

2001 DRAFTING REQUEST

Bill

Received: 12/05/2000

Received By: grantpr

Wanted: As time permits

Identical to LRB:

For: Mark Pettis (608) 267-2365

By/Representing:

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 and questionnaires of pupils

Instructions:

ASA 1 to 99 AB 474, with AA 8

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 12/06/2000	hhagen 12/06/2000		_____			S&L
/1			martykr 12/08/2000	_____	gretskl 12/08/2000	lrb_docadminS&L 01/12/2001	
/2	grantpr 01/23/2001	hhagen 01/24/2001	pgreensl 01/24/2001	_____	lrb_docadmin 01/24/2001	lrb_docadmin 01/24/2001	

FE Sent For:

<END>

02-08-01

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/?	grantpr 12/06/2000	hhagen 12/06/2000		<del>1/24</del>			S&L
/1		1/2 kmh 1/24/01	martykr 12/08/2000	<del>self</del>	gretskl 12/08/2000	lrb_docadmin 01/12/2001	

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1/24  
p6

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1?	grantpr	11 hmb 12/6/00	km 12 7	27 12 km 8			

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LAB-1340/1  
PG: kmh

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

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

*Regenerate*

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

*see attached analysis*

*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<sup>e</sup> 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<sup>e</sup> or agent of a school board shall obtain ~~written~~ consent  
17 under par. (b) for each survey or questionnaire conducted. The official, employe<sup>e</sup> or  
18 agent shall mail <sup>a copy of the survey or questionnaire along with</sup> 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~~ (2-2)

22 (d) No official, employe<sup>e</sup> 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~~<sup>penalty</sup> 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)



# 1999 ASSEMBLY BILL 474

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.

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

written or recorded

or questionnaire

### 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, employee 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, employees 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.

INS. A

B

or questionnaire

individuals with whom the family has close family relationships

Insert

A

① The bill requires consent  
~~Consent is required~~ for each survey or  
questionnaire that is conducted. A request  
~~considered to have been given if the~~  
~~pupil's parent or guardian fails to respond~~  
~~to the request for~~ <sup>consent</sup> ~~is~~ <sup>must</sup>  
~~must be mailed~~ along with a copy of  
the survey or questionnaire <sup>must be mailed</sup>  
~~at least~~ ~~to~~ ten days before <sup>conducting</sup>  
the survey or questionnaire. <sup>Consent</sup> ~~Consent~~ is  
considered to have been given if the <sup>pupil or the</sup> ~~pupil's~~  
parent or guardian fails to respond to the  
request ~~at least~~ ~~ten~~ before the date of  
the survey or questionnaire.

~~§ The bill is~~

end of insert "A"

Insert  
(B)

(A) The bills <sup>provisions</sup> ~~provisions~~ sunset three  
years after they are enacted.

FE - 5L

**ASSEMBLY AMENDMENT 8,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1999 ASSEMBLY BILL 474**

November 9, 1999 - Offered by Representative PETTIS.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1, line 12: delete "written".

3 **2.** Page 2, line 1: delete "written".

4 **3.** Page 2, line 16: delete "written".

5 **4.** Page 2, line 18: after "mail" insert "a copy of the survey or questionnaire  
6 along with".

7 **5.** Page 2, line 19: delete the material beginning with "In" and ending with  
8 "apply." on line 21 and substitute "Consent shall be considered to have been given  
9 under par. (b) if the pupil or the pupil's parent or guardian fails to respond to the  
10 request before the date of the survey or questionnaire."  
11

(END)

2-21



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

STEPHEN R. MILLER  
CHIEF

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

December 8, 2000

### MEMORANDUM

To: Representative Pettis

From: Peter R. Grant, Managing Attorney

Re: LRB-1340 Surveys and questionnaires of pupils

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

~~\_\_\_\_\_~~ JACKET FOR ASSEMBLY \_\_\_\_\_ JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-3362 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-1340/1

PG:kmh:km

Lstays

SOON

PP-2 x 4

**2001 BILL**

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The bill requires consent for each survey or questionnaire that is conducted. A request for consent, along with a copy of the survey or questionnaire, must be mailed at least ten days before conducting the survey or questionnaire. Consent is considered to have been given if the pupil or the pupil's parent or guardian fails to respond to the request before the date of the survey or questionnaire.

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, employees, or agents who require pupils to participate in a survey or questionnaire that may reveal

**BILL**

the information specified above without the required consent, and also provides an enforcement mechanism.

~~The bill's provisions sunset three years after they are enacted.~~

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

---

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

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7 survey or questionnaire of pupils.

8           (b) No official, employee, or agent of a school board may conduct any written  
9 or recorded survey or questionnaire of pupils that may reveal information about any  
10 of the following with respect to a pupil or the pupil's family without the consent of  
11 the pupil, if the pupil is an adult or an emancipated minor, or without the consent  
12 of the pupil's parent or guardian, if the pupil is an unemancipated minor, unless the  
13 primary purpose of the survey or questionnaire is academic:

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16 family.

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**BILL**

1           5. Critical appraisals of individuals with whom the pupil has close family  
2 relationships.

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4 relationships with lawyers, physicians, or members of the clergy.

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

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



**BILL**

1           (4) ENFORCEMENT. (a) Forfeitures under this section shall be enforced by action  
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19 state.

20           ~~(5) SUNSET. This section does not apply to any survey or questionnaire~~  
21 ~~conducted on or after the first day of the 36th month beginning after the effective date~~  
22 ~~of this subsection .... [reviser inserts date].~~

23           (END)