture recovered shall be paid to the
24 state.

**ASSEMBLY AMENDMENT 6,
TO 1999 ASSEMBLY BILL 474**

September 30, 1999 - Offered by Representative F. LASEE.

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At the locations indicated, amend the bill as follows:

1. Page 3, line 5: after "conducted." insert "The official, employe or agent shall mail a request for consent at least 10 days before conducting the survey ~~and~~ or

questionnaire
evaluation.

no 9

period
stays

no 9

INSERT
2-17

(END)