

1999 DRAFTING REQUEST

Bill

Received: **09/22/1999**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Daniel Vrakas (608) 266-3007**

By/Representing: **Brian Pleva**

This file may be shown to any legislator: NO

Drafter: **malaigm**

May Contact:

Alt. Drafters:

Subject: **Employ Priv - miscellaneous**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Confidentiality of employe personnel records

Instructions:

See Attached--require union representative who inspects an employe's personnel records to keep those records confidential except as authorized by the employe

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>
I?	malaigm 09/23/1999	wjackson 09/23/1999		_____			
/1			martykr 09/23/1999	_____	lrb_docadmin 09/23/1999		
/2	malaigm 09/30/1999	wjackson 10/01/1999	jfrantze 10/01/1999	_____	lrb-docadmin 10/01/1999	lrb-docadmin 10/08/1999	

FE Sent For:

<END>

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/1			martykr 09/23/1999	_____	lrb_docadmin 09/23/1999		
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FE Sent For:			<i>Jo/ol</i>	<i>Jo/mc</i> <i>10/1</i>			

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/?	malaigm	1 wlj 9/23	km 9/23	km 9/23			

FE Sent For:

<END>



State Representative Dan Vrakas
Majority Caucus Chair

MEMORANDUM

TO: Gordon M. Malaise

FROM: Brian Pleva

DATE: September 22, 1999

RE: Draft Request

Assembly Bill 43 1, which was recently introduced, “provides that all documents reviewed by a notary public while performing the duties of a notary public and the information contained in those documents are confidential and may be released by the notary public only with the written consent of the person who requested the notary public’s services.”

Rep. Vrakas would like an Assembly Bill drafted that provides the same written consent requirement for *Wisconsin Statutes Sec. 103.13(3)* relating to records open to employees. In other words, provide that all documents reviewed by the designated representative while performing the duties of a designated representative and the information contained in those documents are confidential and may be released by the designated representative ^{only} with the written consent of the person who requested the designated representative’s services.”

Thank you very much.

1999 ASSEMBLY BILL 431

August 19, 1999 - Introduced by Representatives **STASKUNAS, SCHNEIDER, HUEBSCH, KELSO, GOETSCH, STONE, PETTIS, SERATTI, RYBA, LADWIG, M. LEHMAN, MUSSER, J. LEHMAN, F. LASEE, SYKORA, COGGS, NASS, MEYERHOFER, HASENOHRL** and **KEDZIE**, cosponsored by Senators **ROESSLER, RUDE, HUELSMAN** and **FARROW**. Referred to Committee on Judiciary and Personal Privacy.

1 **AN ACT to create** 137.01 (5m) of the statutes; **relating to:** confidentiality of
2 documents reviewed by notary publics.

Analysis by the Legislative Reference Bureau

Under current law, notary publics are asked to attest to a person's signature on various documents, including deeds and other conveyances, may administer oaths, take depositions and acknowledgements of deeds, accept inland bills of exchange and perform other duties related to the office of notary public. This bill provides that all documents reviewed by a notary public while performing the duties of a notary public and the information contained in those documents are confidential and may be released by the notary public only with the written consent of the person who requested the notary public's services.

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

3 **SECTION 1.** 137.01 (5m) of the statutes is created to read:

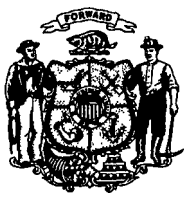
4 **137.01 (5m) CONFIDENTIALITY.** All documents and the information contained
5 in any documents reviewed by a notary public while performing his or her duties as
6 a notary public shall be confidential and may be released by the notary public only

ASSEMBLY BILL 431

SECTION 1

1 with the written consent of the person who requested the services of the notary
2 public. Any notary public violating this subsection shall be subject to the provisions
3 of sub. (8) and may be required to forfeit not more than \$500.

4 (END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3651/?

GMM...../.....

WLj

Gen Cat

1 AN ACT ...; relating to: confidentiality of an employe's personnel records that are
2 inspected by a designated representative of the employe and providing a
3 penalty.

Analysis by the Legislative Reference Bureau

Under current law, subject to certain exceptions, an employer, on the request of an employe, must permit the employe to inspect the employe's personnel records. Current law also permits an employe who is involved in a grievance against his or her employer to designate a representative of the employe's union or collective bargaining unit or some other designated representative to inspect the employe's personnel records that may have a bearing on the resolution of the grievance. This bill requires a designated representative of an employe who inspects the employe's personnel records to keep those personnel records confidential and permits the designated representative to disclose those personnel records only with the consent of the employe who is the subject of the records. *personnel*

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

4 SECTION 1. 103.13 (3) of the statutes is amended to read:
5 103.13 (3) PERSONNEL RECORD INSPECTION BY REPRESENTATIVE. An employe who
6 is involved in a current grievance against the employer may designate in writing a

1 representative of the employe's union, collective bargaining unit or other designated
2 representative to inspect the employe's personnel records which may have a bearing
3 on the resolution of the grievance, except as provided in sub. (6). The employer shall
4 allow such a designated representative to inspect that employe's personnel records
5 in the same manner as provided under sub. (2). A designated renrepresentative who
6 inspects any nersonnel records under this subsection[✓] shall keen those nersonnel
7 records and the information contained in those nersonnel records confidential and
8 may disclose those personnel records or any information contained in those
9 personnel records only with the consent of the employe who is the subject of the
10 personnel records. Any nerson who discloses^(any) personnel records or any information
11 contained in any nersonnel records in violation of this subsection shall be liable to
12 the nerson iniured bv that disclosure for all damages sustained by reason of that
13 disclosure and maybe required to forfeit not more than \$500.

14 History: 1979 c. 339; 1981 c. 164; 1983 a. 189 ss. 153,329 (4); 1989 a. 228; 1995 a. 27.

(END)

Majority Caucus Chair

Chair: Assembly Committee on Labor & Employment
Assembly Chair: Joint Survey Committee on Retirement Systems

MEMORANDUM

TO: Gordon M. Malaise
FROM: Brian Pleva
DATE: September 28, 1999
RE: LRB-3651/1

Please make the following changes to the aforementioned (and attached) draft:

- On page 1, line six of the draft delete “designate” and replace it with “consent”, and then delete the word “a” on that line.
- On page 2, line one insert the words “to allow a” before the word “representative”. In other words the sentence would read “may consent in writing to allow a representative.”
- ✍ On line 10, delete the word “person” and replace it with the words “designated representative.”

Thank you very much.



DNote

1999 BILL

SOON

an authorized

an authorized

1 **AN ACT to amend** 103.13 (3) of the statutes; **relating to:** confidentiality of an
 2 employe's personnel records that are inspected by a ~~designated~~ representative
 3 of the employe and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, subject to certain exceptions, an employer, on the request of an employe, must permit the employe to inspect the employe's personnel records. Current law also permits an employe who is involved in a grievance against his or her employer to designate a representative of the employe's union or collective bargaining unit or some other designated representative to inspect the employe's personnel records that may have a bearing on the resolution of the grievance. This bill requires a ~~designated~~ representative of an employe who inspects the employe's personnel records to keep those personnel records confidential and permits the ~~designated~~ representative to disclose those personnel records only with the consent of the employe who is the subject of the personnel records.

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

4 **SECTION 1.** 103.13 (3) of the statutes is amended to read:
 5 **103.13 (3) PERSONNEL RECORD INSPECTION BY REPRESENTATIVE.** An employe who
 6 is involved in a current grievance against the employer may ~~designate~~ in writing a

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an authorized

designated representative

SECTION 1

authorized

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representative of the employee's union, collective bargaining unit or other ~~designated~~ authorized representative to inspect the employee's personnel records which may have a bearing on the resolution of the grievance, except as provided in sub. (6). The employer shall allow such a ~~designated~~ authorized representative to inspect that employee's personnel records in the same manner as provided under sub. (2). A designated representative who inspects any personnel records under this subsection shall keep those personnel records and the information contained in those personnel records confidential and may disclose those personnel records or any information contained in those personnel records only with the consent of the employee who is the subject of the personnel records. Any person who discloses any personnel records or any information contained in any personnel records in violation of this subsection shall be liable to the person injured by that disclosure for all damages sustained by reason of that disclosure and may be required to forfeit not more than \$500.

(END)

An authorized



Section #. 103.13 (5) of the statutes is amended to read:

authorized

103.13 (5) **MEDICAL RECORDS INSPECTION.** The right of the employe or the employe's ~~designated~~ representative under sub. (3) to inspect personnel records under this section includes the right to inspect any personal medical records concerning the employe in the employer's files. If the employer believes that disclosure of an employe's medical records would have a detrimental effect on the employe, the employer may release the medical records to the employe's physician or through a physician designated by the employe, in which case the physician may release the medical records to the employe or to the employe's immediate family.

History: 1979 c. 339; 1981 c. 164; 1983 a. 189 ss. 153,329 (4); 1989 a. 228; 1995 a. 27.

(Intro.) ✓

Section #. 103.13 (6) of the statutes is amended to read:

(Intro.)

authorized

103.13 (6) ~~EXCEPTIONS~~ The right of the employe or the employe's ~~designated~~ representative under sub. (3) to inspect his or her personnel records does not apply to:

- ~~(a) Records relating to the investigation of possible criminal offenses committed by that employe.~~
- ~~(b) Letters of reference for that employe.~~
- ~~(c) Any portion of a test document, except that the employe may see a cumulative total test score for either a section of the test document or for the entire test document.~~
- ~~(d) Materials used by the employer for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for the employer's planning purposes.~~
- ~~(e) Information of a personal nature about a person other than the employe if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.~~
- ~~(f) An employer who does not maintain any personnel records.~~
- ~~(g) Records relevant to any other pending claim between the employer and the employe which may be discovered in a judicial proceeding.~~

History: 1979 c. 339; 1981 c. 164; 1983 a. 189 ss. 153,329 (4); 1989 a. 228; 1995 a. 27.

(End)

Dnste

D-Note

If "designate" at page 1, line 6, is deleted, later

references to "designated representative" no longer work.

Accordingly, this redraft provides that "an employee may

authorize a representative, rather than "consent to allow

a representative" which is a rather awkward construction,

and substitutes "authorized representative" for

"designated representative" wherever found.

~~GMM~~

Please contact me if this approach presents a problem.

GMM

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-365 1/2dn
GMM:wlj:jf

October 1, 1999

If "designate" at page 1, line 6, is deleted, later references to "*designated* representative" no longer work. Accordingly, this redraft provides that "an employe may *authorize* a representative", rather than "consent to allow a representative," which is a rather awkward construction, and substitutes "authorized representative" for "designated representative" wherever found.

Please contact me if this approach presents a problem.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: Gordon.Malaise@legis.state.wi.us

**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: 10/01/1999

To: Representative Vrakas

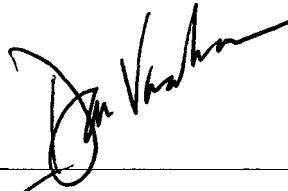
Relating to LRB drafting number: LRB-3651

Topic

Confidentiality of employe personnel records

Subject(s)

Employ Priv - miscellaneous



1. **JACKET** the draft for introduction _____

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.

Gordon M. Malaise, Senior Legislative Attorney
Telephone: (608) 266-9738