

2001 BILL

INSSATS

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1 AN ACT to create 421.301 (13m) and 422.422 of the statutes; relating to: the
2 tracking of consumer Internet usage by issuers of consumer credit, and
3 providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a transaction in which a consumer is granted credit in an amount of \$25,000 or less and which is entered into for personal, family, or household purposes (consumer credit transaction) is generally subject to the Wisconsin Consumer Act. Examples of consumer credit transactions include, among other things, purchases of consumer goods on credit, consumer loans, and open-end consumer credit plans (typically, credit cards). The Wisconsin Consumer Act provides obligations, remedies, and penalties with regard to these transactions that current law generally does not require for other transactions.

Under this bill, a creditor under a consumer credit transaction may not store a "cookie" on a computer that the creditor knows or has reason to know is used by a consumer, or access information obtained from a "cookie" that another person has stored on such a computer. A "cookie" is a file that is created and stored on a computer as a result of that computer accessing and interacting with an Internet Web site and that contains information regarding the Internet Web sites accessed through use of

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that computer or information used when that computer accesses an Internet Web site previously accessed through use of that computer, or both. (end ins)

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

INSCR 34-13

SECTION 1. 421.301 (13m) of the statutes is created to read:

421.301 (13m) "Cookie" means a file that is created and stored on a computer as a result of that computer accessing and interacting with an Internet web site and that contains information regarding the Internet web sites accessed through use of that computer, or information used when that computer accesses an Internet web site previously accessed through use of that computer, or both.

SECTION 2. 422.422 of the statutes is created to read:

422.422 Tracking consumer Internet usage prohibited. (1) No creditor under an open-end credit plan or merchant may store a cookie on a computer that the creditor knows or has reason to know is used by a customer to whom the creditor or merchant extends credit, or access information obtained from a cookie that another person has stored on such a computer.

(2) A violation of this section is subject to s. 425.304.

~~**SECTION 3. Nonstatutory provisions.**~~

INTERNET COOKIES.

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INSCR 41-3

If a person is affected by a contract that is in effect on the effective date of this subsection and that contains provisions that are inconsistent with section 422.422 (1) of the statutes, as created by this act, then, notwithstanding section 422.422 (1) of the statutes, as created by this act, the person may perform its obligations, and exercise its rights, under those provisions of the contract until the contract expires or is extended, modified, or renewed, whichever occurs first.

SECTION 4. Effective date.

create auto-ref "A"

of the statutes

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INTERNET COOKIES. The treatment of sections 421.301 (13m) and 422.422 and SECTION 9159 (9) of this act

use auto-ref "A"

1 (3) (1) This act takes effect on the first day of the 7th month beginning after
2 publication.

3 (END)

use auto-ref "A"

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0997/2dn
GMM&RJM:cjs:ch

May 24, 2001

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. The redraft also incorporates LRB-3304, relating to Internet cookies.

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5/30/21

13

Dan Schmidt, Leg Council

Remove provisions relating to use of info.
for commercial purpose w/out consent of
subject of info.

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State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0997/23

JTK/RM/MK/DK/PK/RN/ML/PD/RJ/cjs:ch

NOTE

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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), 421.301 (13m), 422.422, 440.14 (6),
14 610.75, 895.50 (2) (am), 895.50 (2) (bm) 2m., 895.50 (2) (bm) 2r., 895.50 (2) (bm)

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

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

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reasonable attorney fees. Current law defines "invasion of privacy" to mean any of the following:

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 about any living person for any commercial purpose, as defined in the bill, 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 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. 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~~

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~~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 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~~

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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 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

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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.

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

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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, a transaction in which a consumer is granted credit in an amount of \$25,000 or less and which is entered into for personal, family, or household purposes (consumer credit transaction) is generally subject to the Wisconsin Consumer Act. Examples of consumer credit transactions include, among other things, purchases of consumer goods on credit, consumer loans, and open-end consumer credit plans (typically, credit cards). The Wisconsin Consumer Act provides obligations, remedies, and penalties with regard to these transactions that current law generally does not require for other transactions.

Under this bill, a creditor under a consumer credit transaction may not store a "cookie" on a computer that the creditor knows or has reason to know is used by a consumer, or access information obtained from a "cookie" that another person has stored on such a computer. A "cookie" is a file that is created and stored on a computer as a result of that computer accessing and interacting with an Internet Web site and that contains information regarding the Internet Web sites accessed through use of that computer, or information used when that computer accesses an Internet Web site previously accessed through use of that computer, or both.

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 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

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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 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.

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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:

- 1 **SECTION 1.** 11.21 (5) of the statutes is amended to read:
- 2 11.21 (5) Make the reports and statements filed with it available for public
- 3 inspection and copying, commencing as soon as practicable but not later than the end
- 4 of the 2nd day following the day during which they are received, and permit copying
- 5 of any report or statement by hand or by duplicating machine at cost, as requested
- 6 by any person. ~~No Notwithstanding s. 19.35 (1) (jm), no information copied from such~~
- 7 reports and statements may be sold or utilized by any person for the purpose of
- 8 soliciting contributions from individuals identified in the reports or statements or for
- 9 any commercial purpose.
- 10 **SECTION 2.** 11.22 (8) of the statutes is amended to read:
- 11 11.22 (8) Make the reports and statements filed with the filing officer available
- 12 for public inspection and copying, commencing as soon as practicable but not later

BILL**SECTION 2**

1 than the end of the 2nd day following the day during which they are received, and
2 permit copying of any report or statement by hand or by duplicating machine at cost,
3 as requested by any person. ~~No Notwithstanding s. 19.35 (1) (jm), no information~~
4 ~~copied from such reports and statements may be sold or utilized by any person for~~
5 ~~the purpose of soliciting contributions from individuals identified in the reports or~~
6 ~~statements or for any commercial purpose.~~

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

8 **13.0991 Privacy impact statements.** (1) In this section:

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

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

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

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

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

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

20 (c) "Personally identifiable information" has the meaning given under s. 19.62
21 (5).

22 (d) "State agency" means an office, department, independent agency,
23 institution of higher education, association, society, or other body in state
24 government created or authorized to be created by the constitution or any law, which

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1 is entitled to expend moneys appropriated by law, including the legislature and the
2 courts, but not including an authority.

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

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

12 (3) Upon receipt of a bill under sub. (2), the department of administration shall
13 direct one or more state agencies or authorities to prepare a privacy impact
14 statement with respect to that bill. Each privacy impact statement shall describe the
15 impact upon personal privacy that would result from enactment of the bill and
16 analyze the desirability of that impact from the standpoint of public policy.

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

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

BILL**SECTION 3**

1 (6) Whenever a bill requires preparation of a privacy impact statement under
2 this section, the legislative reference bureau shall include a notation to that effect
3 on the jacket of the bill when the jacket is prepared. If the preparation of a privacy
4 impact statement is requested by a house of the legislature, the chief clerk of that
5 house shall include a notation to that effect on the jacket of the bill.

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

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

11 ~~19.35 (1) (jm) A requester who receives any personally identifiable information~~
12 ~~under pars. (a) to (f) may not use or disclose that information for any commercial~~
13 ~~purpose, as defined in s. 895.50 (2) (am), without first obtaining, not more than one~~
14 ~~year before the date of the use, the written consent of the individual who is the subject~~
15 ~~of the personally identifiable information or, if that individual is a minor, the written~~
16 ~~consent of the individual's parent or legal guardian.~~

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

18 19.36 (10) SOCIAL SECURITY ACCOUNT NUMBERS. (a) Except as provided in par.
19 (b), if a new record containing a social security account number of an individual,
20 together with information revealing the identity of that individual, is kept by an
21 authority after December 31, 2002, or if a record in the custody of an authority is
22 modified to insert the social security account number of an individual after December
23 31, 2002, and the record contains information revealing the identity of that
24 individual, the authority shall delete the social security account number before

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1 permitting access to the record, unless the requester is specifically authorized by
2 federal or state law to have access to the social security account number.

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

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

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

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

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

18 19.37 (4) (b) If any person misrepresents his or her identity for the purpose of
19 obtaining access to the social security account number of another individual under
20 s. 19.36 (10) (b) 1., the person may be required to forfeit not more than \$1,000 for each
21 social security account number obtained by the person by means of such
22 misrepresentation.

23 (c) If an insurer or other person obtains a social security account number under
24 s. 19.36 (10) (b) 2. and uses that number for purposes other than an investigation as
25 provided in s. 19.36 (10) (b) 2., the person may be required to forfeit not more than

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1 \$1,000 for each social security account number used by the person for such
2 unauthorized purposes.

3 ~~SECTION 8. 23.45 (6) of the statutes is created to read:~~

4 ~~23.45 (6) A person who obtains a list from the department may not use or~~
5 ~~disclose any personal identifier or any other personally identifiable information, as~~
6 ~~defined in s. 19.62 (5), disclosed on that list for any commercial purpose, as defined~~
7 ~~in s. 895.50 (2) (am), without first obtaining, not more than one year before the date~~
8 ~~of the use or disclosure, the written consent of the individual who is the subject of the~~
9 ~~personal identifier or personally identifiable information or, if that individual is a~~
10 ~~minor, the written consent of the individual's parent or legal guardian.~~

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

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

14 ~~36.32 (2) The board~~ An institution of higher education may assign to each
15 student enrolled in the system institution a unique identification number. ~~The board~~
16 An institution of higher education shall not assign to any student an identification
17 number that is identical to or incorporates the student's social security number. This
18 subsection does not prohibit ~~the board~~ an institution of higher education from
19 requiring a student to disclose his or her social security number, nor from using a
20 student's social security number if such use is required by a federal or state agency
21 or private organization in order for the system or the student to participate in a
22 particular program.

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

24 36.32 (1) In this section, "institution of higher education" means an institution
25 within the system, or a private educational institution located in this state that

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1 awards a bachelor's or higher degree or provides a program that is acceptable toward
2 such a degree.

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

4 **36.38 Policy on privacy in athletic locker rooms.** Each institution and
5 college campus shall adopt a written policy on who may enter and remain, to
6 interview or seek information from any person, in a locker room being used by an
7 athletic team representing the institution or college campus. The policy shall reflect
8 the privacy interests of members of athletic teams representing the institution or
9 college campus.

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

11 **38.12 (12) POLICY ON PRIVACY IN ATHLETIC LOCKER ROOMS.** The district board shall
12 adopt a written policy on who may enter and remain, to interview or seek information
13 from any person, in a locker room being used by an athletic team representing the
14 district. The policy shall reflect the privacy interests of members of athletic teams
15 representing the district.

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

17 **39.49 Policy on privacy in athletic locker rooms.** (1) In this section,
18 "institution of higher education" means a private educational institution that
19 awards a bachelor's or higher degree or provides a program that is acceptable for
20 credit toward such a degree, and that fields an athletic team that represents the
21 institution.

22 (2) Each institution of higher education shall adopt a written policy on who
23 may enter and remain, to interview or seek information from any person, in a locker
24 room being used by an athletic team representing the institution. The policy shall

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1 reflect the privacy interests of members of athletic teams representing the
2 institution.

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

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

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

9 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
10 (2di), (2dj), (2dL), (2dr), (2ds), (2dx) ~~and, (3s), and (5s)~~ and not passed through by a
11 partnership, limited liability company or tax-option corporation that has added that
12 amount to the partnership's, company's or tax-option corporation's income under s.
13 71.21 (4) or 71.34 (1) (g).

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

15 71.07 (5s) INFORMATION TECHNOLOGY TRAINING CREDIT. (a) In this subsection:

16 1. "Claimant" means an individual, a sole proprietor, a partner, a member of
17 a limited liability company, or a shareholder of a tax-option corporation who files a
18 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. 71.02, up to the amount of those taxes,

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1 an amount equal to 50% of the amount that the claimant paid during the taxable year
2 for the claimant or the claimant's spouse, dependent, or employee to receive
3 information technology training at a qualified institution.

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

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

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

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

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

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

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

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1 provide that information to each of them. Partners, members of limited liability
2 companies, and shareholders of tax-option corporations may claim the credit in
3 proportion to their ownership interest.

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

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

7 71.10 (4) (gv) Information technology training credit under s. 71.07 (5s).

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

9 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
10 (2dj), (2dL), (2ds), (2dx) ~~and, (3s), and (5s)~~ and passed through to partners shall be
11 added to the partnership's income.

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

13 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
14 the gross income as computed under the ~~internal revenue code~~ Internal Revenue
15 Code as modified under sub. (3) minus the amount of recapture under s. 71.28 (1di)
16 plus the amount of credit computed under s. 71.28 (1) and (3) to (5) plus the amount
17 of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds) ~~and, (1dx),~~
18 and (5s) and not passed through by a partnership, limited liability company or
19 tax-option corporation that has added that amount to the partnership's, limited
20 liability company's or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)
21 (g) plus the amount of losses from the sale or other disposition of assets the gain from
22 which would be wholly exempt income, as defined in sub. (3) (L), if the assets were
23 sold or otherwise disposed of at a gain and minus deductions, as computed under the
24 ~~internal revenue code~~ Internal Revenue Code as modified under sub. (3), plus or
25 minus, as appropriate, an amount equal to the difference between the federal basis

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1 and Wisconsin basis of any asset sold, exchanged, abandoned or otherwise disposed
2 of in a taxable transaction during the taxable year, except as provided in par. (b) and
3 s. 71.45 (2) and (5).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 71.30 (3) (eon) Information technology training credit under s. 71.28 (5s).

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

21 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
22 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx) ~~and, (3), and~~
23 (5s) and passed through to shareholders.

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

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

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

8 71.47 (5s) INFORMATION TECHNOLOGY TRAINING CREDIT. (a) In this subsection:

- 9 1. "Claimant" means a corporation that files a claim under this subsection.
- 10 2. "Information technology" has the meaning given in s. 16.97 (6).
- 11 3. "Information technology training" means training in information technology
12 that also includes training in privacy rights and information policy.
- 13 4. "Qualified institution" means any university, college, technical college, or
14 school approved under s. 45.54.

15 (b) Subject to the limitations provided in this subsection, a claimant may claim
16 as a credit against the tax imposed under s. 71.43 an amount equal to 50% of the
17 amount that the claimant paid during the taxable year for an employee to receive
18 information technology training at a qualified institution.

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

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

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

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

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

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

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

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

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

22 71.49 (1) (eon) Information technology training credit under s. 71.47 (5s).

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

24 77.92 (4) “Net business income”, with respect to a partnership, means taxable
25 income as calculated under section 703 of the Internal Revenue Code; plus the items

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1 of income and gain under section 702 of the Internal Revenue Code, including taxable
2 state and municipal bond interest and excluding nontaxable interest income or
3 dividend income from federal government obligations; minus the items of loss and
4 deduction under section 702 of the Internal Revenue Code, except items that are not
5 deductible under s. 71.21; plus guaranteed payments to partners under section 707
6 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
7 (2di), (2dj), (2dL), (2dr), (2ds), (2dx) ~~and, (3s), and (5s)~~ and plus or minus, as
8 appropriate, transitional adjustments, depreciation differences and basis
9 differences under s. 71.05 (13), (15), (16), (17) and (19); but excluding income, gain,
10 loss and deductions from farming. "Net business income", with respect to a natural
11 person, estate or trust, means profit from a trade or business for federal income tax
12 purposes and includes net income derived as an employee as defined in section 3121
13 (d) (3) of the Internal Revenue Code.

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

15 ~~85.103 (6m) A person who obtains a personal identifier or any other personally~~
16 ~~identifiable information, as defined in s. 19.62 (5), from the department may not use~~
17 ~~or disclose that personal identifier or other personally identifiable information for~~
18 ~~any 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 or disclosure, the written consent of the~~
20 ~~individual who is the subject of the personal identifier or personally identifiable~~
21 ~~information or, if that individual is a minor, the written consent of the individual's~~
22 ~~parent or legal guardian.~~

23 ~~SECTION 29. 85.105 (3) of the statutes is created to read:~~

24 ~~85.105 (3) A person who receives any personally identifiable information, as~~
25 ~~defined in s. 19.62 (5), under a contract under this section entered into, extended,~~

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1 ~~modified, or renewed on or after the effective date of this subsection [revisor~~
2 ~~inserts date], may not use or disclose that information for any commercial purpose,~~
3 ~~as defined in s. 895.50 (2) (am), without first obtaining, not more than one year before~~
4 ~~the date of the use or disclosure, the written consent of the individual to whom the~~
5 ~~personally identifiable information relates or, if that individual is a minor, the~~
6 ~~written consent of the individual's parent or legal guardian.~~

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

8 100.264 (2) SUPPLEMENTAL FORFEITURE. (intro.) If a fine or a forfeiture is
9 imposed on a person for a violation under s. 100.16, 100.17, 100.18, 100.182, 100.183,
10 100.20, 100.205, 100.207, 100.21, 100.30 (3), 100.35, 100.44 ~~or~~, 100.46, or 100.52 or
11 a rule promulgated under one of those sections, the person shall be subject to a
12 supplemental forfeiture not to exceed \$10,000 for that violation if the conduct by the
13 defendant, for which the violation was imposed, was perpetrated against an elderly
14 person or disabled person and if the court finds that any of the following factors is
15 present:

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

17 **100.52 Telephone solicitations. (1) DEFINITIONS.** In this section:

18 (a) "Automatic telephone dialing system" means equipment that has the
19 capacity to store or produce telephone numbers that are called using a random or
20 sequential number generator and to call such telephone numbers.

21 (b) "Basic local exchange service" has the meaning in s. 196.01 (1g).

22 (c) "Blocking service" means a service that allows a person who makes a
23 telephone call to withhold his or her telephone number or name from a person who
24 receives the telephone call and who uses a caller identification service.

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1 (d) "Caller identification service" means a service that allows a person who
2 receives a telephone call to identify the telephone number or name of the person
3 making the telephone call.

4 (e) "Residential customer" means an individual who is furnished with basic
5 local exchange service by a telecommunications utility.

6 (f) "Telecommunications utility" has the meaning given in s. 196.01 (10).

7 (g) "Telephone directory" means the telephone directory distributed to the
8 general public by a telecommunications utility that furnishes basic local exchange
9 service to a residential customer.

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

14 (b) A telecommunications utility may impose a onetime charge applicable to a
15 change in a telephone directory for a listing or symbol requested under par. (a). A
16 charge under this paragraph may not exceed the cost incurred by a
17 telecommunications utility in making a change to a telephone directory. Upon a
18 complaint filed by residential customer, the department may investigate whether a
19 charge by a telecommunications utility violates this paragraph and may order a
20 telecommunications utility to impose a charge that complies with this paragraph.

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

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

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

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

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

11 (b) A person who violates sub. (2) (c) may be required to forfeit not more than
12 \$10,000.

13 (8) **TERRITORIAL APPLICATION.** This section applies to any interstate telephone
14 solicitation received by a person in this state and any intrastate telephone
15 solicitation.

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

17 ~~108.14 (7) (a) The records made or maintained by the department or~~
18 ~~commission in connection with the administration of this chapter are confidential~~
19 ~~and shall be open to public inspection or disclosure only to the extent that the~~
20 ~~department or commission permits in the interest of the unemployment insurance~~
21 ~~program. No person may permit inspection or disclosure of any record provided to~~
22 ~~it by the department or commission unless, in addition to the person complying with~~
23 ~~s. 19.35 (1) (jm), if applicable, the department or commission authorizes the~~
24 ~~inspection or disclosure.~~

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

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1 **118.39 Policy on privacy in athletic locker rooms.** Each school board, and
2 the governing body of each private school that fields an athletic team representing
3 the school, shall adopt a written policy on who may enter and remain, to interview
4 or seek information from any person, in a locker room being used by an athletic team
5 representing the private school or representing a public school in the school district.
6 The policy shall reflect the privacy interests of members of athletic teams
7 representing the school.

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

9 **134.72 (title) Prohibition of certain unsolicited messages by telephone**
10 **or facsimile machine.**

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

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

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

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

16 134.72 (2) (b) Notwithstanding ~~subd. 1. par. (a)~~, a person may not make a
17 facsimile solicitation to a person who has notified the facsimile solicitor in writing
18 or by facsimile transmission that the person does not want to receive facsimile
19 solicitation.

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

21 134.72 (3) (a) *Intrastate.* This section applies to any ~~intrastate telephone~~
22 ~~solicitation or intrastate facsimile solicitation.~~

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

24 134.72 (3) (b) *Interstate.* This section applies to any ~~interstate telephone~~
25 ~~solicitation, or interstate facsimile solicitation,~~ received by a person in this state.

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

2 134.72 (4) PENALTY. A person who violates this section may be required to
3 forfeit ~~up to~~ not more than \$500.

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

5 **134.92 Motor fuel purchases with the use of a credit or debit card.** No
6 person may sell motor fuel dispensed at a pump at which the purchaser may make
7 payment for the motor fuel by the insertion of a credit or debit card unless no more
8 than the last 4 digits of the credit or debit card number are displayed on any receipt
9 issued automatically from the pump.

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

11 **138.25 Credit card records. (1) DEFINITIONS.** In this section:

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

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

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

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

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

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

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

23 **(3) EXCEPTIONS.** ~~Notwithstanding s. 895.50 (2) (bm) 2m.,~~ ^(A) a person may disclose
24 information about a cardholder if any of the following apply:

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

4 (b) The disclosure is made to an affiliate of the person making the disclosure.
5 The affiliate may not disclose any information received pursuant to this paragraph
6 to a person other than the person who initially disclosed the information to the
7 affiliate, unless the person who initially disclosed the information to the affiliate is
8 permitted to make the disclosure under this subsection.

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

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

17 (5) INJUNCTION. The department of justice may commence an action in circuit
18 court in the name of the state to restrain by temporary or permanent injunction any
19 act or practice constituting a violation of sub. (2).

20 **SECTION 44.** 146.833 of the statutes is created to read:

21 **146.833 Use of social security numbers prohibited.** A health care
22 provider may not use for any patient an identification number that is identical to or
23 incorporates the patient's social security number. This section does not prohibit the
24 health care provider from requiring a patient to disclose his or her social security
25 number, or from using a patient's social security number if that use is required by

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1 a federal or state agency in order for the patient to participate in a particular
2 program.

3 **SECTION 45.** 175.22 of the statutes is created to read:

4 **175.22 Policy on privacy for professional athletic teams.** Any
5 professional athletic team that has its home field or arena in this state shall adopt
6 a written policy on who may enter and remain, to interview or seek information from
7 any person, in a locker room used by the professional athletic team. The policy shall
8 reflect the privacy interests of members of the professional athletic team.

9 **SECTION 46.** Subchapter V of chapter 224 [precedes 224.991] of the statutes is
10 created to read:

11 **CHAPTER 224**

12 **SUBCHAPTER V**

13 **CONSUMER REPORTING AGENCIES**

14 **224.991 Definitions.** In this subchapter:

15 (1) “Consumer report” has the meaning given in 15 USC 1681a (d).

16 (2) “Consumer reporting agency” has the meaning given in 15 USC 1681a (f).

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

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

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

22 **224.993 Disclosure to individual. (1) IN GENERAL.** A consumer reporting
23 agency shall, upon the written request of an individual, provide the individual with
24 a written disclosure report within 5 business days after receiving the written
25 request.

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

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

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

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

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

12 (e) Any other information contained in the individual's file.

13 (f) A clear and concise explanation of the contents of the written disclosure
14 report.

15 (g) A summary of rights.

16 (3) COST. A consumer reporting agency shall provide the written disclosure
17 report required under sub. (1) free of charge, unless the individual has requested a
18 written disclosure report from the consumer reporting agency during the preceding
19 12 months.

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

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

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

BILL**SECTION 46**

1 (5) PENALTY. Any person who violates this section may be fined not more than
2 \$500 for the first offense and may be fined not more than \$1,000 or imprisoned for
3 not more than 6 months or both for each subsequent offense occurring within 6
4 months.

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

6 ~~341.17 (9) (c) 3. An insurer authorized to write property and casualty or life,
7 disability, or long-term care insurance in this state or an agent of the insurer, if the
8 insurer or agent uses the personal identifiers designated for nondisclosure under s.
9 85.103 (2) or (3) for purposes of issuing or renewing a policy and related
10 underwriting, billing, or processing or paying a claim. Notwithstanding par. (e), ~~no~~
11 ~~and s. 19.35 (1) (jm), an insurer, or an agent of an insurer, may use or disclose to~~
12 ~~another person for marketing purposes any a personal identifier received under this~~
13 ~~subdivision for the purposes specified in this subdivision, but may not use or disclose~~
14 ~~the personal identifier for any other commercial purpose, as defined in s. 895.50 (2)~~
15 ~~(am), without first obtaining the consent of the individual to whom the personal~~
16 ~~identifier relates under sub. (10).~~~~

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

18 ~~341.17 (9) (c) 4. A person obtaining registration or title information for use in
19 the conduct of a vehicle recall by the manufacturer of the vehicle or an agent of the
20 manufacturer, if the person uses the personal identifiers designated for
21 nondisclosure under s. 85.103 (2) or (3) for vehicle recalls. Notwithstanding par. (e),
22 ~~no~~ ~~and s. 19.35 (1) (jm), a person receiving a personal identifier under this~~
23 ~~subdivision may use or disclose the personal identifier to another person for~~
24 ~~marketing purposes for the purposes specified in this subdivision, but may not use~~
25 ~~or disclose the personal identifier for any other commercial purpose, as defined in s.~~~~

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1 895.50 (2) (am), without first obtaining the consent of the individual to whom the
2 personal identifier relates under sub. (10).

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

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

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

14 343.235 (3) (b) An insurer authorized to write property and casualty or life,
15 disability, or long-term care insurance in this state or an agent of the insurer, if the
16 insurer or agent uses the personal identifiers for purposes of issuing or renewing a
17 policy and related underwriting, billing, or processing or paying a claim.
18 Notwithstanding sub. (5) ~~and s. 19.35 (1) (jm), an insurer, or an agent of an~~
19 ~~insurer, may use or disclose to another person for marketing purposes any a personal~~
20 ~~identifier received under this paragraph for the purposes specified in this paragraph,~~
21 ~~but may not use or disclose the personal identifier for any other commercial purpose,~~
22 as defined in s. 895.50 (2) (am), without first obtaining the consent of the individual
23 to whom the personal identifier relates under sub. (5m).

24 **SECTION 51.** 343.235 (5m) of the statutes is created to read:

BILL**SECTION 51**

1 343.235 (5m) Any person who receives any personally identifiable information
2 under this section may not use or disclose that information for any commercial
3 purpose, as defined in s. 895.50 (2) (am), without first obtaining, not more than one
4 year before the date of the use or disclosure, the written consent of the individual to
5 whom the personally identifiable information relates or, if that individual is a minor,
6 the written consent of the individual's parent or legal guardian. This subsection does
7 not apply to a person specified in sub. (3) (b) who uses or discloses personally
8 identifiable information obtained under this section only for purposes specified in
9 sub. (3) (b).

10 **SECTION 52.** 343.24 (4) (c) 2. of the statutes is amended to read:

11 343.24 (4) (c) 2. An insurer authorized to write property and casualty or life,
12 disability, or long-term care insurance in this state or an agent of the insurer, if the
13 insurer or agent uses the names or addresses for purposes of issuing or renewing a
14 policy and related underwriting, billing, or processing or paying a claim.
15 Notwithstanding par. (e), no and s. 19.35 (1) (jm), an insurer, or an agent of an
16 insurer, may use or disclose to another person for marketing purposes any a personal
17 identifier received under this subdivision for the purposes specified in this
18 subdivision, but may not use or disclose the personal identifier for any other
19 commercial purpose, as defined in s. 895.50 (2) (am), without first obtaining the
20 consent of the individual to whom the personal identifier relates under sub. (5).

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

22 343.24 (5) Any person who receives any personally identifiable information
23 under this section may not use or disclose that information for any commercial
24 purpose, as defined in s. 895.50 (2) (am), without first obtaining, not more than one
25 year before the date of the use or disclosure, the written consent of the individual to

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1 ~~whom the personally identifiable information relates or, if that individual is a minor,~~
2 ~~the written consent of the individual's parent or legal guardian. This subsection does~~
3 ~~not apply to a person specified in sub. (4) (c) 2., who uses or discloses personally~~
4 ~~identifiable information obtained under this section only for purposes specified in~~
5 ~~sub. (4) (c) 2.~~

6 **SECTION 54.** 421.301 (13m) of the statutes is created to read:

7 421.301 (13m) "Cookie" means a file that is created and stored on a computer
8 as a result of that computer accessing and interacting with an Internet web site and
9 that contains information regarding the Internet web sites accessed through use of
10 that computer, or information used when that computer accesses an Internet web
11 site previously accessed through use of that computer, or both.

12 **SECTION 55.** 422.422 of the statutes is created to read:

13 **422.422 Tracking consumer Internet usage prohibited.** (1) No creditor
14 under an open-end credit plan or merchant may store a cookie on a computer that
15 the creditor knows or has reason to know is used by a customer to whom the creditor
16 or merchant extends credit, or access information obtained from a cookie that
17 another person has stored on such a computer.

18 (2) A violation of this section is subject to s. 425.304.

19 **SECTION 56.** ~~440.14 (6) of the statutes is created to read:~~

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

BILL**SECTION 56**

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

3 **SECTION 57.** 610.75 of the statutes is created to read:

4 **610.75 Use of social security numbers prohibited.** (1) In this section,
5 "health care plan" has the meaning given in s. 628.36 (2) (a) 1.

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

13 **SECTION 58.** 632.725 (2) (d) of the statutes is amended to read:

14 632.725 (2) (d) ~~Establish~~ In conformity with the requirements under ss.
15 146.833 and 610.75, establish a uniform statewide patient identification system in
16 which each individual who receives health care services in this state is assigned an
17 identification number. The standardized billing format established under par. (a)
18 and the standardized claim format established under par. (b) shall provide for the
19 designation of an individual's patient identification number.

20 ~~**SECTION 59.** 895.50 (2) (intro.) of the statutes is amended to read:~~

21 ~~895.50 (2) (intro.) In this section, "invasion:~~

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

23 ~~**SECTION 60.** 895.50 (2) (a) of the statutes is renumbered 895.50 (2) (bm) 1.~~

24 ~~**SECTION 61.** 895.50 (2) (am) of the statutes is created to read:~~

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1 895.50 (2) (am) "Commercial purpose" means the purpose of accruing any gain,
2 benefit, or advantage, either directly or indirectly. "Commercial purpose" includes
3 the purpose of advertising or marketing any property, good, or service, soliciting
4 business, or setting the terms and conditions of any commercial transaction or
5 relationship. "Commercial purpose" does not include the gathering and reporting of
6 news.

7 **SECTION 62.** 895.50 (2) (b) of the statutes is renumbered 895.50 (2) (bm) 2.

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

9 895.50 (2) (bm) 2m. The use or disclosure of any personally identifiable
10 information about any living person for any commercial purpose, without having
11 first obtained, not more than one year before the date of the use or disclosure, the
12 written consent of the person who is the subject of the personally identifiable
13 information or, if that person is a minor, the written consent of the person's parent
14 or legal guardian.

15 **SECTION 64.** 895.50 (2) (bm) 2r. of the statutes is created to read:

16 895.50 (2) (bm) 2r. Requiring, as a condition for receiving a good or a service,
17 that a living person or, if the person is a minor, the person's parent or legal guardian
18 provide consent to the use or disclosure of any personally identifiable information
19 about that person for any commercial purpose.

20 **SECTION 65.** 895.50 (2) ^(d) ~~(bm) 2s~~ of the statutes is created to read:

21 895.50 (2) ^(d) ~~(bm) 2s~~ Publicity given to a matter concerning another person that
22 places the other person before the public in a false light if the false light in which the
23 other person was placed would be highly offensive to a reasonable person.

24 ~~**SECTION 66.** 895.50 (2) (c) of the statutes is renumbered 895.50 (2) (bm) 3 and~~
25 amended to read:

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SECTION 66

1 ~~895.50 (2) (bm) 3. Publicity given to a matter concerning the private life of~~
 2 ~~another, of a kind highly offensive to a reasonable person, if the defendant has acted~~
 3 ~~either unreasonably or recklessly as to whether there was a legitimate public~~
 4 ~~interest in the matter involved, or with actual knowledge that none existed. It is not~~
 5 ~~an invasion of privacy under this subdivision to communicate any information~~
 6 ~~available to the public as a matter of public record.~~

7 **SECTION 67.** ~~895.50 (2) (cm) of the statutes is created to read:~~

8 ~~895.50 (2) (cm) "Personally identifiable information" has the meaning given in~~
 9 ~~s. 19.62 (5).~~

10 **SECTION 68.** 895.50 (2m) of the statutes is created to read:

11 895.50 (2m) (a) In this subsection:

- 12 1. "Private person" means a person who is not a public person.
- 13 2. "Public person" means that the person has general fame or notoriety in the
- 14 community and pervasive involvement in the affairs of society; the person has put
- 15 himself or herself in the public eye with respect to the issues or events reported; or
- 16 the person has deliberately engaged the public's attention to influence the issues or
- 17 events reported.
- 18 3. "Publisher" means any person who gives publicity to a matter, including a
- 19 person who communicates the matter in a newspaper or magazine, on radio or
- 20 television, or by electronic means.

(d)

21 (b) If the person who is the subject of the publicity under sub. (2) ~~(cm)~~ is a
 22 public person, the publisher is liable under this section only if the publisher had
 23 knowledge of or acted with reckless disregard as to the falsity of the publicized
 24 matter.

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SECTION 68

(d)

(d)

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

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

~~SECTION 69. 895.50 (7) of the statutes is renumbered 895.50 (7) (a).~~

~~SECTION 70. 895.50 (7) (b) of the statutes is created to read:~~

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

~~SECTION 71. 938.299 (1) (av) of the statutes is amended to read:~~

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

~~SECTION 72. 938.396 (2m) (a) of the statutes is amended to read:~~

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

~~SECTION 73. 938.396 (2m) (b) of the statutes is amended to read:~~

~~938.396 (2m) (b) Notwithstanding sub. (2), upon request, a court shall open for inspection by the requester the records of the court, other than reports under s. 938.295 or 938.33 or other records that deal with sensitive personal information of~~

BILL**SECTION 73**

1 the juvenile and the juvenile's family, relating to a juvenile who has been alleged to
2 be delinquent for committing a violation that would be a felony if committed by an
3 adult if the juvenile has been adjudicated delinquent at any time preceding the
4 present proceeding, and that previous adjudication remains of record and
5 unreversed. ~~The Subject to s. 19.35 (1) (jm), the requester may further disclose the~~
6 ~~information to anyone.~~

7 **SECTION 74.** 968.27 (12) of the statutes is amended to read:

8 968.27 (12) "Oral communication" means any oral communication uttered by
9 a person exhibiting an expectation that the communication is not subject to
10 interception under circumstances justifying the expectation. "Oral communication"
11 includes any oral communication between an employee of a retail business and a
12 customer of that retail business. "Oral communication" does not include any
13 electronic communication.

14 **SECTION 75.** 968.27 (14m) of the statutes is created to read:

15 968.27 (14m) "Retail business" means any business primarily engaged in the
16 retail sale of goods or services from a store or other premises owned or leased by the
17 business.

18 **SECTION 76.** 968.31 (2) (c) of the statutes is renumbered 968.31 (2) (c) (intro.)
19 and amended to read:

20 968.31 (2) (c) (intro.) For a person not acting under color of law to intercept a
21 wire, electronic or oral communication where the person is a party to the
22 communication or where one of the parties to the communication has given prior
23 consent to the interception, unless the one of the following applies:

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

4 **SECTION 77.** 968.31 (2) (c) 2. of the statutes is created to read:

5 968.31 (2) (c) 2. The communication is an oral communication between an
6 employee of a retail business and a customer of the retail business that is uttered
7 while both the employee and the customer are present in or on the store or premises
8 of the retail business and that is intercepted using an electronic, mechanical, or other
9 device that is attached to or in the possession of the employee.

10 **SECTION 78.** 971.19 (11) of the statutes is created to read:

11 971.19 (11) In an action under s. 942.01, 942.03, 943.201, 943.205, 943.30,
12 943.31, 943.41, 943.70, 946.72, 947.012, or 947.0125, the defendant may be tried in
13 the defendant's county of residence, in the victim's county of residence, or in any
14 other county in which the trial may be conducted under this section.

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

16 ~~(1) DISCLOSURE OF INFORMATION FOR COMMERCIAL PURPOSE. The treatment of~~
17 ~~sections 19.35 (1) (jm), 23.45 (6), 85.103 (6m), 108.14 (7) (a), 341.17 (9) (c) 3. and 4.~~
18 ~~and (10), 343.235 (3) (b) and (5m), 343.24 (4) (c) 2. and (5), 440.14 (6), 895.50 (2)~~
19 ~~(intro.), (a), (am), (h), (bm) 2m. and 2r., (c), and (cm), 938.299 (1) (av), and 938.396~~
20 ~~(2m) (a) and (b) of the statutes does not apply to a contract under which personally~~
21 ~~identifiable information, as defined in section 19.62 (5) of the statutes, about any~~
22 ~~living person is used or disclosed for any commercial purpose, as defined in section~~
23 ~~895.50 (2) (am) of the statutes, as created by this act, without the prior written~~
24 ~~consent of the person who is the subject of that personally identifiable information~~

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SECTION 9159

1 or, if that person is a minor, the prior written consent of that person's parent or legal
2 guardian entered into before the effective date of this subsection.

3 (2) DISCLOSURE OF INFORMATION AS CONDITION FOR RECEIVING GOOD OR SERVICE

4 The treatment of sections 19.35 (1) (jm), 23.45 (6), 85.103 (6m), 108.14 (7) (a), 341.17
5 (9) (c) 3. and 4. and (10), 343.235 (3) (b) and (5m), 343.24 (4) (c) 2. and (5), 440.14 (6),
6 895.50 (2) (intro.), (a), (am), (b), (bm) 2m. and 2r., (c), and (cm), 938.299 (1) (av), and
7 938.396 (2m) (a) and (b) of the statutes does not apply to a contract under which, as
8 a condition for receiving a good or a service, a person or, if the person is a minor, the
9 person's parent or legal guardian is required to consent to the use or disclosure of any
10 personally identifiable information, as defined in section 19.62 (5) of the statutes,
11 about that person for any commercial purpose, as defined in section 895.50 (2) (am)
12 of the statutes, as created by this act, entered into before the effective date of this
13 subsection.

(1) ← autonumber

14 (14) CREDIT CARD RECORDS. If a person is affected by a contract that is in effect
15 on the effective date of this subsection and that contains provisions that are
16 inconsistent with section 138.25 (2) of the statutes, as created by this act, then,
17 notwithstanding section 138.25 (2) of the statutes, as created by this act, the person
18 may perform its obligations, and exercise its rights, under those provisions of the
19 contract until the contract expires or is extended, modified, or renewed, whichever
20 first occurs. (2) ← autonumber AND auto-ref create "A"

21 (14) INTERNET COOKIES. If a person is affected by a contract that is in effect on
22 the effective date of this subsection and that contains provisions that are
23 inconsistent with section 422.422 (1) of the statutes, as created by this act, then,
24 notwithstanding section 422.422 (1) of the statutes, as created by this act, the person
25 may perform its obligations, and exercise its rights, under those provisions of the

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1 contract until the contract expires or is extended, modified, or renewed, whichever
2 occurs first.

3 **SECTION 9309. Initial applicability; circuit courts.**

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

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

9 **SECTION 9332. Initial applicability; legislature.**

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

13 **SECTION 9344. Initial applicability; revenue.**

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

23 **SECTION 9359. Initial applicability; other.**

24 (1) RETAIL BUSINESS ORAL COMMUNICATIONS. The renumbering and amendment
25 of section 968.31 (2) (c) of the statutes and the creation of section 968.31 (2) (c) 2. of

BILL**SECTION 9359**

1 the statutes first apply to oral communications intercepted on the effective date of
2 this subsection.

3 **SECTION 9400. Effective dates; general.** Except as otherwise provided in
4 SECTIONS 9401 to 9459 of this act, this act takes effect on the day after publication.

5 **SECTION 9423. Effective dates; health and family services.**

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

9 **SECTION 9427. Effective dates; insurance.**

10 (1) USE OF SOCIAL SECURITY NUMBERS BY INSURERS. The treatment of sections
11 610.75 and 632.725 (2) (d) of the statutes takes effect on the first day of the 7th month
12 beginning after publication.

13 **SECTION 9459. Effective dates; other.**

14 (1) STUDENT IDENTIFICATION NUMBERS. The treatment of section 36.32 (1) of the
15 statutes, the renumbering of section 36.11 (35) (title) of the statutes, and the
16 renumbering and amendment of section 36.11 (35) of the statutes take effect on
17 January 1, 2003.

18 (2) PRIVACY IN ATHLETIC LOCKER ROOMS. The treatment of sections 36.38, 38.12
19 (12), 39.49, 118.39, and 175.22 of the statutes takes effect on the first day of the 6th
20 month beginning after publication.

21 (3) INTERNET COOKIES. The treatment of sections 421.301 (13m) and 422.422 of
22 the statutes and SECTION 9159 (4) of this act takes effect on the first day of the 7th
23 month beginning after publication.

24

(END)

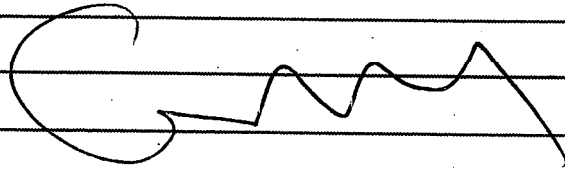
use auto-red
"A" from p. 42

GMM:cjs:

D-Note

Representative Schneider:

This redraft removes the provisions relating to use
of personally identifiable information for commercial purposes
without the consent of the subject of the information.



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0997/3dn
GMM:cjs:rs

June 4, 2001

Representative Schneider:

This redraft removes the provisions relating to use of personally identifiable information for commercial purposes without the consent of the subject of the information.

Gordon M. Malaise
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State of Wisconsin

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STEPHEN R. MILLER
CHIEF

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

June 4, 2001

MEMORANDUM

To: Representative Schneider

From: Madelon J. Lief, Legislative Attorney

Rc: LRB-0997/3 Compiled privacy bill

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

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-7380 or at the address indicated at the top of this memorandum.

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

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



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REFERENCE FAX: (608) 266-5648

August 14, 2001

MEMORANDUM

To: Representative Schneider

From: Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129

Joseph T. Kreye, Legislative Attorney (608) 266-2263

Subject: Technical Memorandum to **2001 AB 459** (LRB 09997/3)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. The department raises a point regarding the order of computation. Because the tax credit created in the bill is nonrefundable, we agree with the department that the order of computation should be changed so that the credit is deducted before the alternative minimum tax.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact us.

MEMORANDUM

August 14, 2001

TO: Jeffrey Kuesel
Robert Marchant
Debora Kennedy
Pamela Kahler
Robert Nelson
Madelon Lief
Peter Dykman
Robin Kite

Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on AB 459—Privacy Bill

The Department would find it helpful if the sponsor would clarify what expenses are included in the credit, for example, whether books, supplies, room and board, travel or computer equipment, in addition to tuition, are included in the credit base; whether the entire course of study is included if a person is pursuing an information technology degree, or just the computer based courses; and whether information technology courses for persons pursuing a non-related degree included in the credit.

The draft requires that the amount of credit be added back to the claimant's tax liability when certain tests are not met. Because the claimant is required to add the amount of the credit to taxable income, this results in recovery of more than the tax benefit received. The sponsor may wish to clarify that the recovery of credit is limited to the tax benefit.

Under the draft, a credit may not be claimed for amounts excluded from income under the IRC section 127 educational assistance program. However, section 127 applies to exclusions from income by the employee, not the employer. The sponsor may wish to clarify the intent of this provision.

Section 71.07(5s)(b) provides that the credit may be offset against tax imposed under section 71.02; it does not provide that it may be offset against the alternative minimum tax (AMT) under section 71.08. However, the order of computation in section 71.10 (4)(gv) places the credit in a sequence where it offsets the AMT. If this credit is intended to offset the AMT, then section 71.07(5s)(b) should provide for an offset against tax imposed under sec. 71.08 and the credit

should be listed in sec. 71.08(1). If the credit is not intended to offset the AMT, then the order of computation should be changed so that it is deducted before the AMT.

For ease in administration and to avoid confusion, the sponsor may want to cross-reference the definition of "qualified institution" with the existing definition in 71.05(6)(b)28.

The sponsor may wish to clarify provisions of the recapture of credit when an individual is not employed in an information technology related occupation. For example, it is unclear what constitutes an information technology related occupation. Would it include a receptionist who occasionally uses a word processor or a line worker who occasionally keys in specifications to a computer operated manufacturing machine? The recapture of credit when an individual is not employed in information technology would be nearly impossible for the Department to enforce. For example, once a parent receives credit for a child's information technology training, the Department would be required to monitor the work experience, including job descriptions and location, of the child. The time period during which an individual must meet the one-year work requirement is unclear. For example, if an individual works in an information technology field for six months, takes a position not involving information technology for two years and then returns to information technology for six months, has the individual met the test?

The proposed legislation makes no provision for the funding of the costs involved in administering the activities required. If the author wishes to provide funding, appropriation language could be developed and costs allocated in the following manner:

<u>Chapter 20</u>		<u>Amount</u>
annual	s. 20.566 (1) (a)	\$16,400

If you have any questions regarding this technical memorandum, please contact Pam Walgren at 266-7817; for administrative costs contact Terry Alexander at 261-6919.