

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

INS
RJM

LRB

~~INSERT~~

~~SECTION 1. Initial applicability.~~

~~(1) CREDIT CARD RECORDS. The treatment of section 138.25 of the statutes first applies to a person who is subject to a contract that contains provisions inconsistent with that treatment on the day on which the contract expires or is extended, modified, or renewed, whichever first occurs.~~

2001

INSERT 44-24

1072

FFF

LRB _____/_____/_____

Nonstat File Sequence:

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → *NS: → **effdate**
For the text, execute: **create** → **text:** → *NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # _____ . **Effective date.**

(#1) () This act takes effect on

1. In the component bar: For the action phrase, execute: .. **create** → **action:** → *NS: → **effdateE**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # _____ . **Effective dates;**

..... This act takes effect on the day after publication, except as follows:
(#1) () The treatment of sections of the statutes takes effect on

1. In the component bar: For the budget action phrase, execute:..**create** → **action:** → *NS: → **94XX**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9400 department code.

SECTION 94 [✓]2 [✓]3 . **Effective dates;** .. [Ⓟ]health and

..... [Ⓞ]family services
(#1) [Ⓞ]WIA [Ⓞ]use [Ⓞ]of [Ⓞ]social security numbers [Ⓞ]BY HEALTH CARE PROVIDERS
section [✓]146.833 The treatment of
of the statutes takes effect on .. [✓]the first day of the 7th month
..... [✓]beginning after publication



2001

Insert 44-24 cont'd

282

Nonstat File Sequence: **FFF**

LRB _____/_____/_____

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → *NS: → **effdate**
For the text, execute: **create** → **text:** → *NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # _____ . **Effective date.**

(#1) (.) This act takes effect on

1. In the component bar: For the action phrase, execute: .. **create** → **action:** → *NS: → **effdateE**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # _____ . **Effective dates;**

..... This act takes effect on the day after publication, except as follows:
(#1) (.) The treatment of sections of the statutes takes effect on

1. In the component bar: For the budget action phrase, execute:..**create** → **action:** → *NS: → **94XX**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9400 department code.

SECTION 94 2 [✓] 7 . **Effective dates;** insurance [ⓑ].....

..... [Ⓒ].....
(#1) Use of social security numbers by insurers. The treatment of sections 610.75 and 632.725 (2)(d) of the statutes takes effect on the first day of the 7th month beginning after publication [ⓐ].....

(end of ins. 44-24)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

RNK /
LRB-0997/P1dn
GMM, RJM MJL:..jf&hh
DAKE PJD
TPK

April 2, 2001

bill, if enacted,

which the
bill
incorporates,

Representative Schneider:

* In reviewing this bill you will note that it makes certain changes to 1997 AB-796 in
* ~~Amendment~~ to bolster the constitutionality of the draft in the face of a likely challenge that
the ~~draft~~ unconstitutionally impairs the freedom of commercial speech of a person who
wishes to disclose or receive personally identifiable information for commercial
purposes without the consent of the individual who is the subject of the information.

Commercial speech, that is, "expression related solely to the economic interests of the
speaker and its audience," *Central Hudson Gas v. Public Service Commission of N.Y.*,
100 S. Ct. 2343 (1980), is protected under the First Amendment to the U.S.
Constitution because 1) the fact that the speaker's interest is purely economic does not
disqualify the speaker from protection under the First Amendment; and 2) both the
particular recipient of the commercial communication and ~~the~~ society in general have
a strong interest in the free flow of commercial information. *Virginia State Board of
Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 96 S. Ct. 1817, 1826-27 (1976).

The U.S. Supreme Court has devised the following four-part analysis to determine
whether a state action abridges a person's freedom of commercial speech:

"At the outset, we must determine whether the expression is protected by the
First Amendment. For commercial speech to come within that provision, it at
least must concern lawful activity and not be misleading. Next, we must ask
whether the asserted governmental interest is substantial. If both inquiries
yield positive answers, we must determine whether the regulation directly
advances the governmental interest asserted, and whether it is not more
extensive than is necessary to serve that interest."

Central Hudson at p. 2351.

The first two parts of that analysis do not appear to be particularly troublesome. The
disclosure of truthful information about an individual is a lawful activity; therefore,
that disclosure appears to be protected by the First Amendment. On the other hand,
the state appears to have a substantial interest in protecting the privacy of its citizens.

The third part of the *Central Hudson* analysis, that is, whether the regulation directly
advances the governmental interest asserted, poses a problem for certain provisions
of 1997 AB-796 especially when read in light of a recent U.S. Court of Appeals case,
United Reporting Publishing Corp. v. California Highway Patrol, 146 F. 3d 1133 (9th

that the bill incorporates

Cir. 1998), which was recently reversed and remanded on other grounds by the U.S. Supreme Court in *Los Angeles Police Department v. United Reporting Publishing Corp.*, 120 S. Ct. 483 (1999). In *United Reporting*, the 9th Circuit held that a California law that prohibited law enforcement agencies from releasing the addresses of arrestees to entities with a commercial purpose, but which provided for numerous exceptions, including private investigators and entities with a scholarly, journalistic, political, or governmental purpose, did not directly advance the state's purported privacy interest and, therefore, violated the First Amendment. The 9th Circuit found that the numerous exceptions so undermined the state's purported privacy interest that the law did not rationally advance that interest.

Similarly, the definition of "commercial purpose" in ~~1997 AB 796~~ ^{this bill} contains such broad exceptions that arguably the bill does not advance the state's privacy interest. Specifically, that definition excludes the gathering and reporting of news and the communication of information for any political, lobbying, charitable, or religious purpose. Given such broad exceptions, it does not advance the state's privacy interest to prohibit the disclosure without consent of personally identifiable information about a person for a commercial purpose, yet to allow that information to be disclosed without consent for those other broad purposes. Accordingly, this draft deletes the exceptions for the gathering and reporting of news and for the communication of information for political, lobbying, charitable, or religious purposes. ~~the bill's~~

Moreover, ~~1997 AB 796~~ ^{the bill} also arguably does not directly advance the state's privacy interest due to ~~an~~ anomalous dual system ~~created in the bill~~ with respect to the disclosure of public records. Specifically, in ~~1997 AB 796~~ the state is prohibited from selling personally identifiable information for a commercial purpose without consent, yet is not prohibited from disclosing the very same information for the very same purpose under the open records law. Instead, the bill places the burden of obtaining consent for the commercial use or disclosure of personally identifiable information obtained under the open records law on the person obtaining the information. Given this anomaly, it does not advance the state's privacy interest to permit a requester to whom the state is prohibited from selling information for a commercial purpose to turn around and obtain the same information for the same purpose under the open records law. Accordingly, this draft permits the state to disclose personally identifiable information, whether under the open records law or a provision permitting the sale of information, but places the burden of obtaining permission for the commercial use or disclosure of that information on the person obtaining the information. ~~The regulation~~

bill arguably passes the

On the fourth part of the *Central Hudson* analysis, that is, whether the regulation is not more extensive than necessary to serve the state's interest, ~~it appears that arguably the draft passes that test because it~~ applies only to commercial speech and not to noncommercial speech, so long as there is a logical privacy-based reason for making that distinction. Specifically, in a previous drafter's note, 97-3711/P1dn, I advised that in light of *Rowan v. U.S. Post Office Department*, 90 S. Ct. 1484 (1970), the ~~draft~~ might be found not to infringe on a commercial user's freedom of speech because under the ~~draft~~ it is not the state, but rather the individual, who is determining whether the information may be used or disclosed for a commercial purpose and, therefore, the state is not infringing on the commercial user's freedom of

bill

1997 LRB-3711/P1dn

speech. In *Rowan* the U.S. Supreme Court upheld the constitutionality of a statute that requires the U.S. Postal Service, on the request of an addressee who has received material that the addressee believes to be erotically arousing or sexually provocative, to order the sender to delete the addressee from the sender's mailing list. The Court so held on the grounds that under the statute it is the addressee, not the government, who is making the determination and, therefore, the government is not infringing the sender's freedom of speech.

bill
In light of a recent U.S. Court of Appeals decision, *Pearson v. Edgar*, 153 F. 3d 397 (7th Cir. 1998), I now must advise that, notwithstanding *Rowan* and the fact that under the draft it is the individual and not the state who is determining what commercial uses are permissible, a court might hold that the ~~draft~~ *bill, if enacted,* infringes on a commercial user's freedom of speech if the court were to find that ~~there is~~ no logical privacy-based reason for distinguishing in the draft between commercial and noncommercial use. Specifically, in *Pearson*, the 7th Circuit held that an Illinois statute barring real estate agents from soliciting homeowners who have given notice that they do not want to sell their homes is an invalid regulation of commercial speech in part because the statute distinguished between real estate solicitations and other solicitations without a logical privacy-based reason for making that distinction. In so holding, the 7th Circuit distinguished *Pearson* from *Rowan* in that in *Rowan* the addressee made the distinction between offensive and acceptable materials while in *Pearson* the government in the statute made the distinction between real estate solicitation and other solicitation. Similarly, in this ~~draft~~, although it is the individual who determines what commercial uses are permissible, it is the state ~~in the draft~~ that is distinguishing between commercial uses, which the individual may prohibit, and noncommercial uses, which the individual may not prohibit. Accordingly, for this ~~draft~~ *bill* to pass muster in light of *Pearson* there must be a logical privacy-based reason for making that distinction between commercial and noncommercial use.

If you have any questions or would like to discuss this drafter's note, please do not hesitate to contact me directly at the e-mail address or telephone number listed below.

The "invasion of privacy" provisions of this bill that are derived from 1997 AS-796 place

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

~~These provisions~~ place burdens on commercial transactions that you may not intend. In many situations, it may be desirable for businesses to disclose personal information about an individual. For example, under current law, a financial institution often may sell portions of its loan portfolio to another financial institution. This type of transaction involves the transfer of numerous pieces of personal information regarding the various borrowers and guarantors and is definitely for a commercial purpose. This draft would likely make this type of transaction an invasion of privacy, unless the financial institution obtained the consent of each borrower.

In addition, under current law, when a person with an account at financial institution A makes a withdrawal at an ATM operated by financial institution B, financial institution B transfers the transaction information to financial institution A to complete the transaction. This transfer of personal information is for a commercial purpose and may be an invasion of privacy under this draft.

These are only two examples of the burden this draft places on commercial transactions. If you do not intend to create this burden, please call so that I can get a better idea of your intent. Once I clarify what type of disclosure you intend to cover, I will be able to tailor the definition of "invasion of privacy" or "commercial purpose" accordingly.

to permit

As previously drafted, the "invasion of privacy" provisions likely would have prohibited. This bill includes

preemption under

2. This bill likely prohibits certain disclosures by credit reporting agencies and disclosures to affiliates. You may want to include exceptions for these types of disclosures to avoid an argument that the provisions of this bill are preempted by the federal Fair Credit Reporting Act. Please let me know if you intend to include these additional exceptions.

do not

This treatment is consistent with the treatment of the provisions on credit card disclosures derived from 1999 AB-101 (see discussion below).

3. This bill raises two additional preemption issues. First, to the extent that this bill applies to financial institutions, it may be preempted by the federal Gramm-Leach-Bliley Act. See 15 USC 6807 (a). Although this federal law permits states to regulate financial privacy of financial institution records, certain state regulations may be preempted to the extent that they improperly conflict with the federal law. A provision that affords any person greater protection than that provided under the federal law is not preempted. See 15 USC 6807 (b). This determination is made by the federal trade commission (FTC). It is unclear what standards the FTC will apply in making this determination.

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The invasion of privacy provisions raise

these provisions are

Second, even if this bill is not preempted, individuals may be prevented from enforcing the bill against federally chartered financial institutions. It is possible that the appropriate federal regulator of a federally chartered financial institution may have the sole authority to enforce this bill against that institution. See *The National State Bank, Elizabeth, N.J. v. Long*, 630 F.2d 981 (3rd Cir. 1980) (although the state anti-redlining law applied to national banks, the federal comptroller of the currency had sole authority to enforce the state law against national banks).

them

these provisions

Please feel free to call if you have any suggested changes to the bill or would like to discuss any of these issues.

(disclosures from credit card records)

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us

1. This bill contains a redraft of 1999 AB-101, except that this bill permits disclosures by credit reporting agencies and disclosures to affiliates. These exceptions are necessary to avoid an argument that the provisions of this bill are preempted by the

the provisions derived from 1999 AB-101 apply

federal Fair Credit Reporting Act. Please let me know if you do not intend to include these additional exceptions. You may also want to include exceptions permitting disclosures to a law enforcement agency or governmental agency and disclosures pursuant to a court order

the discussion of above

key

2. This bill raises two additional preemption issues. First, to the extent that this bill applies to banking institutions that issue credit cards, it may be preempted by the federal Gramm-Leach-Bliley Act. See 15 USC 6807 (a). Although this federal law permits states to regulate financial privacy of financial institution records, certain state regulations may be preempted to the extent that they improperly conflict with the federal law. A provision that affords any person greater protection than that provided under the federal law is not preempted. See 15 USC 6807 (b). This determination is made by the federal trade commission (FTC). It is unclear what standards the FTC will apply in making this determination.

Second, even if this bill is not preempted, the department of justice may be prevented from enforcing the bill against federally chartered financial institutions. It is possible that the appropriate federal regulator of a federally chartered financial institution may have the sole authority to enforce this bill against that institution. See *The National State Bank, Elizabeth, N.J. v. Long*, 630 F.2d 981 (3rd Cir. 1980) (although the state anti-redlining law applied to national banks, the federal comptroller of the currency had sole authority to enforce the state law against national banks)

the discussion of above

NOT Also, even if the provisions are them

Please feel free to call if you have any suggested changes to the bill or would like to discuss any of these issues.

INS DAK + PJK D-NOTE

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us

(INS + D-NOTE RNK)

Also

a violation of s. 134.92 as created in this bill

Please note that there is no penalty specified for the prohibition created in the bill. Consequently, the general penalty provisions under s. 939.61, stats., will apply to this draft. Under s. 939.61, stats., a person who violates s. 134.92, as created in this draft, will be subject to a forfeiture of up to \$200. If you would like to create a different penalty or if you would like to create a private right of action, please contact me and I will redraft accordingly.

bill

a violation of s. 134.92

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.state.wi.us

Under this bill the policy adopted by the educational institution follows the team. In other words, the institution's policy applies to its athletic teams regardless of whether

they are playing at home or away. Please note, however, that if teams from different schools need to share a locker room, there may be conflicting policies, and the bill does not indicate which policy would be controlling.

If you wish, the bill could be reworked so that an institution's policy would apply to any locker room at the institution being used by a team representing the institution or by a team engaged in competition with that team. However, this may result in the absence of any policy being in effect under certain circumstances, such as when a high school team uses a university's facilities.

If you have questions or need more information, please let me know.

STA
Madelon J. Lief
Legislative Attorney
Phone: (608) 267-7380

This bill contains 1999 AB#23 updated. Does the initial applicability section meet your intent? 1999 AB#23 provided that the act first applied to bills introduced in the 2001-03 legislative session.

The language of proposed s. 13.0991 (7) to the effect that a bill for which a privacy impact statement is required or requested may not be heard or reported by a standing committee to which the bill is referred until the statement is received creates a rule of procedure under article IV, section 8, of the constitution. The supreme court has held that the remedy for noncompliance with this type of provision lies exclusively within the legislative branch. See *State ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 363-369 (1983). In other words, while this type of provision may be effective to govern internal legislative procedure, the courts will not enforce this type of provision and it does not affect the validity of any enactment resulting from a procedure that may be viewed as contravening the provision.

Atty. Peter J. Dykman
General Counsel
Phone: (608) 266-7098
E-mail: peter.dykman@legis.state.wi.us

Please review the definition of "Information technology training" in created ss. 71.07 (5s) (a) 3., 71.28 (5s) (a) 3., and 71.47 (5s) (a) 3. to ensure that it meets your intent.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

§ 610.75, and 632.75(2)(d)

and insurers

¶ Representative Schneider:

¶ We have delayed the effective date for ss. 146.833

(which prohibit the use by health care providers

of social security numbers as patient identifiers)

for six months; in order to provide time for

health care providers and insurers such as health maintenance

organizations to comply.

DAK + PJK

[Insert D-Note (rnk)]

A Please note that the prohibition in this draft as it relates to receipts printed for credit card purchases made at a motor fuel pump also applies to debit card purchases. If this is not consistent with your intent, please let me know and I will redraft as required.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0997/1dn

GM/RM/DK/PK/RK/ML/PD:cjs:pg

April 19, 2001

Representative Schneider:

In reviewing this bill you will note that it makes certain changes to 1997 AB-796, which the bill incorporates, to bolster the constitutionality of the draft in the face of a likely challenge that the bill, if enacted, unconstitutionally impairs the freedom of commercial speech of a person who wishes to disclose or receive personally identifiable information for commercial purposes without the consent of the individual who is the subject of the information.

Commercial speech, that is, "expression related solely to the economic interests of the speaker and its audience," *Central Hudson Gas v. Public Service Commission of N.Y.*, 100 S. Ct. 2343 (1980), is protected under the First Amendment to the U.S. Constitution because 1) the fact that the speaker's interest is purely economic does not disqualify the speaker from protection under the First Amendment; and 2) both the particular recipient of the commercial communication and society in general have a strong interest in the free flow of commercial information. *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 96 S. Ct. 1817, 1826-27 (1976).

The U.S. Supreme Court has devised the following four-part analysis to determine whether a state action abridges a person's freedom of commercial speech:

"At the outset, we must determine whether the expression is protected by the First Amendment. For commercial speech to come within that provision, it at least must concern lawful activity and not be misleading. Next, we must ask whether the asserted governmental interest is substantial. If both inquiries yield positive answers, we must determine whether the regulation directly advances the governmental interest asserted, and whether it is not more extensive than is necessary to serve that interest."

Central Hudson at p. 2351.

The first two parts of that analysis do not appear to be particularly troublesome. The disclosure of truthful information about an individual is a lawful activity; therefore, that disclosure appears to be protected by the First Amendment. On the other hand, the state appears to have a substantial interest in protecting the privacy of its citizens.

The third part of the *Central Hudson* analysis, that is, whether the regulation directly advances the governmental interest asserted, poses a problem for certain provisions of 1997 AB-796 that the bill incorporates, especially when read in light of a recent U.S.

Court of Appeals case, *United Reporting Publishing Corp. v. California Highway Patrol*, 146 F. 3d 1133 (9th Cir. 1998), which was recently reversed and remanded on other grounds by the U.S. Supreme Court in *Los Angeles Police Department v. United Reporting Publishing Corp.*, 120 S. Ct. 483 (1999). In *United Reporting*, the 9th Circuit held that a California law that prohibited law enforcement agencies from releasing the addresses of arrestees to entities with a commercial purpose, but which provided for numerous exceptions, including private investigators and entities with a scholarly, journalistic, political, or governmental purpose, did not directly advance the state's purported privacy interest and, therefore, violated the First Amendment. The 9th Circuit found that the numerous exceptions so undermined the state's purported privacy interest that the law did not rationally advance that interest.

Similarly, the definition of "commercial purpose" in this bill contains such broad exceptions that arguably the bill does not advance the state's privacy interest. Specifically, that definition excludes the gathering and reporting of news and the communication of information for any political, lobbying, charitable, or religious purpose. Given such broad exceptions, it does not advance the state's privacy interest to prohibit the disclosure without consent of personally identifiable information about a person for a commercial purpose, yet to allow that information to be disclosed without consent for those other broad purposes. Accordingly, this draft deletes the exceptions for the gathering and reporting of news and for the communication of information for political, lobbying, charitable, or religious purposes.

Moreover, the bill arguably does not directly advance the state's privacy interest due to the bill's anomalous dual system with respect to the disclosure of public records. Specifically, the state is prohibited from selling personally identifiable information for a commercial purpose without consent, yet is not prohibited from disclosing the very same information for the very same purpose under the open records law. Instead, the bill places the burden of obtaining consent for the commercial use or disclosure of personally identifiable information obtained under the open records law on the person obtaining the information. Given this anomaly, it does not advance the state's privacy interest to permit a requester to whom the state is prohibited from selling information for a commercial purpose to turn around and obtain the same information for the same purpose under the open records law. Accordingly, this draft permits the state to disclose personally identifiable information, whether under the open records law or a provision permitting the sale of information, but places the burden of obtaining permission for the commercial use or disclosure of that information on the person obtaining the information.

The bill arguably passes the fourth part of the *Central Hudson* analysis, that is, whether the regulation is not more extensive than necessary to serve the state's interest, because the regulation applies only to commercial speech and not to noncommercial speech, *so long as there is a logical privacy-based reason for making that distinction*. Specifically, in a previous drafter's note, 1997 LRB-3711/P1dn, I advised that in light of *Rowan v. U.S. Post Office Department*, 90 S. Ct. 1484 (1970), the bill might be found not to infringe on a commercial user's freedom of speech because under the bill it is not the state, but rather the individual, who is determining whether the information may be used or disclosed for a commercial purpose and, therefore, the

state is not infringing on the commercial user's freedom of speech. In *Rowan* the U.S. Supreme Court upheld the constitutionality of a statute that requires the U.S. Postal Service, on the request of an addressee who has received material that the addressee believes to be erotically arousing or sexually provocative, to order the sender to delete the addressee from the sender's mailing list. The Court so held on the grounds that under the statute it is the addressee, not the government, who is making the determination and, therefore, the government is not infringing the sender's freedom of speech.

In light of a recent U.S. Court of Appeals decision, *Pearson v. Edgar*, 153 F. 3d 397 (7th Cir. 1998), I now must advise that, notwithstanding *Rowan* and the fact that under the bill it is the individual and not the state who is determining what commercial uses are permissible, a court might hold that the bill, if enacted, infringes on a commercial user's freedom of speech if the court were to find no logical privacy-based reason for distinguishing in the draft between commercial and noncommercial use. Specifically, in *Pearson*, the 7th Circuit held that an Illinois statute barring real estate agents from soliciting homeowners who have given notice that they do not want to sell their homes is an invalid regulation of commercial speech in part because the statute distinguished between real estate solicitations and other solicitations without a logical privacy-based reason for making that distinction. In so holding, the 7th Circuit distinguished *Pearson* from *Rowan* in that in *Rowan* the addressee made the distinction between offensive and acceptable materials while in *Pearson* the government in the statute made the distinction between real estate solicitation and other solicitation. Similarly, in this bill, although it is the individual who determines what commercial uses are permissible, it is the state that is distinguishing between commercial uses, which the individual may prohibit, and noncommercial uses, which the individual may not prohibit. Accordingly, for this bill to pass muster in light of *Pearson* there must be a logical privacy-based reason for making that distinction between commercial and noncommercial use.

If you have any questions or would like to discuss this drafter's note, please do not hesitate to contact me directly at the e-mail address or telephone number listed below.

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

The "invasion of privacy" provisions of this bill that are derived from 1997 AB-796 place burdens on commercial transactions that you may not intend. In many situations, it may be desirable for businesses to disclose personal information about an individual. For example, under current law, a financial institution often may sell portions of its loan portfolio to another financial institution. This type of transaction involves the transfer of numerous pieces of personal information regarding the various borrowers and guarantors and is definitely for a commercial purpose. This draft would

likely make this type of transaction an invasion of privacy, unless the financial institution obtained the consent of each borrower.

In addition, under current law, when a person with an account at financial institution A makes a withdrawal at an ATM operated by financial institution B, financial institution B transfers the transaction information to financial institution A to complete the transaction. This transfer of personal information is for a commercial purpose and may be an invasion of privacy under this draft.

These are only two examples of the burden this draft places on commercial transactions. If you do not intend to create this burden, please call so that I can get a better idea of your intent. Once I clarify what type of disclosure you intend to cover, I will be able to tailor the definition of "invasion of privacy" or "commercial purpose" accordingly.

As previously drafted, the "invasion of privacy" provisions likely would have prohibited certain disclosures by credit reporting agencies and disclosures to affiliates. This bill includes exceptions to permit these types of disclosures, to avoid preemption under the federal Fair Credit Reporting Act. This treatment is consistent with the treatment of the provisions on credit card disclosures derived from 1999 AB-101 (see discussion below). Please let me know if you do not intend to include these additional exceptions.

The "invasion of privacy" provisions raise two additional preemption issues. First, to the extent that they apply to financial institutions, the provisions may be preempted by the federal Gramm-Leach-Bliley Act. See 15 USC 6807 (a). Although this federal law permits states to regulate financial privacy of financial institution records, certain state regulations may be preempted to the extent that they improperly conflict with the federal law. A provision that affords any person greater protection than that provided under the federal law is not preempted. See 15 USC 6807 (b). This determination is made by the federal trade commission (FTC). It is unclear what standards the FTC will apply in making this determination.

Second, even if these provisions are not preempted, individuals may be prevented from enforcing them against federally chartered financial institutions. It is possible that the appropriate federal regulator of a federally chartered financial institution may have the sole authority to enforce these provisions against that institution. See *The National State Bank, Elizabeth, N.J. v. Long*, 630 F.2d 981 (3rd Cir. 1980) (although the state anti-redlining law applied to national banks, the federal comptroller of the currency had sole authority to enforce the state law against national banks).

This bill contains a redraft of 1999 AB-101 (disclosures from credit card records), except that this bill permits disclosures by credit reporting agencies and disclosures to affiliates. These exceptions are necessary to avoid an argument that the provisions of this bill are preempted by the federal Fair Credit Reporting Act. Please let me know if you do not intend to include these additional exceptions. You may also want to include exceptions permitting disclosures to a law enforcement agency or governmental agency and disclosures pursuant to a court order.

To the extent that the provisions derived from 1999 AB-101 apply to banking institutions that issue credit cards, they may be preempted by the federal

Gramm-Leach-Bliley Act. See the discussion of 15 USC 6807 (a) above. Also, even if these provisions are not preempted, the department of justice may be prevented from enforcing them against federally chartered financial institutions. See the discussion of *The National State Bank, Elizabeth, N.J. v. Long*, 630 F.2d 981 (3rd Cir. 1980) above.

Please feel free to call if you have any suggested changes to the bill or would like to discuss any of these issues.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us

Representative Schneider:

We have delayed the effective date for ss. 146.833, 610.75, and 632.75 (2) (d) (which prohibit the use by health care providers and insurers of social security numbers as patient identifiers) for six months, in order to provide time for health care providers and insurers such as health maintenance organizations to comply.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

Please note that the prohibition in this draft as it relates to receipts printed for credit card purchases made at a motor fuel pump also applies to debit card purchases. If this is not consistent with your intent, please let me know and I will redraft as required. Also, there is no penalty specified for a violation of s. 134.92, as created in this bill. Consequently, the general penalty provisions under s. 939.61, stats., will apply to a violation of s. 134.92. Under s. 939.61, stats., a person who violates s. 134.92, as created in this bill, will be subject to a forfeiture of up to \$200. If you would like to create a different penalty or if you would like to create a private right of action, please contact me and I will redraft accordingly.

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.state.wi.us

Under this bill, the policy adopted by the educational institution follows the team. In other words, the institution's policy applies to its athletic teams regardless of whether they are playing at home or away. Please note, however, that if teams from different schools need to share a locker room, there may be conflicting policies, and the bill does not indicate which policy would be controlling.

If you wish, the bill could be reworked so that an institution's policy would apply to any locker room at the institution being used by a team representing the institution or by a team engaged in competition with that team. However, this may result in the absence of any policy being in effect under certain circumstances, such as when a high school team uses a university's facilities.

If you have questions or need more information, please let me know.

Madelon J. Lief
Legislative Attorney
Phone: (608) 267-7380

This bill contains 1999 AB-23 updated. Does the initial applicability section meet your intent? 1999 AB-23 provided that the act first applied to bills introduced in the 2001-03 legislative session.

The language of proposed s. 13.0991 (7) to the effect that a bill for which a privacy impact statement is required or requested may not be heard or reported by a standing committee to which the bill is referred until the statement is received creates a rule of procedure under article IV, section 8, of the constitution. The supreme court has held that the remedy for noncompliance with this type of provision lies exclusively within the legislative branch. See *State ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 363-369 (1983). In other words, while this type of provision may be effective to govern internal legislative procedure, the courts will not enforce this type of provision and it does not affect the validity of any enactment resulting from a procedure that may be viewed as contravening the provision.

Atty. Peter J. Dykman
General Counsel
Phone: (608) 266-7098
E-mail: peter.dykman@legis.state.wi.us

5/14/01

12

Dan Schmidt, Legislative Council

Specifically exclude news reporting from
definition of "commercial purpose."



State of Wisconsin
2001 - 2002 LEGISLATURE

GM/JTK/RM/MK/DK/PK/RN/ML/PD/RK:cjs:pg

LRB-0997/

(2) RMR

NOTE

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stays

SOON
~~other~~

2001 BILL

inserts

1 **AN ACT to repeal** 134.72 (2) (b) (title); **to renumber** 19.37 (4), 36.11 (35) (title),
2 134.72 (1) (c), 134.72 (2) (a), 895.50 (2) (a), 895.50 (2) (b) and 895.50 (7); **to**
3 **renumber and amend** 36.11 (35), 134.72 (2) (b), 895.50 (2) (c) and 968.31 (2)
4 (c); **to amend** 11.21 (5), 11.22 (8), 59.20 (3) (d), 71.05 (6) (a) 15., 71.21 (4), 71.26
5 (2) (a), 71.34 (1) (g), 71.45 (2) (a) 10., 77.92 (4), 100.264 (2) (intro.), 108.14 (7)
6 (a), 134.72 (title), 134.72 (3) (a), 134.72 (3) (b), 134.72 (4), 341.17 (9) (c) 3., 341.17
7 (9) (c) 4., 343.235 (3) (b), 343.24 (4) (c) 2., 632.725 (2) (d), 895.50 (2) (intro.),
8 938.299 (1) (av), 938.396 (2m) (a), 938.396 (2m) (b) and 968.27 (12); and **to**
9 **create** 13.0991, 19.35 (1) (jm), 19.36 (10), 19.37 (4) (b) and (c), 23.45 (6), 36.32
10 (1), 36.38, 38.12 (12), 39.49, 71.07 (5s), 71.10 (4) (gv), 71.28 (5s), 71.30 (3) (eon),
11 71.47 (5s), 71.49 (1) (eon), 85.103 (6m), 85.105 (3), 100.52, 118.39, 134.92,
12 138.25, 146.833, 175.22, subchapter V of chapter 224 [precedes 224.991],
13 341.17 (10), 343.235 (5m), 343.24 (5), 440.14 (6), 610.75, 895.50 (2) (am), 895.50
14 (2) (bm) 2m., 895.50 (2) (bm) 2r., 895.50 (2) (bm) 4., 895.50 (2) (cm), 895.50 (2m),

BILL

1 895.50 (7) (b), 968.27 (14m), 968.31 (2) (c) 2. and 971.19 (11) of the statutes;
2 **relating to:** use of personally identifiable information for commercial purposes
3 and creating a cause of action for invasion of privacy against a person who uses
4 or discloses any personally identifiable information about any living person, for
5 any commercial purpose, without having first obtained the consent of the
6 person who is the subject of the information; access to certain public records
7 containing social security account numbers of individuals; creating a
8 nonrefundable income tax and franchise tax credit for information technology
9 training; prohibiting certain telephone solicitations; prohibiting the disclosure
10 of information on credit and debit card receipts for the purchase of motor fuel;
11 use of caller identification blocking services by telephone solicitors; credit card
12 records; disclosure of credit reports; use of social security numbers as medical
13 or health insurance identifiers; preparation of privacy impact statements for
14 bills that would have an impact on personal privacy; place of trial for persons
15 charged with certain crimes; the use of a person's social security number in his
16 or her student identification number at private institutions of higher
17 education; written policies on entering locker rooms being used by athletic
18 teams representing certain schools or by professional athletic teams;
19 interception of oral communications between an employee of a retail business
20 and a customer of the retail business; expanding the right of privacy providing
21 a penalty; and providing penalties. *INSERT 2-21*

Analysis by the Legislative Reference Bureau

Under current law, a person whose privacy is unreasonably invaded is entitled to equitable relief to prevent and restrain the invasion, compensatory damages, and reasonable attorney fees. Current law defines "invasion of privacy" to mean any of the following:

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as defined in the bill,

1. A highly offensive intrusion upon the privacy of another in a place that a reasonable person would consider private or in a manner that is actionable for trespass.
2. The advertising or trade use of the name or picture of a living person without first receiving that person's permission.
3. The publicity given to the private life of another that is highly offensive if the person that publicized the private life had acted unreasonably or recklessly as to whether there was a legitimate public interest in the matter involved or with actual knowledge that there was no legitimate public interest in the matter publicized.

This bill extends the right of privacy to include as an "invasion of privacy" for which a person is entitled to relief the use or disclosure of any personally identifiable information, ~~as defined in the bill~~, about any living person for any commercial purpose, without having first obtained, not more than one year before the date of the use or disclosure, the written consent of the person who is the subject of the information. The bill expands the definition of "invasion of privacy" to include any requirement that the person, as a condition for receiving a good or a service, provide his or her consent to the use or disclosure of any personally identifiable information about the person for any commercial purpose and to include publicity given to a matter concerning the person that places that person in a false light if that false light would be highly offensive to another person. If the person placed in the false light is a public person, the person who publicized the matter is liable for an invasion of the person's privacy if the publisher had knowledge of the falsity of the matter or acted with reckless disregard as to the falsity of the matter. If the person placed in the false light is a private person, the person who publicized the matter is liable for an invasion of the person's privacy if the publisher did not use reasonable care. The truth of the publicized matter is a defense to an action for invasion of the person's privacy if the publisher acted with good motives and for justifiable ends.

Currently, unless otherwise provided by law, a state or local agency must provide public access to information contained in its records unless the agency demonstrates that the public interest in withholding access to that information outweighs the strong public interest in providing that access. Federal law prohibits state and local governmental units from disclosing social security account numbers under certain conditions.

This bill generally prohibits a person who has received any personally identifiable information from a state or local agency from using or disclosing that information for any commercial purpose without first obtaining, not more than one year before the date of the use or disclosure, the written consent of the individual who is the subject of that information.

This bill also provides that, if a new record containing the social security account number of an individual, together with information revealing the identity of that individual, is kept by a state or local governmental unit on or after January 1, 2003, or if a record in the custody of a state or local governmental unit is modified to insert the social security account number of an individual on or after January 1, 2003, and the record contains information revealing the identity of that individual,

The bill defines "commercial purpose" to mean the purpose of accruing any gain, benefit, or advantage, either directly or indirectly, including the purpose of advertising or marketing any property, good, or service, soliciting business, or setting the terms of any commercial transaction or relationship, but excluding the gathering and reporting of news.

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the custodian of the record must delete the social security account number before permitting access to the record, unless the person who requests access to the record is specifically authorized by federal or state law to have access to the social security account number.

The bill, however, permits the requester of a record to have access to the social security account number of an individual if:

1. The requester is an individual and the record pertains to that requester alone, to the marital or parental rights or responsibilities of that requester and his or her spouse or former spouse, to the property of that requester held jointly or in common with one or more other individuals, or to a civil lawsuit in which the requester is a specifically named party, and the requester provides appropriate identification; or

2. The requester is an authorized representative of an insurer or an organization that performs investigations for insurers and the social security account number is relevant to an investigation of suspected, anticipated, or actual insurance fraud.

Moreover, if any person misrepresents his or her identity for the purpose of obtaining access to the social security account number of another individual, the person is subject to a forfeiture (civil penalty) of not more than \$1,000 for each social security account number obtained by means of misrepresentation. In addition, under the bill, if any insurer or other person obtains a social security account number and uses that number for purposes other than an investigation of suspected, anticipated, or actual insurance fraud, the person is subject to a forfeiture of not more than \$1,000 for each social security account number used by the person for unauthorized purposes.

Under current law, the department of natural resources (DNR), the department of transportation (DOT), the department of regulation and licensing (DORL), or a credentialing board in DORL may not disclose on any list that contains the name, social security number, telephone number, street address, post-office box number, or zip code (personal identifier) of ten or more individuals a personal identifier of any individual who has declared that the individual's personal identifiers may not be disclosed on a list that DNR, DOT, DORL, or a credentialing board furnishes to another person. This prohibition, however, does not apply to the disclosure by DOT of personal identifiers obtained through motor vehicle registration or titling, operator's licenses, traffic citations, and reports of traffic accidents to an insurer for purposes of issuing or renewing a policy and related underwriting, billing, or processing or paying a claim. This prohibition also does not apply to the disclosure of personal identifiers obtained through motor vehicle registration or titling to a person for purposes of a vehicle recall.

This bill prohibits a person who obtains a list from DNR, DOT, DORL, or a credentialing board in DORL from using or disclosing any personal identifier or other personally identifiable information for any commercial purpose without first obtaining, not more than one year before the date of the use or disclosure, the written consent of the individual who is the subject of that information. The bill does, however, authorize insurers to continue to use or disclose that information for

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purposes of issuing or renewing a policy and related underwriting, billing, or processing or paying a claim and other persons to continue to use or disclose that information for purposes of a vehicle recall, without first obtaining the consent of the person who is the subject of the information.

The bill also prohibits a health care provider or a health insurer from using for any patient or insured or enrollee an identification number that is identical to or that incorporates the patient's or the insured's or enrollee's social security number. However, under the bill, a health care provider or health insurer is not prohibited from requiring that the patient or insured or enrollee disclose his or her social security number or from using that number if a federal or state agency requires its use in order for the patient or insured or enrollee to participate in a particular program.

Current law authorizes DOT to contract with any person to periodically provide the person with personally identifiable information obtained from motor vehicle accidents or uniform traffic citations. This bill does not affect personally identifiable information disclosed under such a contract entered into before the bill takes effect, but information disclosed under a contract entered into after this bill takes effect is subject to the limitations and consent required under this bill.

Currently, the Uniform Commercial Code establishes a system for entering into transactions in which a person grants a security interest in certain property (secured transactions). Depending upon the circumstances, this system authorizes the filing of various statements evidencing the existence of a secured transaction and authorizes or requires the disclosure of certain information relating to secured transactions. Actions taken pursuant to the Uniform Commercial Code secured transaction provisions are exempt from the provisions of this bill.

This bill makes the following changes regarding telephone solicitations:

1. The bill prohibits a person from using an automatic telephone dialing system in making a telephone solicitation if the system is used in such a way that two or more telephone lines are engaged simultaneously.

2. The bill prohibits a person who makes a telephone solicitation from using a blocking service that withholds the person's name or telephone number from the person who receives the solicitation.

3. The bill requires the department of agriculture, trade and consumer protection (DATCP) to enforce a prohibition under current law against using an electronically prerecorded message in a telephone solicitation without the consent of the person called. Under current law, local district attorneys enforce the prohibition. The bill also requires DATCP to enforce the prohibitions regarding telephone solicitations.

4. The bill allows a residential telephone customer to request his or her local telecommunications utility to include a listing or symbol in its telephone directory that indicates that the customer does not want to receive telephone solicitations. A telecommunications utility may impose a onetime charge for including a listing or symbol in its telephone directory.

5. The bill prohibits a telephone solicitor from making a telephone solicitation to an individual for which there is a listing or symbol described above.

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6. Except for the last prohibition described above, the bill provides that a person who violates the foregoing prohibitions is subject to a forfeiture of up to \$500. A telephone solicitor who violates the last prohibition is subject to a forfeiture of up to \$10,000. Under certain circumstances, a person who violates any of the prohibitions may be subject to a supplemental forfeiture of up to \$10,000 if the telephone solicitation was directed against an elderly or disabled person.

Current law is silent regarding a person's authority to sell information about holders of credit cards. Under this bill, a person (which includes a corporation) may not sell information about Wisconsin residents that is obtained from credit card transaction records. The bill provides for certain exceptions from this prohibition. First, the bill excepts disclosures to credit reporting agencies for the purpose of preparing a credit report and disclosures by credit reporting agencies. The bill also contains certain exceptions for disclosing information to affiliates of the person making the disclosure and to contractors or agents of the issuer for the purpose of performing functions for or on behalf of the issuer. Those disclosures are permitted notwithstanding the provisions of the bill that require a person to obtain the consent of the subject of any personally identifiable information before using or disclosing that information for a commercial purpose. Persons violating the disclosure provisions created in the bill are subject to a forfeiture of not more than \$10,000 for each violation. The bill authorizes the department of justice to bring actions in circuit court to enjoin violations of the disclosure provisions.

Wisconsin law currently does not specifically regulate the disclosure of credit reports to consumers by a credit reporting agency (agency). However, under current federal law, an agency must provide a consumer with five pieces of information upon request: all nonmedical information contained in the agency's files on the consumer, the sources of that information, the recipients of any credit report concerning the consumer, information regarding any checks that form the basis of an adverse characterization of the consumer, and a record of certain inquiries received by the agency that identified the consumer. Generally, unless the consumer's request is pursuant to a denial of credit or to a notice that the consumer's credit may be adversely affected, the agency may charge up to \$8 for this disclosure. In certain circumstances, federal law prohibits an agency from disclosing the sources of information in a consumer's file.

This bill requires an agency, upon request, to provide one free written disclosure report to a consumer per year. In addition to the disclosure required by the federal law, this bill requires the agency to provide the consumer with a current credit report and a clear and concise explanation of the contents of the written disclosure report. This bill prohibits an agency from making certain disclosures prohibited under federal law. A person who violates this bill may be fined up to \$500 for a first offense and may be fined up to \$1,000 or imprisoned for up to six months or both for a subsequent offense within six months.

Under current law, with certain exceptions, no person may intentionally intercept an oral communication made by another person. A person who violates this prohibition may be imprisoned for not more than seven years and six months or fined not more than \$10,000 or both. Under the so-called "one-party consent" exception

INSERT ANALYSIS

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to this prohibition, a person may intercept an oral communication if he or she is a party to the communication or if one of the parties to the communication has given prior consent to the interception. However, the one-party consent exception does not apply if the communication is intercepted for the purpose of committing any illegal or injurious act.

This bill provides that the one-party consent exception does not apply to an interception of an oral communication between an employee of a retail business and a customer of the retail business if the communication is uttered while both the employee and the customer are present in or on the store or premises of the retail business and if the communication is intercepted using an electronic, mechanical, or other device that is attached to or in the possession of the employee. Because interception of an oral communication between a retail business employee and a customer of the retail business under these circumstances would not be covered by the one-party consent exception, the person engaged in the interception would be violating the prohibition against interception of an oral communications and, if convicted, would be subject to the current penalties for the violation.

Under current law, a defendant charged with a crime must generally be tried in the county in which the crime is committed. Current law also provides a number of exceptions to this general rule. For example, if a crime entails the commission of two or more acts, the defendant may be tried in any county in which any of the acts occurred.

Under this bill, a defendant charged with any of the following crimes may be tried in the defendant's county of residence, the victim's county of residence, or in any other county where the trial may be held under current law: 1) defamation; 2) giving false information for publication; 3) misappropriation of personal identifying information or personal identification documents; 4) theft of trade secrets; 5) threats to injure or accuse of crime; 6) threats to communicate derogatory information; 7) financial transaction card crimes; 8) computer crimes; 9) tampering with public records and notices; 10) unlawful use of telephone; and 11) unlawful use of computerized communication systems.

Under current law, the University of Wisconsin System, a technical college district board, a school board, and the governing body of a private school are prohibited from assigning to any student an identification number that is identical to or incorporates the student's social security number.

Beginning January 1, 2003, this bill extends this prohibition to private institutions of higher education located in this state.

This bill also requires each school board, private school, technical college district board, institution and two-year collegiate campus of the University of Wisconsin System, private institution of higher education, and professional athletic team that has its home field or arena in this state to adopt a written policy on who may enter and remain in a locker room used by the school or team to interview or seek information from any person. The policy must reflect the privacy interests of the members of the teams representing the school or the professional athletic team.

The bill also provides that whenever a bill is introduced in either house of the legislature that would have an impact upon personal privacy, any standing

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committee to which the bill is referred must not hold a public hearing on the bill or report the bill until a privacy impact statement is prepared and received. The statement is prepared by one or more state agencies or authorities, as determined by the department of administration. The statement describes the impact upon personal privacy that would result from enactment of the bill and analyzes the desirability of that impact from the standpoint of public policy. The bill also permits either house of the legislature, under rules of that house or joint rules, to request the department of administration to order the preparation of a privacy impact statement with respect to any bill before that house, either in its original form or as affected by one or more amendments.

Under the bill, a bill has an impact on personal privacy if the bill would:

1. Provide for the creation of additional personally identifiable information that is not readily available to the public at the time the bill is introduced;
2. Create an activity that would constitute an intrusion upon the privacy of an individual, or alter an activity in such a way as to create such an intrusion;
3. Use the name, picture, or likeness of an individual without the consent of the individual, or the consent of the individual's parent or guardian if the individual is a minor; or
4. Permit or cause publicity to be given to the private life of an individual.

This bill prohibits a person who sells motor fuel from doing so by the use of a pump that allows a purchaser to insert a credit card or debit if the pump issues a receipt that contains more than the last four digits of the credit card or debit number.

Finally, this bill creates an individual income tax and corporate income tax and franchise tax credit for training related to information technology. The bill requires that the information technology training include training in privacy rights and information policy. The credit is an amount equal to 50% of the amount that a claimant pays for the claimant or the claimant's spouse, dependent, or employee to receive training related to information technology. The credit is nonrefundable. If the amount of the credit exceeds the claimant's tax liability, the state will not issue a refund check, but the claimant may carry forward any remaining credit to subsequent taxable years. A claimant who receives the credit, however, must pay back the amount of the credit if the individual who receives the training is not employed in this state in an occupation related to information technology within one year after the individual completes the training or if the individual is employed in that occupation for less than one year.

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:

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1 11.21 (5) Make the reports and statements filed with it available for public
2 inspection and copying, commencing as soon as practicable but not later than the end
3 of the 2nd day following the day during which they are received, and permit copying
4 of any report or statement by hand or by duplicating machine at cost, as requested
5 by any person. ~~No Notwithstanding s. 19.35 (1) (jm), no~~ information copied from such
6 reports and statements may be sold or utilized by any person for the purpose of
7 soliciting contributions from individuals identified in the reports or statements or for
8 any commercial purpose.

9 **SECTION 2.** 11.22 (8) of the statutes is amended to read:

10 11.22 (8) Make the reports and statements filed with the filing officer available
11 for public inspection and copying, commencing as soon as practicable but not later
12 than the end of the 2nd day following the day during which they are received, and
13 permit copying of any report or statement by hand or by duplicating machine at cost,
14 as requested by any person. ~~No Notwithstanding s. 19.35 (1) (jm), no~~ information
15 copied from such reports and statements may be sold or utilized by any person for
16 the purpose of soliciting contributions from individuals identified in the reports or
17 statements or for any commercial purpose.

18 **SECTION 3.** 13.0991 of the statutes is created to read:

19 **13.0991 Privacy impact statements.** (1) In this section:

20 (a) "Authority" means a body created under ch. 231, 232, 233, 234, or 235.

21 (b) "Impact upon personal privacy" means that a bill would do one or more of
22 the following:

23 1. Provide for the creation of additional personally identifiable information
24 that is not readily available to the public at the time the bill is introduced.

BILL**SECTION 3**

1 2. Create an activity that would constitute an intrusion upon the privacy of an
2 individual, or alter an activity in such a way as to create such an intrusion.

3 3. Use the name, picture, or likeness of an individual without the consent of the
4 individual, or the consent of the individual's parent or guardian if the individual is
5 a minor.

6 4. Permit or cause publicity to be given to the private life of an individual.

7 (c) "Personally identifiable information" has the meaning given under s. 19.62
8 (5).

9 (d) "State agency" means an office, department, independent agency,
10 institution of higher education, association, society, or other body in state
11 government created or authorized to be created by the constitution or any law, which
12 is entitled to expend moneys appropriated by law, including the legislature and the
13 courts, but not including an authority.

14 (2) (a) Whenever a bill is introduced in either house of the legislature that
15 would have an impact upon personal privacy, the legislative reference bureau shall
16 promptly transmit a copy of the bill to the department of administration.

17 (b) Either house of the legislature may, under rules of that house or joint rules
18 of the legislature, request the department of administration to order the preparation
19 of a privacy impact statement with respect to any bill before that house, either in its
20 original form or as affected by one or more amendments. If a house so requests, the
21 chief clerk of that house shall thereupon transmit a copy of that bill and any affected
22 amendments to the department of administration.

23 (3) Upon receipt of a bill under sub. (2), the department of administration shall
24 direct one or more state agencies or authorities to prepare a privacy impact
25 statement with respect to that bill. Each privacy impact statement shall describe the

BILL

1 impact upon personal privacy that would result from enactment of the bill and
2 analyze the desirability of that impact from the standpoint of public policy.

3 (4) Each state agency or authority receiving a bill under sub. (3) shall provide
4 the statement required under sub. (3) to the department of administration within 15
5 days after the department's directive.

6 (5) Upon receiving a privacy impact statement under sub. (4), the department
7 of administration shall provide one copy to the legislative reference bureau, one copy
8 to the principal author of the bill, and one copy to the chief clerk of the house of the
9 legislature in which the bill originated. The chief clerk shall thereupon distribute
10 the statement in the same manner as amendments to the bill are distributed.

11 (6) Whenever a bill requires preparation of a privacy impact statement under
12 this section, the legislative reference bureau shall include a notation to that effect
13 on the jacket of the bill when the jacket is prepared. If the preparation of a privacy
14 impact statement is requested by a house of the legislature, the chief clerk of that
15 house shall include a notation to that effect on the jacket of the bill.

16 (7) Whenever a privacy impact statement is required or requested for any bill
17 under this section, a standing committee to which the bill is referred may not hold
18 a public hearing on the bill or report the bill until the statement is received by the
19 chief clerk of the house in which the bill originated.

20 **SECTION 4.** 19.35 (1) (jm) of the statutes is created to read:

21 19.35 (1) (jm) A requester who receives any personally identifiable information
22 under pars. (a) to (f) may not use or disclose that information for any commercial
23 purpose, as defined in s. 895.50 (2) (am), without first obtaining, not more than one
24 year before the date of the use, the written consent of the individual who is the subject

BILL**SECTION 4**

1 of the personally identifiable information or, if that individual is a minor, the written
2 consent of the individual's parent or legal guardian.

3 **SECTION 5.** 19.36 (10) of the statutes is created to read:

4 19.36 (10) SOCIAL SECURITY ACCOUNT NUMBERS. (a) Except as provided in par.
5 (b), if a new record containing a social security account number of an individual,
6 together with information revealing the identity of that individual, is kept by an
7 authority after December 31, 2002, or if a record in the custody of an authority is
8 modified to insert the social security account number of an individual after December
9 31, 2002, and the record contains information revealing the identity of that
10 individual, the authority shall delete the social security account number before
11 permitting access to the record, unless the requester is specifically authorized by
12 federal or state law to have access to the social security account number.

13 (b) Unless otherwise provided by federal or state law, including common law
14 principles, a requester may have access to a record containing the social security
15 account number of an individual if any of the following applies:

16 1. The requester is an individual and the record pertains to that requester
17 alone, to the marital or parental rights or responsibilities of that requester and his
18 or her spouse or former spouse, to property of that requester held jointly or in
19 common tenancy with one or more other individuals, or to a civil legal action or
20 proceeding in which the requester is a specifically named party, and the requester
21 provides appropriate identification to the custodian.

22 2. The requester is an authorized representative of an insurer or an
23 organization that performs investigations for insurers and the social security
24 account number is relevant to an investigation of suspected, anticipated, or actual
25 insurance fraud.

BILL

1 **SECTION 6.** 19.37 (4) of the statutes is renumbered 19.37 (4) (a).

2 **SECTION 7.** 19.37 (4) (b) and (c) of the statutes are created to read:

3 19.37 (4) (b) If any person misrepresents his or her identity for the purpose of
4 obtaining access to the social security account number of another individual under
5 s. 19.36 (10) (b) 1., the person may be required to forfeit not more than \$1,000 for each
6 social security account number obtained by the person by means of such
7 misrepresentation.

8 (c) If an insurer or other person obtains a social security account number under
9 s. 19.36 (10) (b) 2. and uses that number for purposes other than an investigation as
10 provided in s. 19.36 (10) (b) 2., the person may be required to forfeit not more than
11 \$1,000 for each social security account number used by the person for such
12 unauthorized purposes.

13 **SECTION 8.** 23.45 (6) of the statutes is created to read:

14 23.45 (6) A person who obtains a list from the department may not use or
15 disclose any personal identifier or any other personally identifiable information, as
16 defined in s. 19.62 (5), disclosed on that list for any commercial purpose, as defined
17 in s. 895.50 (2) (am), without first obtaining, not more than one year before the date
18 of the use or disclosure, the written consent of the individual who is the subject of the
19 personal identifier or personally identifiable information or, if that individual is a
20 minor, the written consent of the individual's parent or legal guardian.

21 **SECTION 9.** 36.11 (35) (title) of the statutes is renumbered 36.32 (title).

22 **SECTION 10.** 36.11 (35) of the statutes is renumbered 36.32 (2) and amended
23 to read:

24 36.32 (2) ~~The board~~ An institution of higher education may assign to each
25 student enrolled in the ~~system~~ institution a unique identification number. ~~The board~~

BILL**SECTION 10**

1 An institution of higher education shall not assign to any student an identification
2 number that is identical to or incorporates the student's social security number. This
3 subsection does not prohibit ~~the board~~ an institution of higher education from
4 requiring a student to disclose his or her social security number, nor from using a
5 student's social security number if such use is required by a federal or state agency
6 or private organization in order for the system or the student to participate in a
7 particular program.

8 **SECTION 11.** 36.32 (1) of the statutes is created to read:

9 36.32 (1) In this section, "institution of higher education" means an institution
10 within the system, or a private educational institution located in this state that
11 awards a bachelor's or higher degree or provides a program that is acceptable toward
12 such a degree.

13 **SECTION 12.** 36.38 of the statutes is created to read:

14 **36.38 Policy on privacy in athletic locker rooms.** Each institution and
15 college campus shall adopt a written policy on who may enter and remain, to
16 interview or seek information from any person, in a locker room being used by an
17 athletic team representing the institution or college campus. The policy shall reflect
18 the privacy interests of members of athletic teams representing the institution or
19 college campus.

20 **SECTION 13.** 38.12 (12) of the statutes is created to read:

21 38.12 (12) **POLICY ON PRIVACY IN ATHLETIC LOCKER ROOMS.** The district board shall
22 adopt a written policy on who may enter and remain, to interview or seek information
23 from any person, in a locker room being used by an athletic team representing the
24 district. The policy shall reflect the privacy interests of members of athletic teams
25 representing the district.

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1 **SECTION 14.** 39.49 of the statutes is created to read:

2 **39.49 Policy on privacy in athletic locker rooms. (1)** In this section,
3 “institution of higher education” means a private educational institution that
4 awards a bachelor’s or higher degree or provides a program that is acceptable for
5 credit toward such a degree, and that fields an athletic team that represents the
6 institution.

7 **(2)** Each institution of higher education shall adopt a written policy on who
8 may enter and remain, to interview or seek information from any person, in a locker
9 room being used by an athletic team representing the institution. The policy shall
10 reflect the privacy interests of members of athletic teams representing the
11 institution.

12 **SECTION 15.** 59.20 (3) (d) of the statutes is amended to read:

13 59.20 (3) (d) Any register of deeds who in good faith makes an erroneous
14 determination as to the accessibility of a portion of a record, to members of the public
15 under s. 19.36 (6), is not subject to any penalty for denial of access to the record under
16 s. 19.37 (4) (a).

17 **SECTION 16.** 71.05 (6) (a) 15. of the statutes is amended to read:

18 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
19 (2di), (2dj), (2dL), (2dr), (2ds), (2dx) ~~and (3s), and (5s)~~ and not passed through by a
20 partnership, limited liability company or tax-option corporation that has added that
21 amount to the partnership’s, company’s or tax-option corporation’s income under s.
22 71.21 (4) or 71.34 (1) (g).

23 **SECTION 17.** 71.07 (5s) of the statutes is created to read:

24 71.07 (5s) INFORMATION TECHNOLOGY TRAINING CREDIT. (a) In this subsection:

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1 1. “Claimant” means an individual, a sole proprietor, a partner, a member of
2 a limited liability company, or a shareholder of a tax-option corporation who files a
3 claim under this subsection.

4 2. “Information technology” has the meaning given in s. 16.97 (6).

5 3. “Information technology training” means training in information technology
6 that also includes training in privacy rights and information policy.

7 4. “Qualified institution” means any university, college, technical college, or
8 school approved under s. 45.54.

9 (b) Subject to the limitations provided in this subsection, a claimant may claim
10 as a credit against the tax imposed under s. 71.02, up to the amount of those taxes,
11 an amount equal to 50% of the amount that the claimant paid during the taxable year
12 for the claimant or the claimant’s spouse, dependent, or employee to receive
13 information technology training at a qualified institution.

14 (c) The amount of the credit for each claimant under this subsection shall not
15 exceed \$2,500 in a taxable year for each individual for whom the claimant pays an
16 amount as provided in par. (b).

17 (d) A claimant who receives a credit under par. (b) shall add to the claimant’s
18 liability for taxes imposed under s. 71.02 an amount that is equal to the total amount
19 of the credits received under par. (b), if any of the following occur:

20 1. The individual who received the training as specified under par. (b) is not
21 employed in this state in an occupation related to information technology within one
22 year after the individual completes the training.

23 2. The individual who received the training as specified under par. (b) is
24 employed in this state in an occupation related to information technology for less
25 than one year.

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1 (e) A claimant may not claim the credit under par. (b) for any amounts that the
2 claimant excluded under s. 71.05 (6) (b) 28. or under section 127 of the Internal
3 Revenue Code.

4 (f) The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit
5 under s. 71.28 (4), apply to the credit under this subsection.

6 (g) Partnerships, limited liability companies, and tax-option corporations may
7 not claim the credit under this subsection, but the eligibility for, and the amount of,
8 the credit are based on their payment of the amount under par. (b). A partnership,
9 limited liability company, or tax-option corporation shall compute the amount of
10 credit that each of its partners, members, or shareholders may claim and shall
11 provide that information to each of them. Partners, members of limited liability
12 companies, and shareholders of tax-option corporations may claim the credit in
13 proportion to their ownership interest.

14 (h) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),
15 applies to the credit under this subsection.

16 **SECTION 18.** 71.10 (4) (gv) of the statutes is created to read:

17 71.10 (4) (gv) Information technology training credit under s. 71.07 (5s).

18 **SECTION 19.** 71.21 (4) of the statutes is amended to read:

19 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2dc), (2di),
20 (2dj), (2dL), (2ds), (2dx) ~~and~~, (3s), and (5s) and passed through to partners shall be
21 added to the partnership's income.

22 **SECTION 20.** 71.26 (2) (a) of the statutes is amended to read:

23 71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means
24 the gross income as computed under the ~~internal revenue code~~ Internal Revenue
25 Code as modified under sub. (3) minus the amount of recapture under s. 71.28 (1di)

BILL**SECTION 20**

1 plus the amount of credit computed under s. 71.28 (1) and (3) to (5) plus the amount
2 of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds) ~~and~~, (1dx),
3 and (5s) and not passed through by a partnership, limited liability company or
4 tax-option corporation that has added that amount to the partnership's, limited
5 liability company's or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)
6 (g) plus the amount of losses from the sale or other disposition of assets the gain from
7 which would be wholly exempt income, as defined in sub. (3) (L), if the assets were
8 sold or otherwise disposed of at a gain and minus deductions, as computed under the
9 ~~internal revenue code~~ Internal Revenue Code as modified under sub. (3), plus or
10 minus, as appropriate, an amount equal to the difference between the federal basis
11 and Wisconsin basis of any asset sold, exchanged, abandoned or otherwise disposed
12 of in a taxable transaction during the taxable year, except as provided in par. (b) and
13 s. 71.45 (2) and (5). ✓

14 **SECTION 21.** 71.28 (5s) of the statutes is created to read:

15 **71.28 (5s) INFORMATION TECHNOLOGY TRAINING CREDIT.** (a) In this subsection:

16 1. "Claimant" means a corporation that files a claim under this subsection.

17 2. "Information technology" has the meaning given in s. 16.97 (6).

18 3. "Information technology training" means training in information technology
19 that also includes training in privacy rights and information policy.

20 4. "Qualified institution" means any university, college, technical college, or
21 school approved under s. 45.54.

22 (b) Subject to the limitations provided in this subsection, a claimant may claim
23 as a credit against the tax imposed under s. 71.23 an amount equal to 50% of the
24 amount that the claimant paid during the taxable year for an employee to receive
25 information technology training at a qualified institution.

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1 (c) The amount of the credit for each claimant under this subsection shall not
2 exceed \$2,500 in a taxable year for each employee for whom the claimant pays an
3 amount as provided in par. (b).

4 (d) A claimant who receives a credit under par. (b) shall add to the claimant's
5 liability for taxes imposed under s. 71.23 an amount that is equal to the total amount
6 of the credits received under par. (b), if any of the following occur:

7 1. The employee who received the training as specified under par. (b) is not
8 employed in this state in an occupation related to information technology within one
9 year after the employee completes the training.

10 2. The employee who received the training as specified under par. (b) is
11 employed in this state in an occupation related to information technology for less
12 than one year.

13 (e) A claimant may not claim the credit under par. (b) for any amounts that the
14 claimant has excluded under section 127 of the Internal Revenue Code.

15 (f) The carry-over provisions of sub. (4) (e) and (f), as they apply to the credit
16 under sub. (4), apply to the credit under this subsection.

17 (g) Partnerships, limited liability companies, and tax-option corporations may
18 not claim the credit under this subsection, but the eligibility for, and the amount of,
19 the credit are based on their payment of the amount under par. (b). A partnership,
20 limited liability company, or tax-option corporation shall compute the amount of
21 credit that each of its partners, members, or shareholders may claim and shall
22 provide that information to each of them. Partners, members of limited liability
23 companies, and shareholders of tax-option corporations may claim the credit in
24 proportion to their ownership interest.

BILL**SECTION 21**

1 (h) Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies
2 to the credit under this subsection.

3 **SECTION 22.** 71.30 (3) (e) of the statutes is created to read:

4 71.30 (3) (e) Information technology training credit under s. 71.28 (5s).

5 **SECTION 23.** 71.34 (1) (g) of the statutes is amended to read:

6 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
7 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx) ~~and, (3), and~~
8 (5s) and passed through to shareholders.

9 **SECTION 24.** 71.45 (2) (a) 10. of the statutes is amended to read:

10 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
11 computed under s. 71.47 (1dd) to (1dx) and (5s) and not passed through by a
12 partnership, limited liability company or tax-option corporation that has added that
13 amount to the partnership's, limited liability company's or tax-option corporation's
14 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under
15 s. 71.47 (1), (3), (4) and (5).

16 **SECTION 25.** 71.47 (5s) of the statutes is created to read:

17 71.47 (5s) INFORMATION TECHNOLOGY TRAINING CREDIT. (a) In this subsection:

18 1. "Claimant" means a corporation that files a claim under this subsection.

19 2. "Information technology" has the meaning given in s. 16.97 (6).

20 3. "Information technology training" means training in information technology
21 that also includes training in privacy rights and information policy.

22 4. "Qualified institution" means any university, college, technical college, or
23 school approved under s. 45.54.

24 (b) Subject to the limitations provided in this subsection, a claimant may claim
25 as a credit against the tax imposed under s. 71.43 an amount equal to 50% of the

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1 amount that the claimant paid during the taxable year for an employee to receive
2 information technology training at a qualified institution.

3 (c) The amount of the credit for each claimant under this subsection shall not
4 exceed \$2,500 in a taxable year for each employee for whom the claimant pays an
5 amount as provided in par. (b).

6 (d) A claimant who receives a credit under par. (b) shall add to the claimant's
7 liability for taxes imposed under s. 71.43 an amount that is equal to the total amount
8 of the credits received under par. (b), if any of the following occur:

9 1. The employee who received the training as specified under par. (b) is not
10 employed in this state in an occupation related to information technology within one
11 year after the employee completes the training.

12 2. The employee who received the training as specified under par. (b) is
13 employed in this state in an occupation related to information technology for less
14 than one year.

15 (e) A claimant may not claim the credit under par. (b) for any amounts that the
16 claimant has excluded under section 127 of the Internal Revenue Code.

17 (f) The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit
18 under s. 71.28 (4), apply to the credit under this subsection.

19 (g) Partnerships, limited liability companies, and tax-option corporations may
20 not claim the credit under this subsection, but the eligibility for, and the amount of,
21 the credit are based on their payment of the amount under par. (b). A partnership,
22 limited liability company, or tax-option corporation shall compute the amount of
23 credit that each of its partners, members, or shareholders may claim and shall
24 provide that information to each of them. Partners, members of limited liability

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1 companies, and shareholders of tax-option corporations may claim the credit in
2 proportion to their ownership interest.

3 (h) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),
4 applies to the credit under this subsection.

5 **SECTION 26.** 71.49 (1) (eon) of the statutes is created to read:

6 71.49 (1) (eon) Information technology training credit under s. 71.47 (5s).

7 **SECTION 27.** 77.92 (4) of the statutes is amended to read:

8 77.92 (4) "Net business income", with respect to a partnership, means taxable
9 income as calculated under section 703 of the Internal Revenue Code; plus the items
10 of income and gain under section 702 of the Internal Revenue Code, including taxable
11 state and municipal bond interest and excluding nontaxable interest income or
12 dividend income from federal government obligations; minus the items of loss and
13 deduction under section 702 of the Internal Revenue Code, except items that are not
14 deductible under s. 71.21; plus guaranteed payments to partners under section 707
15 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
16 (2di), (2dj), (2dL), (2dr), (2ds), (2dx) ~~and~~, (3s), and (5s) and plus or minus, as
17 appropriate, transitional adjustments, depreciation differences and basis
18 differences under s. 71.05 (13), (15), (16), (17) and (19); but excluding income, gain,
19 loss and deductions from farming. "Net business income", with respect to a natural
20 person, estate or trust, means profit from a trade or business for federal income tax
21 purposes and includes net income derived as an employee as defined in section 3121
22 (d) (3) of the Internal Revenue Code.

23 **SECTION 28.** 85.103 (6m) of the statutes is created to read:

24 85.103 (6m) A person who obtains a personal identifier or any other personally
25 identifiable information, as defined in s. 19.62 (5), from the department may not use

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1 or disclose that personal identifier or other personally identifiable information for
2 any commercial purpose, as defined in s. 895.50 (2) (am), without first obtaining, not
3 more than one year before the date of the use or disclosure, the written consent of the
4 individual who is the subject of the personal identifier or personally identifiable
5 information or, if that individual is a minor, the written consent of the individual's
6 parent or legal guardian. ✓

7 **SECTION 29.** 85.105 (3) of the statutes is created to read:

8 85.105 (3) A person who receives any personally identifiable information, as
9 defined in s. 19.62 (5), under a contract under this section entered into, extended,
10 modified, or renewed on or after the effective date of this subsection [revisor
11 inserts date], may not use or disclose that information for any commercial purpose,
12 as defined in s. 895.50 (2) (am), without first obtaining, not more than one year before
13 the date of the use or disclosure, the written consent of the individual to whom the
14 personally identifiable information relates or, if that individual is a minor, the
15 written consent of the individual's parent or legal guardian.

16 **SECTION 30.** 100.264 (2) (intro.) of the statutes is amended to read:

17 100.264 (2) SUPPLEMENTAL FORFEITURE. (intro.) If a fine or a forfeiture is
18 imposed on a person for a violation under s. 100.16, 100.17, 100.18, 100.182, 100.183,
19 100.20, 100.205, 100.207, 100.21, 100.30 (3), 100.35, 100.44 ~~or~~, 100.46, or 100.52 or
20 a rule promulgated under one of those sections, the person shall be subject to a
21 supplemental forfeiture not to exceed \$10,000 for that violation if the conduct by the
22 defendant, for which the violation was imposed, was perpetrated against an elderly
23 person or disabled person and if the court finds that any of the following factors is
24 present:

25 **SECTION 31.** 100.52 of the statutes is created to read:

BILL**SECTION 31**

1 **100.52 Telephone solicitations. (1) DEFINITIONS.** In this section:

2 (a) “Automatic telephone dialing system” means equipment that has the
3 capacity to store or produce telephone numbers that are called using a random or
4 sequential number generator and to call such telephone numbers.

5 (b) “Basic local exchange service” has the meaning in s. 196.01 (1g).

6 (c) “Blocking service” means a service that allows a person who makes a
7 telephone call to withhold his or her telephone number or name from a person who
8 receives the telephone call and who uses a caller identification service.

9 (d) “Caller identification service” means a service that allows a person who
10 receives a telephone call to identify the telephone number or name of the person
11 making the telephone call.

12 (e) “Residential customer” means an individual who is furnished with basic
13 local exchange service by a telecommunications utility.

14 (f) “Telecommunications utility” has the meaning given in s. 196.01 (10).

15 (g) “Telephone directory” means the telephone directory distributed to the
16 general public by a telecommunications utility that furnishes basic local exchange
17 service to a residential customer.

18 **(2) DIRECTORY LISTING.** (a) Upon a request by a residential customer, a
19 telecommunications utility furnishing basic local exchange service to the residential
20 customer shall include in its telephone directory a listing or symbol indicating that
21 the residential customer does not want to receive any telephone solicitation.

22 (b) A telecommunications utility may impose a onetime charge applicable to a
23 change in a telephone directory for a listing or symbol requested under par. (a). A
24 charge under this paragraph may not exceed the cost incurred by a
25 telecommunications utility in making a change to a telephone directory. Upon a

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1 complaint filed by residential customer, the department may investigate whether a
2 charge by a telecommunications utility violates this paragraph and may order a
3 telecommunications utility to impose a charge that complies with this paragraph.

4 (c) A person may not make a telephone solicitation to a residential customer
5 if a telephone directory in effect at the time of the telephone solicitation includes a
6 listing or symbol indicating that the residential customer does not want to receive
7 any telephone solicitation.

8 (3) AUTOMATIC DIALING. No person may, in making a telephone solicitation, use
9 an automatic telephone dialing system in such a way that 2 or more telephone lines
10 are engaged simultaneously.

11 (4) BLOCKING SERVICES. No person may use a blocking service when making a
12 telephone solicitation.

13 (6) ENFORCEMENT. The department shall investigate violations of this section
14 and may bring an action for temporary or permanent injunctive or other relief for any
15 violation of this section.

16 (7) PENALTIES. (a) Except as provided in par. (b), a person who violates this
17 section may be required to forfeit not more than \$500.

18 (b) A person who violates sub. (2) (c) may be required to forfeit not more than
19 \$10,000.

20 (8) TERRITORIAL APPLICATION. This section applies to any interstate telephone
21 solicitation received by a person in this state and any intrastate telephone
22 solicitation.

23 **SECTION 32.** 108.14 (7) (a) of the statutes is amended to read:

24 108.14 (7) (a) The records made or maintained by the department or
25 commission in connection with the administration of this chapter are confidential

BILL**SECTION 32**

1 and shall be open to public inspection or disclosure only to the extent that the
2 department or commission permits in the interest of the unemployment insurance
3 program. No person may permit inspection or disclosure of any record provided to
4 it by the department or commission unless, in addition to the person complying with
5 s. 19.35 (1) (jm), if applicable, the department or commission authorizes the
6 inspection or disclosure.

7 **SECTION 33.** 118.39 of the statutes is created to read:

8 **118.39 Policy on privacy in athletic locker rooms.** Each school board, and
9 the governing body of each private school that fields an athletic team representing
10 the school, shall adopt a written policy on who may enter and remain, to interview
11 or seek information from any person, in a locker room being used by an athletic team
12 representing the private school or representing a public school in the school district.
13 The policy shall reflect the privacy interests of members of athletic teams
14 representing the school.

15 **SECTION 34.** 134.72 (title) of the statutes is amended to read:

16 **134.72 (title) Prohibition of certain unsolicited messages by telephone**
17 **or facsimile machine.**

18 **SECTION 35.** 134.72 (1) (c) of the statutes is renumbered 100.52 (1) (h).

19 **SECTION 36.** 134.72 (2) (a) of the statutes is renumbered 100.52 (5).

20 **SECTION 37.** 134.72 (2) (b) (title) of the statutes is repealed.

21 **SECTION 38.** 134.72 (2) (b) of the statutes is renumbered 134.72 (2), and 134.72
22 (2) (b), as renumbered, is amended to read:

23 **134.72 (2) (b)** Notwithstanding ~~subd. 1.~~ par. (a), a person may not make a
24 facsimile solicitation to a person who has notified the facsimile solicitor in writing

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1 or by facsimile transmission that the person does not want to receive facsimile
2 solicitation.

3 **SECTION 39.** 134.72 (3) (a) of the statutes is amended to read:

4 134.72 (3) (a) *Intrastate.* This section applies to any intrastate telephone
5 solicitation ~~or intrastate facsimile solicitation.~~

6 **SECTION 40.** 134.72 (3) (b) of the statutes is amended to read:

7 134.72 (3) (b) *Interstate.* This section applies to any interstate telephone
8 solicitation, ~~or interstate facsimile solicitation,~~ received by a person in this state.

9 **SECTION 41.** 134.72 (4) of the statutes is amended to read:

10 134.72 (4) PENALTY. A person who violates this section may be required to
11 forfeit up to not more than \$500.

12 **SECTION 42.** 134.92 of the statutes is created to read:

13 **134.92 Motor fuel purchases with the use of a credit or debit card.** No
14 person may sell motor fuel dispensed at a pump at which the purchaser may make
15 payment for the motor fuel by the insertion of a credit or debit card unless no more
16 than the last 4 digits of the credit or debit card number are displayed on any receipt
17 issued automatically from the pump.

18 **SECTION 43.** 138.25 of the statutes is created to read:

19 **138.25 Credit card records. (1) DEFINITIONS.** In this section:

20 (a) "Affiliate," when used in relation to any person, means a company that
21 controls, is controlled by, or is under common control with the person.

22 (b) "Cardholder" has the meaning given in s. 943.41 (1) (b).

23 (c) "Consumer report" has the meaning given in 15 USC 1681a (d).

24 (d) "Consumer reporting agency" has the meaning given in 15 USC 1681a (f).

25 (e) "Fair Credit Reporting Act" means 15 USC 1681 to 1681u, as amended.

BILL**SECTION 43**

1 (f) “Financial transaction card” has the meaning given in s. 943.41 (1) (em).

2 (2) DISCLOSURE PROHIBITED. Except as provided in sub. (3), a person may not
3 disclose to another person, for money or anything else of value, any information or
4 data about a cardholder who is a resident of this state that is obtained by the person
5 from financial transaction card transaction records.

6 (3) EXCEPTIONS. Notwithstanding s. 895.50 (2) (bm) 2m., a person may disclose
7 information about a cardholder if any of the following apply:

8 (a) The disclosure is made to a consumer reporting agency for purposes of a
9 consumer report or by a consumer reporting agency as authorized under the Fair
10 Credit Reporting Act.

11 (b) The disclosure is made to an affiliate of the person making the disclosure.
12 The affiliate may not disclose any information received pursuant to this paragraph
13 to a person other than the person who initially disclosed the information to the
14 affiliate, unless the person who initially disclosed the information to the affiliate is
15 permitted to make the disclosure under this subsection.

16 (c) If the issuer of the financial transaction card is a retailer, the disclosure is
17 made to or by contractors or agents of the issuer for the purposes of performing
18 functions for or on behalf of the issuer. The contractor or agent may not disclose any
19 information received pursuant to this paragraph to a person other than the issuer,
20 unless the issuer is permitted to make the disclosure under this subsection.

21 (4) FORFEITURE. A person who violates sub. (2) may be required to forfeit not
22 more than \$10,000 for each violation. Each disclosure of information or data about
23 one cardholder constitutes a separate violation.

BILL**SECTION 46**

1 (3) “File” has the meaning given in 15 USC 1681a (g).

2 (4) “Investigative consumer report” has the meaning given in 15 USC 1681a
3 (e).

4 (5) “Summary of rights” means the information a consumer reporting agency
5 is required to provide under 15 USC 1681g (c).

6 **224.993 Disclosure to individual. (1) IN GENERAL.** A consumer reporting
7 agency shall, upon the written request of an individual, provide the individual with
8 a written disclosure report within 5 business days after receiving the written
9 request.

10 (2) **CONTENTS.** Except as provided in sub. (4), the written disclosure report
11 provided under sub. (1) shall contain all of the following:

12 (a) A current consumer report pertaining to the individual.

13 (b) The date of each request for credit information pertaining to the individual
14 received by the consumer reporting agency during the 12 months before the date that
15 the consumer reporting agency provides the written disclosure report.

16 (c) The name of each person requesting credit information pertaining to the
17 individual during the 12 months before the date that the consumer reporting agency
18 provides the written disclosure report.

19 (d) The dates, original payees, and amounts of any checks upon which any
20 adverse characterization of the consumer is based.

21 (e) Any other information contained in the individual’s file.

22 (f) A clear and concise explanation of the contents of the written disclosure
23 report.

24 (g) A summary of rights.

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1 (3) COST. A consumer reporting agency shall provide the written disclosure
2 report required under sub. (1) free of charge, unless the individual has requested a
3 written disclosure report from the consumer reporting agency during the preceding
4 12 months.

5 (4) EXCEPTIONS. A consumer reporting agency may not disclose to an individual
6 making a request under sub. (1) any of the following:

7 (a) The sources of any information that was both acquired solely for use in
8 preparing an investigative consumer report and used for no other purpose.

9 (b) Any credit score or other risk score or predictor relating to the consumer.

10 (5) PENALTY. Any person who violates this section may be fined not more than
11 \$500 for the first offense and may be fined not more than \$1,000 or imprisoned for
12 not more than 6 months or both for each subsequent offense occurring within 6
13 months.

14 **SECTION 47.** 341.17 (9) (c) 3. of the statutes is amended to read:

15 341.17 (9) (c) 3. An insurer authorized to write property and casualty or life,
16 disability, or long-term care insurance in this state or an agent of the insurer, if the
17 insurer or agent uses the personal identifiers designated for nondisclosure under s.
18 85.103 (2) or (3) for purposes of issuing or renewing a policy and related
19 underwriting, billing, or processing or paying a claim. Notwithstanding par. (e), no
20 and s. 19.35 (1) (jm), an insurer, or an agent of an insurer, may use or disclose to
21 another person for marketing purposes any a personal identifier received under this
22 subdivision for the purposes specified in this subdivision, but may not use or disclose
23 the personal identifier for any other commercial purpose, as defined in s. 895.50 (2)
24 (am), without first obtaining the consent of the individual to whom the personal
25 identifier relates under sub. (10).

BILL**SECTION 48**

1 **SECTION 48.** 341.17 (9) (c) 4. of the statutes is amended to read:

2 341.17 (9) (c) 4. A person obtaining registration or title information for use in
3 the conduct of a vehicle recall by the manufacturer of the vehicle or an agent of the
4 manufacturer, if the person uses the personal identifiers designated for
5 nondisclosure under s. 85.103 (2) or (3) for vehicle recalls. Notwithstanding par. (e),
6 ~~no~~ and s. 19.35 (1) (jm), a person receiving a personal identifier under this
7 subdivision may use or disclose the personal identifier to another person for
8 marketing purposes for the purposes specified in this subdivision, but may not use
9 or disclose the personal identifier for any other commercial purpose, as defined in s.
10 895.50 (2) (am), without first obtaining the consent of the individual to whom the
11 personal identifier relates under sub. (10).

12 **SECTION 49.** 341.17 (10) of the statutes is created to read:

13 341.17 (10) Any person who receives any personally identifiable information
14 under this section may not use or disclose that information for any commercial
15 purpose, as defined in s. 895.50 (2) (am), without first obtaining, not more than one
16 year before the date of the use or disclosure, the written consent of the individual to
17 whom the personally identifiable information relates or, if that individual is a minor,
18 the written consent of the individual's parent or legal guardian. This subsection does
19 not apply to a person specified in sub. (9) (c) 3. or 4. who uses or discloses personally
20 identifiable information obtained under this section only for purposes specified in
21 sub. (9) (c) 3. or 4.

22 **SECTION 50.** 343.235 (3) (b) of the statutes is amended to read:

23 343.235 (3) (b) An insurer authorized to write property and casualty or life,
24 disability, or long-term care insurance in this state or an agent of the insurer, if the
25 insurer or agent uses the personal identifiers for purposes of issuing or renewing a

BILL

1 policy and related underwriting, billing, or processing or paying a claim.
2 Notwithstanding sub. (5), ~~no~~ and s. 19.35 (1) (jm), an insurer, or an agent of an
3 insurer, may use or disclose to another person for marketing purposes any a personal
4 identifier received under this paragraph for the purposes specified in this paragraph,
5 but may not use or disclose the personal identifier for any other commercial purpose,
6 as defined in s. 895.50 (2) (am), without first obtaining the consent of the individual
7 to whom the personal identifier relates under sub. (5m).

8 **SECTION 51.** 343.235¹ (5m) of the statutes is created to read:

9 343.235 (5m) Any person who receives any personally identifiable information
10 under this section may not use or disclose that information for any commercial
11 purpose, as defined in s. 895.50 (2) (am), without first obtaining, not more than one
12 year before the date of the use or disclosure, the written consent of the individual to
13 whom the personally identifiable information relates or, if that individual is a minor,
14 the written consent of the individual's parent or legal guardian. This subsection does
15 not apply to a person specified in sub. (3) (b) who uses or discloses personally
16 identifiable information obtained under this section only for purposes specified in
17 sub. (3) (b).

18 **SECTION 52.** 343.24¹ (4) (c) 2. of the statutes is amended to read:

19 343.24 (4) (c) 2. An insurer authorized to write property and casualty or life,
20 disability, or long-term care insurance in this state or an agent of the insurer, if the
21 insurer or agent uses the names or addresses for purposes of issuing or renewing a
22 policy and related underwriting, billing, or processing or paying a claim.
23 Notwithstanding par. (e), ~~no~~ and s. 19.35 (1) (jm), an insurer, or an agent of an
24 insurer, may use or disclose to another person for marketing purposes any a personal
25 identifier received under this subdivision for the purposes specified in this

BILL**SECTION 52**

1 subdivision, but may not use or disclose the personal identifier for any other
2 commercial purpose, as defined in s. 895.50 (2) (am), without first obtaining the
3 consent of the individual to whom the personal identifier relates under sub. (5).

4 **SECTION 53.** 343.24 (5) of the statutes is created to read:

5 343.24 (5) Any person who receives any personally identifiable information
6 under this section may not use or disclose that information for any commercial
7 purpose, as defined in s. 895.50 (2) (am), without first obtaining, not more than one
8 year before the date of the use or disclosure, the written consent of the individual to
9 whom the personally identifiable information relates or, if that individual is a minor,
10 the written consent of the individual's parent or legal guardian. This subsection does
11 not apply to a person specified in sub. (4) (c) 2., who uses or discloses personally
12 identifiable information obtained under this section only for purposes specified in
13 sub. (4) (c) 2.

14 **SECTION 54.** 440.14 (6) of the statutes is created to read:

15 440.14 (6) A person who obtains a list from the department or a credentialing
16 board may not use or disclose any personal identifier or any other personally
17 identifiable information, as defined in s. 19.62 (5), disclosed on that list for any
18 commercial purpose, as defined in s. 895.50 (2) (am), without first obtaining, not
19 more than one year before the date of the use, the written consent of the individual
20 who is the subject of the personal identifier or personally identifiable information or,
21 if that individual is a minor, the written consent of the individual's parent or legal
22 guardian.

23 **SECTION 55.** 610.75 of the statutes is created to read:

24 **610.75 Use of social security numbers prohibited.** (1) In this section,
25 "health care plan" has the meaning given in s. 628.36 (2) (a) 1.

BILL

1 (2) An insurer that provides coverage under a health care plan may not use for
2 any insured or enrollee under the health care plan an identification number that is
3 identical with or that incorporates the insured's or enrollee's social security number.
4 This section does not prohibit such an insurer from requiring an insured or enrollee
5 to disclose his or her social security number, or from using an insured's or enrollee's
6 social security number if that use is required by a federal or state agency in order for
7 the insured or enrollee to participate in a particular program.

8 SECTION 56. 632.725 (2) (d) of the statutes is amended to read:

9 632.725 (2) (d) ~~Establish~~ In conformity with the requirements under ss.
10 146.833 and 610.75, establish a uniform statewide patient identification system in
11 which each individual who receives health care services in this state is assigned an
12 identification number. The standardized billing format established under par. (a)
13 and the standardized claim format established under par. (b) shall provide for the
14 designation of an individual's patient identification number.

15 SECTION 57. 895.50 (2) (intro.) of the statutes is amended to read:

16 895.50 (2) (intro.) In this section, ~~"invasion;~~

17 (bm) "Invasion of privacy" means any of the following:

18 SECTION 58. 895.50 (2) (a) of the statutes is renumbered 895.50 (2) (bm) 1.

19 SECTION 59. 895.50 (2) (am) of the statutes is created to read:

20 895.50 (2) (am) "Commercial purpose" means the purpose of accruing any gain,
21 benefit, or advantage, either directly or indirectly. "Commercial purpose" includes
22 the purpose of advertising or marketing any property, good, or service, soliciting
23 business, or setting the terms and conditions of any commercial transaction or
24 relationship.

25 SECTION 60. 895.50 (2) (b) of the statutes is renumbered 895.50 (2) (bm) 2.

no "Commercial purpose" does not include the gathering and reporting of news.

BILL**SECTION 61**

1 **SECTION 61.** 895.50 (2) (bm) 2m. of the statutes is created to read:

2 895.50 (2) (bm) 2m. The use or disclosure of any personally identifiable
3 information about any living person for any commercial purpose, without having
4 first obtained, not more than one year before the date of the use or disclosure, the
5 written consent of the person who is the subject of the personally identifiable
6 information or, if that person is a minor, the written consent of the person's parent
7 or legal guardian.

8 **SECTION 62.** 895.50 (2) (bm) 2r. of the statutes is created to read:

9 895.50 (2) (bm) 2r. Requiring, as a condition for receiving a good or a service,
10 that a living person or, if the person is a minor, the person's parent or legal guardian
11 provide consent to the use or disclosure of any personally identifiable information
12 about that person for any commercial purpose.

13 **SECTION 63.** 895.50 (2) (bm) 4. of the statutes is created to read:

14 895.50 (2) (bm) 4. Publicity given to a matter concerning another person that
15 places the other person before the public in a false light if the false light in which the
16 other person was placed, would be highly offensive to a reasonable person.

17 **SECTION 64.** 895.50 (2) (c) of the statutes is renumbered 895.50 (2) (bm) 3. and
18 amended to read:

19 895.50 (2) (bm) 3. Publicity given to a matter concerning the private life of
20 another, of a kind highly offensive to a reasonable person, if the defendant has acted
21 either unreasonably or recklessly as to whether there was a legitimate public
22 interest in the matter involved, or with actual knowledge that none existed. It is not
23 an invasion of privacy under this subdivision to communicate any information
24 available to the public as a matter of public record.

25 **SECTION 65.** 895.50 (2) (cm) of the statutes is created to read:

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1 895.50 (2) (cm) “Personally identifiable information” has the meaning given in
2 s. 19.62 (5).

3 **SECTION 66.** 895.50 (2m) of the statutes is created to read:

4 895.50 (2m) (a) In this subsection:

5 1. “Private person” means a person who is not a public person.

6 2. “Public person” means that the person has general fame or notoriety in the
7 community and pervasive involvement in the affairs of society; the person has put
8 himself or herself in the public eye with respect to the issues or events reported; or
9 the person has deliberately engaged the public’s attention to influence the issues or
10 events reported.

11 3. “Publisher” means any person who gives publicity to a matter, including a
12 person who communicates the matter in a newspaper or magazine, on radio or
13 television, or by electronic means.

14 (b) If the person who is the subject of the publicity under sub. (2) (bm) 4. is a
15 public person, the publisher is liable under this section only if the publisher had
16 knowledge of or acted with reckless disregard as to the falsity of the publicized
17 matter.

18 (c) If the person who is the subject of the publicity under sub. (2) (bm) 4. is a
19 private person, the publisher is liable under this section only if the publisher did not
20 use reasonable care to determine if the matter was false.

21 (d) Truth of the publicized matter is an absolute defense to an action for the
22 violation of a person’s privacy under sub. (2) (bm) 4.

23 **SECTION 67.** 895.50 (7) of the statutes is renumbered 895.50 (7) (a).

24 **SECTION 68.** 895.50 (7) (b) of the statutes is created to read:

BILL**SECTION 68**

1 895.50 (7) (b) No action for invasion of privacy may be maintained under this
2 section for an act described in sub. (2) (bm) 2m. if the claim is based on a disclosure
3 that is made under ch. 409.

4 **SECTION 69.** 938.299 (1) (av) of the statutes is amended to read:

5 938.299 (1) (av) ~~If a public hearing is held under par. (a) or (ar), any Subject~~
6 to s. 19.35 (1) (jm), any person may disclose to anyone any information obtained as
7 a result of that a public hearing held under par. (a) or (ar).

8 **SECTION 70.** 938.396 (2m) (a) of the statutes is amended to read:

9 938.396 (2m) (a) Notwithstanding sub. (2), upon request, a court shall open for
10 inspection by the requester the records of the court, other than reports under s.
11 938.295 or 938.33 or other records that deal with sensitive personal information of
12 the juvenile and the juvenile's family, relating to a juvenile who has been alleged to
13 be delinquent for committing a violation specified in s. 938.34 (4h) (a). ~~The Subject~~
14 to s. 19.35 (1) (jm), the requester may further disclose the information to anyone.

15 **SECTION 71.** 938.396 (2m) (b) of the statutes is amended to read:

16 938.396 (2m) (b) Notwithstanding sub. (2), upon request, a court shall open for
17 inspection by the requester the records of the court, other than reports under s.
18 938.295 or 938.33 or other records that deal with sensitive personal information of
19 the juvenile and the juvenile's family, relating to a juvenile who has been alleged to
20 be delinquent for committing a violation that would be a felony if committed by an
21 adult if the juvenile has been adjudicated delinquent at any time preceding the
22 present proceeding, and that previous adjudication remains of record and
23 unreversed. ~~The Subject to s. 19.35 (1) (jm), the requester may further disclose the~~
24 information to anyone.

25 **SECTION 72.** 968.27 (12) of the statutes is amended to read:

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1 968.27 (12) “Oral communication” means any oral communication uttered by
2 a person exhibiting an expectation that the communication is not subject to
3 interception under circumstances justifying the expectation. “Oral communication”
4 includes any oral communication between an employee of a retail business and a
5 customer of that retail business. “Oral communication” does not include any
6 electronic communication.

7 **SECTION 73.** 968.27 (14m) of the statutes is created to read:

8 968.27 (14m) “Retail business” means any business primarily engaged in the
9 retail sale of goods or services from a store or other premises owned or leased by the
10 business.

11 **SECTION 74.** 968.31 (2) (c) of the statutes is renumbered 968.31 (2) (c) (intro.)
12 and amended to read:

13 968.31 (2) (c) (intro.) For a person not acting under color of law to intercept a
14 wire, electronic or oral communication where the person is a party to the
15 communication or where one of the parties to the communication has given prior
16 consent to the interception, unless ~~the~~ one of the following applies:

17 1. The communication is intercepted for the purpose of committing any
18 criminal or tortious act in violation of the constitution or laws of the United States
19 or of any state or for the purpose of committing any other injurious act.

20 **SECTION 75.** 968.31 (2) (c) 2. of the statutes is created to read:

21 968.31 (2) (c) 2. The communication is an oral communication between an
22 employee of a retail business and a customer of the retail business that is uttered
23 while both the employee and the customer are present in or on the store or premises
24 of the retail business and that is intercepted using an electronic, mechanical, or other
25 device that is attached to or in the possession of the employee.

BILL**SECTION 76**

1 **SECTION 76.** 971.19 (11) of the statutes is created to read:

2 971.19 (11) In an action under s. 942.01, 942.03, 943.201, 943.205, 943.30,
3 943.31, 943.41, 943.70, 946.72, 947.012, or 947.0125, the defendant may be tried in
4 the defendant's county of residence, in the victim's county of residence, or in any
5 other county in which the trial may be conducted under this section.

6 **SECTION 9159. Nonstatutory provisions; other.**

7 (1) DISCLOSURE OF INFORMATION FOR COMMERCIAL PURPOSE. The treatment of
8 sections 19.35 (1) (jm), 23.45 (6), 85.103 (6m), 108.14 (7) (a), 341.17 (9) (c) 3. and 4.
9 and (10), 343.235 (3) (b) and (5m), 343.24 (4) (c) 2. and (5), 440.14 (6), 895.50 (2)
10 (intro.), (a), (am), (b), (bm) 2m. and 2r., (c), and (cm), 938.299 (1) (av), and 938.396
11 (2m) (a) and (b) of the statutes does not apply to a contract under which personally
12 identifiable information, as defined in section 19.62 (5) of the statutes, about any
13 living person is used or disclosed for any commercial purpose, as defined in section
14 895.50 (2) (am) of the statutes, as created by this act, without the prior written
15 consent of the person who is the subject of that personally identifiable information
16 or, if that person is a minor, the prior written consent of that person's parent or legal
17 guardian entered into before the effective date of this subsection.

18 (2) DISCLOSURE OF INFORMATION AS CONDITION FOR RECEIVING GOOD OR SERVICE.
19 The treatment of sections 19.35 (1) (jm), 23.45 (6), 85.103 (6m), 108.14 (7) (a), 341.17
20 (9) (c) 3. and 4. and (10), 343.235 (3) (b) and (5m), 343.24 (4) (c) 2. and (5), 440.14 (6),
21 895.50 (2) (intro.), (a), (am), (b), (bm) 2m. and 2r., (c), and (cm), 938.299 (1) (av), and
22 938.396 (2m) (a) and (b) of the statutes does not apply to a contract under which, as
23 a condition for receiving a good or a service, a person or, if the person is a minor, the
24 person's parent or legal guardian is required to consent to the use or disclosure of any
25 personally identifiable information, as defined in section 19.62 (5) of the statutes,

BILL

1 about that person for any commercial purpose, as defined in section 895.50 (2) (am)
2 of the statutes, as created by this act, entered into before the effective date of this
3 subsection.

SECTION 9309. Initial applicability; circuit courts.

4
5 (1) **RIGHT OF PRIVACY.** The treatment of section 895.50 (2) (bm) 4. and (2m) of
6 the statutes first applies to publicity given to a matter concerning another person on
7 the effective date of this subsection.

8 (2) **VENUE OF CRIMINAL TRIAL.** The treatment of section 971.19 (11) of the statutes
9 first applies to criminal actions commenced on the effective date of this subsection.

SECTION 9332. Initial applicability; legislature.

10
11 (1) **PRIVACY IMPACT STATEMENTS.** The treatment of section 13.0991 of the statutes
12 first applies with respect to bills introduced in the 2001-03 legislative session and
13 jacketed by the legislative reference bureau after the effective date of this subsection.

SECTION 9344. Initial applicability; revenue.

14
15 (1) **INFORMATION TECHNOLOGY TRAINING CREDIT.** The treatment of sections 71.05
16 (6) (a) 15., 71.07 (5s), 71.10 (4) (gv), 71.21 (4), 71.26 (2) (a), 71.28 (5s), 71.30 (3) (eon),
17 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (5s), 71.49 (1) (eon), and 77.92 (4) of the statutes
18 first applies to taxable years beginning on January 1 of the year in which this
19 subsection takes effect, except that if this subsection takes effect after July 31 the
20 treatment of sections 71.05 (6) (a) 15., 71.07 (5s), 71.10 (4) (gv), 71.21 (4), 71.26 (2)
21 (a), 71.28 (5s), 71.30 (3) (eon), 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (5s), 71.49 (1) (eon),
22 and 77.92 (4) of the statutes first applies to taxable years beginning on January 1 of
23 the year after the year in which this subsection takes effect.

SECTION 9359. Initial applicability; other.

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SECTION 9359

1 (1) RETAIL BUSINESS ORAL COMMUNICATIONS. The renumbering and amendment
 2 of section 968.31 (2) (c) of the statutes and the creation of section 968.31 (2) (c) 2. of
 3 the statutes first apply to oral communications intercepted on the effective date of
 4 this subsection. (2) as created by this act,

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5 **CREDIT CARD RECORDS.** ~~The treatment of section 138.25 of the statutes first~~
 6 ~~applies to a person who is subject to a contract that contains provisions inconsistent~~
 7 ~~with that treatment on the day on which the contract expires or is extended,~~
 8 ~~modified, or renewed, whichever first occurs.~~
 9 *then, notwithstanding section 138.25 (2) of the statutes, as affected by this act, the person may perform its obligations, and exercise its rights, under these provisions of the contract until*

SECTION 9400. Effective dates; general. Except as otherwise provided in

SECTIONS 9401 to 9459 of this act, this act takes effect on the day after publication.

SECTION 9423. Effective dates; health and family services.

12 (1) USE OF SOCIAL SECURITY NUMBERS BY HEALTH CARE PROVIDERS. The treatment
 13 of section 146.833 of the statutes takes effect on the first day of the 7th month
 14 beginning after publication.

SECTION 9427. Effective dates; insurance.

16 (1) USE OF SOCIAL SECURITY NUMBERS BY INSURERS. The treatment of sections
 17 610.75 and 632.725 (2) (d) of the statutes takes effect on the first day of the 7th month
 18 beginning after publication.

SECTION 9459. Effective dates; other.

20 (1) STUDENT IDENTIFICATION NUMBERS. The treatment of section 36.32 (1) of the
 21 statutes, the renumbering of section 36.11 (35) (title) of the statutes, and the
 22 renumbering and amendment of section 36.11 (35) of the statutes take effect on
 23 January 1, 2003.

BILL

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(2) PRIVACY IN ATHLETIC LOCKER ROOMS. The treatment of sections 36.38, 38.12

2

(12), 39.49, 118.39, and 175.22 of the statutes takes effect on the first day of the 6th month beginning after publication.

4

(END)

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NOTE

Representative Schneider:

This redraft excludes from the definition of "commercial purpose" in s. 895.50 (2)(am), as created by the bill, the gathering and reporting of news. ^{not} The redraft also incorporates LRB-3304, relating to Internet cookies.

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→ GMM
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