

2001 DRAFTING REQUEST

Bill

Received: 12/06/2000

Received By: malaigm

Wanted: As time permits

Identical to LRB:

For: Bonnie Ladwig (608) 266-9171

By/Representing: Janine Hale

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Addl. Drafters:

Subject: Children - miscellaneous

Extra Copies:

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Disclosure of municipal court records

Instructions:

Redraft 99 AB 72

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|-----------------------|--------------------|------------------------|----------------|----------------------------|----------------------------|-----------------|
| /? | malaigm 12/06/2000 | jdye 01/22/2001 | | _____ | | | |
| /1 | | | pgreensl 01/23/2001 | _____ | lrb_docadmin 01/23/2001 | lrb_docadmin 09/05/2001 | |

FE Sent For:

None needed

<END>

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| 1? | malaigm | 1 1/22 jd | 1/22 DG | 1/23 PTIS | | | |

FE Sent For:

<END>

Malaise, Gordon

From: Hale, Janine
Sent: Tuesday, December 05, 2000 4:25 PM
To: Malaise, Gordon
Subject: Drafting request

Hi Gordon,

Rep. Ladwig would like to request a re-draft of 1999 Assembly Bill 72 (LRB 0323) for the 2001-2002 session. This bill relates to the disclosure of juvenile records by a juvenile court or municipal court.

If you could send me a confirmation of this request, I would appreciate it. If you have any questions, please feel free to contact me.

Janine Hale

*Janine Hale, Chief of Staff
Office of Representative Bonnie Ladwig
113 West, State Capitol
P.O. Box 8952
Madison, WI 53708
(608)266-9171
janine.hale@legis.state.wi.us*

-1336/1

JLD

~~1999 ASSEMBLY BILL 72~~

OLD - Very Soon

In
12/6

~~February 2, 1999 - Introduced by Representatives LADWIG, GOETSCH, KRUSICK, ALBERS, DUFF, GROTHMAN, GUNDERSON, HAHN, HUEBSCH, KELSO, KREUSER, F. LASEE, LASSA, J. LEHMAN, M. LEHMAN, MUSSER, NASS, OLSEN, OWENS, PLALE, POWERS, SERATTI, SKINDRUB, STASKUNAS and VRAKAS, cosponsored by Senators PLACHE, DARLING, ROSENZWEIG, COWLES, FITZGERALD, HUEYSMAN, PANZER and WELCH. Referred to Committee on Children and Families.~~

dispositional orders for truancy or habitual truancy and

Regenerate

1 AN ACT to amend 118.125 (5) (b), 938.396 (2) (ag), 938.396 (2) (am), 938.396 (2)
2 (gm), 938.396 (4), 938.396 (7) (am) and 938.396 (7) (c); and to create 938.342
3 (1r) of the statutes; relating to: the disclosure of juvenile records by a juvenile
4 court or a municipal court.

of the court assigned to exercise jurisdiction under the Children's

Analysis by the Legislative Reference Bureau

Under current law, records of the court assigned to exercise jurisdiction under the children's code and the juvenile justice code (juvenile court) and of a municipal court, subject to certain exceptions, are not open to inspection and their contents may not be disclosed except by order of the juvenile court. If, however, school attendance is a condition of a juvenile court dispositional order for a juvenile who is delinquent or in need of protection or services, current law requires the order to specify what constitutes a violation of the condition and to direct the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled to notify the county department of human services or social services that is responsible for supervising the juvenile of any violation of that condition. Current law also requires the juvenile court clerk to notify the school board or governing body of the fact that school attendance is a condition of the juvenile's dispositional order.

This bill requires a dispositional order of the juvenile court or of a municipal court that requires school attendance of a person who is truant or habitually truant to specify what constitutes a violation of that disposition and to direct the school board of the school district, or the governing body of the private school, in which the person is enrolled to notify the agency that is responsible for supervising the person

Must

If

Code and the Juvenile Justice Code (juvenile court)

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ASSEMBLY BILL 72

or, if the person is not under the supervision of an agency, the juvenile court or municipal court of any violation of that disposition. The bill also requires the juvenile court clerk or the municipal court clerk to notify the school board or governing body of the fact that school attendance is a condition of the person's dispositional order.

Current law requires the juvenile court to open its records of a juvenile for inspection by certain persons under certain circumstances or for certain purposes. Those persons, and circumstances or purposes, include the parent, guardian or legal custodian of the juvenile or the juvenile, if 14 years of age or over, upon request of the parent, guardian, legal custodian, or juvenile; any third person, upon the written permission of the parent, guardian, or legal custodian of the juvenile or the juvenile, if 14 years of age or over; and any other juvenile court for purposes of proceedings in that other juvenile court.

This bill requires a municipal court to open its records of a juvenile for inspection by the parent, guardian or legal custodian of a juvenile or the juvenile, if 14 years of age or over, upon request of the parent, guardian, legal custodian, or juvenile; by any third person, upon the written permission of the parent, guardian, or legal custodian of the juvenile or the juvenile, if 14 years of age or over; or by any other municipal court, city, village or town attorney for purposes of proceedings in that other municipal court.

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

SECTION 1. 118.125 (5) (b) of the statutes is amended to read:

118.125 (5) (b) Law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) or (1m) and records of the court assigned to exercise jurisdiction under chs. 48 and 938 obtained under s. 938.396 (7) (a), (am), (ar), (b), or (bm) and records of a court exercising jurisdiction under s. 938.170~~2~~ obtained under s. 938.396 (7) (ar) may not be used by a school district as the sole basis for expelling or suspending a pupil or as the sole basis for taking any other disciplinary action, including action under the school district's athletic code.

SECTION 2. 938.342 (1r) of the statutes is created to read:

938.342 (1r) If a person is ordered to attend school as a disposition under sub. (1d) (a) or (1g) (g), the order shall specify what constitutes a violation of the disposition and shall direct the school board of the school district, or the governing

or by a family court or an attorney for a party or guardian ad litem for purposes of considering the custody of the juvenile

Insert A

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VA juvenile

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and by a family court or an attorney for a party or guardian ad litem for purposes of considering the custody of the juvenile

by
a district attorney, or corporation counsel

or attorney or guardian ad litem for a party

Insert 2-1

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ASSEMBLY BILL 72

1 body of the private school, in which the person is enrolled to notify the court or, if the
2 person is under the supervision of an agency under sub. (1g) (j), the agency that is
3 responsible for supervising the person within 5 days after any violation of the
4 disposition by the person.

Insert
3-4

5 SECTION 3. 938.396 (2) (ag) of the statutes is amended to read:

municipal

6 938.396 (2) (ag) Upon request of the parent, guardian or legal custodian of a
7 juvenile who is the subject of a record of a court specified in par. (a) assigned to
8 exercise jurisdiction under this chapter and ch. 48 or of a court exercising jurisdiction
9 under s. 938.17 (2), or upon request of the juvenile, if 14 years of age or over, the court
10 that is the custodian of the record shall open for inspection by the parent, guardian,
11 legal custodian or juvenile ~~the its records of the court~~ relating to that juvenile, unless
12 ~~the that~~ court finds, after due notice and hearing, that inspection of those records by
13 the parent, guardian, legal custodian or juvenile would result in imminent danger
14 to anyone.

15 SECTION 4. 938.396 (2) (am) of the statutes is amended to read:

municipal

16 938.396 (2) (am) Upon the written permission of the parent, guardian or legal
17 custodian of a juvenile who is the subject of a record of a court specified in par. (a)
18 assigned to exercise jurisdiction under this chapter and ch. 48 or of a court exercising
19 jurisdiction under s. 938.17 (2), or upon written permission of the juvenile if 14 years
20 of age or over, the court that is the custodian of the record shall open for inspection
21 by the person named in the permission any records specifically identified by the
22 parent, guardian, legal custodian or juvenile in the written permission, unless the
23 that court finds, after due notice and hearing, that inspection of those records by the
24 person named in the permission would result in imminent danger to anyone.

25 SECTION 5. 938.396 (2) (gm) of the statutes is amended to read:

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ASSEMBLY BILL 72

1 ~~938.396 (2) (gm) Upon request of any other court assigned to exercise~~
 2 ~~jurisdiction under this chapter and ch. 48, any other court exercising jurisdiction~~
 3 ~~under s. 938.17 (2), or a district attorney or, corporation counsel or city, village or~~
 4 ~~town attorney to review court records for the purpose of any proceeding in that other~~
 5 ~~court, the court shall open for inspection by any authorized representative of the~~
 6 ~~requester the records of the court relating to any juvenile who has been the subject~~
 7 ~~of a proceeding under this chapter~~

8 SECTION 6. 938.396 (4) of the statutes is amended to read:

9 938.396 (4) When a court assigned to exercise jurisdiction under this chapter
 10 and ch. 48 or ^{municipal} a court exercising jurisdiction under s. 938.17 (2) revokes, suspends or
 11 restricts a juvenile's operating privilege under this chapter, the department of
 12 transportation shall may not disclose information concerning or relating to the
 13 revocation, suspension or restriction to any person other than a court, assigned to
 14 exercise jurisdiction under this chapter and ch. 48, a court exercising jurisdiction
 15 under s. 938.17 (2), a district attorney, a county corporation counsel, a city, village
 16 or town attorney, a law enforcement agency, or the juvenile whose operating privilege
 17 is revoked, suspended or restricted, or his or her parent or guardian. Persons
 18 entitled to receive this information may not disclose the information to other persons
 19 or agencies.

20 SECTION 7. 938.396 (7) (am) of the statutes is amended to read:

21 938.396 (7) (am) Notwithstanding sub. (2) (a) and subject to par. (b), if a
 22 juvenile is adjudged delinquent, within 5 days after the date on which the
 23 dispositional order is entered, the court clerk shall notify the school board of the
 24 school district, or the governing body of the private school, in which the juvenile is
 25 enrolled or the designee of the school board or governing body of the fact that the

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ASSEMBLY BILL 72

1 juvenile has been adjudicated delinquent, the nature of the violation committed by
2 the juvenile and the disposition imposed on the juvenile under s. 938.34 as a result
3 of that the violation.

4 (ar) Notwithstanding sub. (2) (a), if school attendance is a condition of a
5 dispositional order under s. 938.355 (2) (b) 7. or 938.342 (1d) (a) or (1g) (g), within 5
6 days after the date on which the dispositional order is entered, the court clerk of the
7 court assigned to exercise jurisdiction under this chapter and ch. 48 or of a court
8 exercising jurisdiction under s. 938.17 (2) shall notify the school board of the school
9 district, or the governing body of the private school, in which the juvenile is enrolled
10 or the designee of the school board or governing body of the fact that the juvenile's
11 school attendance is a condition of a dispositional order.

SECTION 8. 938.396 (7) (c) of the statutes is amended to read:

13 938.396 (7) (c) No information from the juvenile's court records, other than
14 information disclosed under par. (a), (am), (ar), (b) or (bm), may be disclosed to the
15 school board of the school district, or the governing body of the private school, in
16 which the juvenile is enrolled or the designee of the school board or governing body
17 except by order of the court. Any information provided under this subsection to the
18 school board of the school district, or the governing body of the private school, in
19 which the juvenile is enrolled or the designee of the school board or governing body
20 shall be disclosed by the school board, governing body, or designee to employees of the
21 school district or private school who work directly with the juvenile or who have been
22 determined by the school board, governing body, or designee to have legitimate
23 educational interests, including safety interests, in the information. A school district
24 or private school employee to whom information is disclosed under this paragraph
25 may not further disclose the information. A school board shall may not use any

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ASSEMBLY BILL 72

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information provided under this subsection as the sole basis for expelling or
suspending a juvenile. A member of a school board or of the governing body of a
private school or an employee of a school district or private school may not be held
personally liable for any damages caused by the nondisclosure of any information
specified in this paragraph unless the member or employee acted with actual malice
in failing to disclose the information. A school district or private school may not be
held liable for any damages caused by the nondisclosure of any information specified
in this paragraph unless the school district, private school, or its agent acted with
gross negligence or with reckless, wanton, or intentional misconduct in failing to
disclose the information.

(END)

or as the sole basis for taking any other
disciplinary action, including action
under the school district's athletic
code, against the juvenile

Insert 2-1

~~SENATE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 72~~

~~March 14, 2000 - Offered by COMMITTEE ON JUDICIARY AND CONSUMER AFFAIRS.~~

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At the locations indicated, amend the bill as follows:

1. Page 2, line 1: delete that line and substitute:

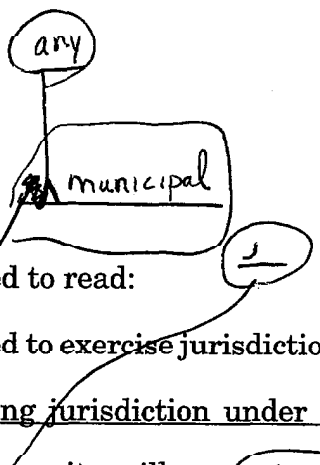
SECTION ~~1g.~~ [#] 48.396 (2) (g) of the statutes is amended to read:

48.396 (2) (g) Upon request of any ~~other~~ court assigned to exercise jurisdiction under this chapter and ch. 938, ~~any other~~ any court exercising jurisdiction under s. 938.17 (2), or a district attorney ~~or~~, corporation counsel, or city, village, or town attorney ^{plain} to review court records for the purpose of any proceeding in that ~~other~~ court or upon request of the attorney or guardian ad litem for a party to a proceeding in that ~~any~~ court to review court records for the purpose of that proceeding, the court shall open for inspection by any authorized representative of the requester the records of the court relating to any child who has been the subject of a proceeding under this chapter.

~~SECTION 1m. 118.125 (5) (b) of the statutes is amended to read:~~

(end of insert)

pwf



Insert 3-4

Section #. 938.396 (2) (a) of the statutes is amended to read:

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those records ✓

938.396 (2) (a) Records of the court assigned to exercise jurisdiction under this chapter and ch. 48 and of courts exercising jurisdiction under s. 938.17 (2) shall be entered in books or deposited in files kept for that purpose only. They shall not be open to inspection or their contents disclosed except by order of the court assigned to exercise jurisdiction under this chapter and ch. 48 or as permitted under this section.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 80, 95, 181, 205, 252, 258, 281; 1999 a. 9, 32, 89.

(Court inst)

Insert 4-7

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Page

2. Page 3, line 25: delete that line.

3. Page 4, line 1: delete lines 1 to 7 and substitute:

"SECTION 5m. 938.396 (2) (gm) of the statutes is amended to read:

938.396 (2) (gm) Upon request of any ~~other~~ court assigned to exercise jurisdiction under this chapter and ch. 48, any other court exercising jurisdiction under s. 938.17 (2), or a district attorney or, corporation counsel, or city, village, or town attorney to review court records for the purpose of any proceeding in that ~~other~~ court or upon request of the attorney or guardian ad litem for a party to a proceeding in that, ~~other~~ court to review court records for the purpose of that proceeding, the court, shall open for inspection by any authorized representative of the requester ~~the~~ records ~~of the court~~ relating to any juvenile who has been the subject of a proceeding under this chapter.

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its

(END)

Assigned to exercise jurisdiction
under this chapter and ch. 48
or the municipal court
exercising jurisdiction
under s. 938.17 (2)

§

Insert 4 - 7
cont

Section #. 938.396 (2) (h) of the statutes is amended to read:

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or a municipal court exercising jurisdiction under
s. 938.17 (2)

938.396 (2) (h) Upon request of the court having jurisdiction over an action affecting the family or of an attorney for a party or a guardian ad litem in an action affecting the family to review court records for the purpose of considering the custody of a juvenile, the court assigned to exercise jurisdiction under this chapter and ch. 48 shall open for inspection by an authorized representative of the requester ~~the records of the court~~ relating to any juvenile who has been the subject of a proceeding under this chapter.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 80, 95, 181, 205, 252, 258, 281; 1999 a. 9, 32, 89.

Correct

~~Insert A~~

NO
#

disposition.

#

Under current law, records of the juvenile court and of a municipal court exercising jurisdiction over a juvenile for a violation of a municipal ordinance, subject to certain exceptions, are not open to inspection and their contents may not be disclosed except by order of the juvenile court.

no #

(end of insert)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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

STEPHEN R. MILLER
CHIEF

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

January 23, 2001

MEMORANDUM

To: Representative Ladwig

From: Gordon M. Malaise, Senior Legislative Attorney

Re: LRB-1338 Disclosure of municipal court records

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) 266-9738 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.