

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2001 ASSEMBLY BILL 175**

April 3, 2001 – Offered by Representative POWERS.

1     **AN ACT** *to create* 19.32 (1bg), (1dm) (2g) and (4), 19.356 and 40.07 (4) of the  
2             statutes; **relating to:** access to public employee personnel records and certain  
3             other public records containing personally identifiable information.

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

4             **SECTION 1.** 19.32 (1bg), (1dm), (2g) and (4) of the statutes are created to read:  
5             19.32 **(1bg)** “Employee” means an individual who is employed by an authority,  
6             other than an individual holding a local public office or a state public office, or any  
7             individual who is employed by an employer other than an authority.

8             **(1dm)** “Local public office” has the meaning given in s. 19.42 (7w).

9             **(2g)** “Record subject” means an individual about whom personally identifiable  
10            information is contained in a record.

11            **(4)** “State public office” has the meaning given in s. 19.42 (13), but does not  
12            include a position identified in s. 20.923 (6) (f) to (gm).

1           **SECTION 2.** 19.356 of the statutes is created to read:

2           **19.356 Notice to record subject; right of action. (1)** Except as authorized  
3 in this section or as otherwise provided by statute, no authority is required to notify  
4 a record subject prior to providing to a requester access to a record containing  
5 information pertaining to that record subject, and no person is entitled to judicial  
6 review of the decision of an authority to provide a requester with access to a record.

7           **(2)** (a) Except as provided in par. (b) and except as otherwise required by law,  
8 an authority shall, before permitting access and within 72 hours after making a  
9 decision to permit access to a record, notify any record subject to whom the record  
10 pertains, either by certified mail with return receipt signed by the addressee or by  
11 personally serving the notice on the record subject, if the record contains any of the  
12 following:

13           1. Information concerning the authority's investigation into a disciplinary  
14 matter relating to an employee or a possible violation by an employee of a policy of  
15 the employee's employer, or of a statute, rule, regulation, or ordinance or in  
16 connection with the employee's employment.

17           2. Information prepared or provided by an employer concerning the home  
18 address or telephone number, or the social security account number, of an employee  
19 of that employer, if the employee expressly requests that the authority not provide  
20 access to that information.

21           3. Information relating to one or more employees that is used by the authority  
22 or by the employer of the employees for staff management planning or employee  
23 evaluation, including employee performance evaluations, judgments or  
24 recommendations concerning future salary adjustments or other employee wage

1 treatments, management employee bonus plans, promotions, job assignments,  
2 letters of reference, or other comments or ratings relating to individual employees.

3 4. Information pertaining to an employee's employment examination, except  
4 an examination score if access to that score is not otherwise prohibited.

5 (b) Paragraph (a) does not apply to an authority who provides access to a record  
6 pertaining to an employee to the employee who is the subject of the record or to his  
7 or her representative to the extent required under s. 103.13 or to a collective  
8 bargaining representative to the extent required to fulfill a duty to bargain or  
9 pursuant to a collective bargaining agreement under ch. 111.

10 (3) The notice under sub. (2) (a) shall briefly describe the requested record and  
11 include a description of the rights of the record subject under this section.

12 (4) Within 5 days after receipt of a notice under sub. (2) (a), any record subject  
13 may provide written notification to the authority of his or her intent to seek a court  
14 order restraining the authority from providing access to the requested record.

15 (5) Within 10 days after receipt of a notice under sub. (2) (a), any record subject  
16 may commence an action seeking a court order to restrain the authority from  
17 providing access to the requested record. If a record subject commences such an  
18 action, the record subject shall name the authority as a defendant. The record  
19 subject shall also join the requester as a party to the action under s. 803.03.

20 (6) An authority shall not provide access to a requested record within 12 days  
21 of sending a notice pertaining to that record under sub. (2) (a). In addition, if the  
22 record subject commences an action under sub. (5), the authority shall not provide  
23 access to the requested record during pendency of the action. If the record subject  
24 appeals or petitions for review of a decision of the court or the time for appeal or  
25 petition for review of a decision adverse to the record subject has not expired, the

1 authority shall not provide access to the requested record until any appeal is decided,  
2 until the period for appealing or petitioning for review expires, until a petition for  
3 review is denied, or until the authority receives written notice from the record subject  
4 that an appeal or petition for review will not be filed, whichever occurs first.

5 (7) If the record subject demonstrates that the harm to his or her privacy or  
6 reputational interests caused by disclosure of the information contained in the  
7 requested record outweighs the public interest in disclosure of that information, the  
8 court shall restrain the authority from providing access to that record under s. 19.35  
9 (1).

10 (8) The court shall not grant any request by a requester to delay the  
11 proceedings. The court shall issue a decision within 10 days after the filing of the  
12 summons and complaint and proof of service of the summons and complaint upon the  
13 defendant and the requester, unless a party demonstrates cause for extension of this  
14 period. In any event, the court shall issue a decision within 30 days after those filings  
15 are complete.

16 (9) If a party appeals a decision of the court under sub. (8), the court of appeals  
17 shall grant precedence to the appeal over all other matters not accorded similar  
18 precedence by law.

19 **SECTION 3.** 40.07 (4) of the statutes is created to read:

20 40.07 (4) Section 19.356 does not apply to any request for information described  
21 in this section.

22 (END)