

2001 ASSEMBLY BILL 621

November 8, 2001 – Introduced by PERSONAL PRIVACY. Referred to Committee on Personal Privacy.

1 **AN ACT** *to renumber* 36.11 (35) (title); *to renumber and amend* 36.11 (35) and
2 48.396 (2) (g); *to amend* 40.51 (8), 40.51 (8m), 48.396 (1), 48.396 (5) (a) (intro.),
3 66.0137 (4), 111.91 (2) (kc), 120.13 (2) (g), 146.81 (1) (fm), 146.81 (4), 185.981
4 (4t), 185.983 (1) (intro.), 301.029 (2) (a), 938.396 (1), 938.396 (2) (c), 938.396 (2)
5 (gm) and 938.396 (5) (a) (intro.); and *to create* 13.0991, 19.32 (1bg), (1dm), (2g)
6 and (4), 19.356, 19.37 (2) (c), 22.21, 36.32 (1), 36.38, 38.12 (12), 39.49, 40.07 (4),
7 48.396 (1h), 48.396 (1j), 48.396 (1k), 48.396 (2) (c), 48.396 (2) (gr), 74.80, 100.52
8 (1) (bg) and (br), 100.52 (4) (a) 4., 118.39, 146.82 (2) (bm), 146.84 (1) (d), 146.84
9 (5), 175.22, 230.08 (4) (b) 5., 609.837, 610.65, 938.396 (1h), 938.396 (1j), 938.396
10 (1k), 938.396 (2) (gr) and 979.028 of the statutes; **relating to:** the use of a
11 person's social security number in his or her student identification number at
12 private institutions of higher education; prohibiting showing social security
13 numbers on insurance identification cards; department of corrections contracts
14 involving prisoner access to an individual's date of birth; confidentiality of

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1 patient health care records; access to certain public records containing
2 personally identifiable information; access to autopsy records; preparation of
3 privacy impact statements for bills that would impact personal privacy; written
4 policies on entering locker rooms being used by athletic teams representing
5 certain schools or by professional athletic teams; prohibiting certain telephone
6 solicitations; prohibiting posting photographs of residential property on the
7 Internet; appointment of certain officers in the department of electronic
8 government; and disclosure of the records of a law enforcement agency or of a
9 juvenile or municipal court to other law enforcement agencies, to other juvenile
10 or municipal courts, to juvenile court intake workers, and to district attorneys,
11 corporation counsels, and other representatives of the public interest.

Analysis by the Legislative Reference Bureau

This bill creates various prohibitions, restrictions, and requirements, and makes changes in existing laws with respect to protection of personal privacy and security of personal information, and changes the place of trial for certain existing crimes. The changes include:

Identification numbers for private college students

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, 2007, this bill extends this prohibition to private institutions of higher education located in this state.

Prohibiting social security numbers on insurance cards

This bill prohibits an identification card, or other similar identification device, that is issued to an insured or enrollee from showing the insured's or enrollee's social security number as an identification number or in any other manner. The prohibition applies to an insurer; a risk-sharing plan, including the state health insurance risk-sharing plan; the private employer health care coverage program established by the department of employee trust funds; and any self-insured plan of the state or a county, city, village, town, or school district. Current law does not address information shown on insurance identification cards or prohibit using a person's social security number as, or in, the person's insurance identification number.

ASSEMBLY BILL 621***Prohibiting prisoners who perform data entry from having access to an individual's date of birth***

Under current law, the department of corrections (DOC) is prohibited from entering into any contract that would result in a prisoner performing data entry or telemarketing services and having access to an individual's financial transaction card numbers, checking or savings account numbers, or social security number. This bill adds an individual's date of birth to the list of information that a prisoner may not have access to while doing data entry or telemarketing services under a contract entered into by DOC.

Confidentiality of patient health care records

Under current law, all records related to the health of a patient that are prepared by or under the supervision of a health care provider (patient health care records) are confidential and may be released only to persons with the informed consent of the patient or of a person authorized by the patient. There are numerous exceptions to this prohibition that require patient health care records to be released upon request, without informed consent, including release to another health care provider who is rendering assistance to the patient. A person who obtains a patient health care record under one of these exceptions must keep the information confidential and may not disclose identifying information about the patient.

This bill prohibits a person who is a recipient of a patient health care record that is required to be released without informed consent from using identifying information in the record to market a service or product to a patient or health care provider. The bill expands the definitions of "health care provider" and "patient health care record," for the purposes of confidentiality of patient health care records, to include a pharmacy that is licensed by the pharmacy examining board. The bill also establishes civil liability for a person who obtains a patient health care record from a pharmacy or pharmacist under circumstances that constitute a violation of the patient health care record confidentiality laws. Lastly, the bill authorizes the department of justice or a district attorney to bring an action to enforce the laws relating to confidentiality of patient health care records or to restrain a violation of the laws by temporary or permanent injunction.

Access to public records containing personally identifiable information

Under current law, any requester has a right to inspect or copy any public record unless otherwise provided under statutory or common law or unless, under a "balancing test" derived from common law, the custodian demonstrates that the public interest in withholding access to the record outweighs the strong public interest in providing that access. See s. 19.35 (1), stats., and *State ex rel. Youmans v. Owens*, 28 Wis.2d 672, 682–83 (1965) and *Hathaway v. Green Bay School District*, 116 Wis. 2d 388, 395–96 (1984). If a custodian fails to provide prompt access to a requested record or to make this demonstration, a requester may obtain a court order requiring a custodian to provide access to a record. See s. 19.37 (1), stats.

In *Woznicki v. Erickson*, 202 Wis.2d 178, 192–193 (1996), the Wisconsin supreme court held that a district attorney must notify any individual who is the subject of a record which the district attorney proposes to release to a requester prior to release, and that the individual may appeal a decision to release a record to circuit

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court, which must determine whether permitting access would result in harm to the privacy or reputational interests of the subject individual that outweigh the public interest in allowing access. In *Milwaukee Teachers Education Assn. v. Milwaukee Bd. of School Directors*, 227 Wis. 2d 779, 799 (1999), the supreme court expanded this decision to apply to all public records. There is no statutory basis for these decisions. The decisions also depart from the supreme court's previous decisions, which held that, unless otherwise provided, custodians have no obligation to withhold public records from access and no person may require them to do so. See *Newspapers, Inc. v. Brier*, 89 Wis.2d 417, 431–32 (1979) and *State ex rel. Bilder v. Twp. of Delavan*, 112 Wis.2d 539, 558 (1983).

This bill affirms current statutory law by providing that, unless otherwise specifically provided by statute, no custodian of a public record is required to notify an individual who is the subject of a record prior to providing to a requester access to a record containing information pertaining to that individual and that, unless otherwise provided by statute, no person is entitled to judicial review of the decision of a custodian to provide a requester with access to a public record.

However, the bill also creates a statutory procedure under which, with certain exceptions, individuals who are the subjects of public records relating to certain specific personnel matters may seek a court order to restrain state or local government officers or agencies from providing access to those records to third parties if the subject individuals can demonstrate that the harm to their privacy or reputational interests resulting from disclosure of the information contained in those records outweighs the public interest in providing access to those records. Under the bill, if the officer or agency having custody of a public record receives a request to provide access to a record containing information relating to any of the personnel matters specified in the bill, the officer or agency must, before providing access, provide written notice to each subject individual of the officer's or agency's intent to provide access to the record. If a subject individual notifies the officer or agency, within 5 days, of his or her intent to seek a court order restraining release of the record and files an action seeking such an order within 10 days, the record may not be released unless the court so permits.

Autopsy records

Under current law, the public has a right to inspect or copy public records unless otherwise provided by law or unless the custodian of the record demonstrates that the public interest in withholding access to the record outweighs the strong public interest in providing access. Autopsy reports, including pictures taken during autopsies, are public records, if maintained by a government official or entity, including a coroner, medical examiner, or district attorney.

This bill creates an exception to the public right to inspect or copy public records specifically for autopsy reports. The bill also prohibits the custodian of an autopsy record or any person involved in conducting an autopsy from releasing to the public any information learned during an autopsy concerning the deceased or the cause of his or her death without permission from the deceased's next of kin, except information necessary to complete the medical certification on a certificate of death.

ASSEMBLY BILL 621***Privacy impact statements***

This bill 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.

Policies on entering locker rooms

This bill 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.

Telephone solicitations

The bill prohibits a telephone solicitor or employee or contractor of a telephone solicitor from using a blocking service that defeats caller identification when making a telephone solicitation. A person who violates this prohibition may be subject to a forfeiture of \$100, which is the same forfeiture that applies to violations of other telephone solicitation requirements under current law. As with other telephone solicitation requirements under current law, the department of agriculture, trade and consumer protection (DATCP) has enforcement authority regarding the prohibition.

Photographs of residential property

This bill prohibits a taxation district from posting photographs of residential property located in the taxation district on the Internet.

ASSEMBLY BILL 621***Privacy and security information officers***

Under current law, the department of electronic government (DEG) has general responsibility, with certain exceptions, for management of the state's information technology and telecommunications systems, applications, infrastructure, and information resources, and human resources devoted to developing and maintaining information technology systems. DEG is headed by the state chief information officer.

This bill directs the chief information officer to appoint employees of DEG to serve as a privacy information officer and a security information officer. The privacy information officer is directed to provide information to employees of DEG and other persons who are or may be the subject of any information maintained or processed by DEG concerning applicable laws, rules, and regulations governing the protection of privacy. The security information officer is directed to ensure the security of information maintained or processed by DEG. Under the bill, the functions of the privacy information officer and security information officer may not be supervised by a division administrator whose position is included in the unclassified service.

Disclosure of juvenile records

Under current law, subject to certain exceptions, law enforcement agency records of a juvenile, the records of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court), and the records of a municipal court exercising jurisdiction in a proceeding against a juvenile for a local ordinance violation are confidential and may not be opened to inspection or their contents disclosed except by order of the juvenile court. Currently, those exceptions include an exception that permits the confidential exchange of information between law enforcement agencies; an exception that requires a juvenile court, on the request of a law enforcement agency to review the juvenile court's records for the purpose of investigating alleged criminal gang activity, to open for inspection by the law enforcement agency the records of the juvenile court relating to any juvenile who has committed a felony at the request of or for the benefit of a criminal gang; and an exception that requires a juvenile court, on the request of any other juvenile court, a district attorney, or a corporation counsel to review the juvenile court's records for the purpose of any proceeding in that other juvenile court, to open for inspection by the requester the records of the juvenile court relating to any juvenile who has been the subject of a proceeding under the Children's Code or the Juvenile Justice Code.

This bill permits a law enforcement agency to disclose information in its records relating to a juvenile as follows:

1. To another law enforcement agency as necessary for the other law enforcement agency to pursue an investigation of any alleged criminal or delinquent activity.
2. To a juvenile court, a municipal court, or a district attorney, corporation counsel, municipal attorney, or other person representing the interests of the public in a proceeding under the Children's Code or the Juvenile Justice Code as necessary for the court to conduct, or for the person representing the interests of the public to prepare for, a proceeding in that court.

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3. To a juvenile court intake worker as necessary for the intake worker to provide intake services.

Similarly, the bill requires a juvenile court or a municipal court to disclose its records relating to a juvenile as follows:

1. To a law enforcement agency as necessary for the law enforcement agency to pursue an investigation of any alleged criminal or delinquent activity.

2. To another juvenile court, another municipal court, or a district attorney, corporation counsel, municipal attorney, or other person representing the interests of the public in a proceeding under the Children's Code or the Juvenile Justice Code as necessary for the other court to conduct, or for the person representing the interests of the public to prepare for, a proceeding in that court.

3. To a juvenile court intake worker as necessary for the intake worker to provide intake services.

The bill requires a person who obtains information under the bill to keep the information confidential and permits the person to disclose the information only for the purpose for which the information was obtained or as otherwise permitted under current law, as affected by the bill.

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.** 13.0991 of the statutes is created to read:

2 **13.0991 Privacy impact statements. (1)** In this section:

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

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

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

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

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

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

5 (c) "Personally identifiable information" has the meaning given under s. 19.62
6 (5).

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

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

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

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

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

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

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

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

18 **SECTION 2.** 19.32 (1bg), (1dm), (2g) and (4) of the statutes are created to read:

19 **19.32 (1bg)** "Employee" means an individual who is employed by an authority,
20 other than an individual holding a local public office or a state public office, or any
21 individual who is employed by an employer other than an authority.

22 **(1dm)** "Local public office" has the meaning given in s. 19.42 (7w).

23 **(2g)** "Record subject" means an individual about whom personally identifiable
24 information is contained in a record.

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

3 **SECTION 3.** 19.356 of the statutes is created to read:

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

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

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

19 2. Information prepared or provided by an employer concerning the home
20 address or telephone number of an employee of that employer, if the employee has
21 not consented for the authority to provide access to that information.

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

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

3 4. Information pertaining to an employee's employment examination, except
4 an examination score if access to that score is not otherwise prohibited. This
5 subdivision does not apply to information relating to the hiring or recruitment
6 process that is exchanged between the department of employment relations and an
7 authority that is a unit of state government.

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

13 (c) Paragraph (a) does not apply to access to a record produced in relation to a
14 function specified in s. 106.54 or 230.45 or subch. II of ch. 111 if the record is provided
15 by an authority having responsibility for that function.

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

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

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

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1 **(6)** An authority shall not provide access to a requested record within 12 days
2 of sending a notice pertaining to that record under sub. (2) (a). In addition, if the
3 record subject commences an action under sub. (5), the authority shall not provide
4 access to the requested record during pendency of the action. If the record subject
5 appeals or petitions for review of a decision of the court or the time for appeal or
6 petition for review of a decision adverse to the record subject has not expired, the
7 authority shall not provide access to the requested record until any appeal is decided,
8 until the period for appealing or petitioning for review expires, until a petition for
9 review is denied, or until the authority receives written notice from the record subject
10 that an appeal or petition for review will not be filed, whichever occurs first.

11 **(7)** If the record subject demonstrates that the harm to his or her privacy or
12 reputational interests caused by disclosure of the information contained in the
13 requested record outweighs the public interest in disclosure of that information, the
14 court shall restrain the authority from providing access to that record under s. 19.35
15 (1).

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

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

25 **SECTION 4.** 19.37 (2) (c) of the statutes is created to read:

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1 19.37 (2) (c) This subsection does not apply to any action filed by a record
2 subject against an authority under s. 19.356.

3 **SECTION 5.** 22.21 of the statutes is created to read:

4 **22.21 Privacy and security information officers. (1)** The chief
5 information officer shall appoint an employee of the department to serve as a privacy
6 information officer. The privacy information officer shall provide information to
7 employees of the department and other persons who are or may be the subject of any
8 information maintained or processed by the department concerning applicable laws,
9 rules, and regulations governing the protection of privacy.

10 **(2)** The chief information officer shall appoint an employee of the department
11 to serve as a security information officer. The security information officer shall
12 ensure the security of information maintained or processed by the department.

13 **SECTION 6.** 36.11 (35) (title) of the statutes is renumbered 36.32 (title).

14 **SECTION 7.** 36.11 (35) of the statutes is renumbered 36.32 (2) and amended to
15 read:

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

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

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1 36.32 (1) In this section, “institution of higher education” means an institution
2 within the system, or a private educational institution located in this state that
3 awards a bachelor’s or higher degree or provides a program that is acceptable toward
4 such a degree.

5 **SECTION 9.** 36.38 of the statutes is created to read:

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

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

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

18 **SECTION 11.** 39.49 of the statutes is created to read:

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

24 **(2)** Each institution of higher education shall adopt a written policy on who
25 may enter and remain, to interview or seek information from any person, in a locker

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1 room being used by an athletic team representing the institution. The policy shall
2 reflect the privacy interests of members of athletic teams representing the
3 institution.

4 **SECTION 12.** 40.07 (4) of the statutes is created to read:

5 40.07 (4) Section 19.356 does not apply to any request for information described
6 in this section.

7 **SECTION 13.** 40.51 (8) of the statutes is amended to read:

8 40.51 (8) Every health care coverage plan offered by the state under sub. (6)
9 shall comply with ss. 610.65, 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746
10 (1) to (8) and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855,
11 632.87 (3) to (5), 632.895 (5m) and (8) to (14), and 632.896.

12 **SECTION 14.** 40.51 (8m) of the statutes is amended to read:

13 40.51 (8m) Every health care coverage plan offered by the group insurance
14 board under sub. (7) shall comply with ss. 610.65, 631.95, 632.746 (1) to (8) and (10),
15 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, and 632.895 (11) to (14).

16 **SECTION 15.** 48.396 (1) of the statutes is amended to read:

17 48.396 (1) Law enforcement officers' records of children shall be kept separate
18 from records of adults. Law enforcement officers' records of the adult expectant
19 mothers of unborn children shall be kept separate from records of other adults. Law
20 enforcement officers' records of children and the adult expectant mothers of unborn
21 children shall not be open to inspection or their contents disclosed except under sub.
22 (1b), (1d), (1h), (1j), (1k), or (5) or s. 48.293 or by order of the court. This subsection
23 does not apply to the representatives of newspapers or other reporters of news the
24 news media who wish to obtain information for the purpose of reporting news
25 without revealing the identity of the child or adult expectant mother involved, to the

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1 confidential exchange of information between the police and officials of the school
2 attended by the child or other law enforcement or social welfare agencies, or to
3 children 10 years of age or older who are subject to the jurisdiction of the court of
4 criminal jurisdiction. A public school official who obtains information under this
5 subsection shall keep the information confidential as required under s. 118.125, and
6 a private school official who obtains information under this subsection shall keep the
7 information confidential in the same manner as is required of a public school official
8 under s. 118.125. A law enforcement agency that obtains information under this
9 subsection shall keep the information confidential as required under this subsection
10 and s. 938.396 (1). A social welfare agency that obtains information under this
11 subsection shall keep the information confidential as required under ss. 48.78 and
12 938.78.

13 **SECTION 16.** 48.396 (1h) of the statutes is created to read:

14 48.396 (1h) If requested by another law enforcement agency, a law enforcement
15 agency may, subject to official agency policy, disclose to the other law enforcement
16 agency any information in its records relating to a child or an adult expectant mother
17 of an unborn child as necessary for the other law enforcement agency to pursue an
18 investigation of any alleged criminal or delinquent activity. A law enforcement
19 agency that obtains information under this subdivision shall keep the information
20 confidential as required under sub. (1) and s. 938.396 (1) and may disclose the
21 information only for the purpose of pursuing that investigation or as permitted under
22 sub. (1) or s. 938.396 (1).

23 **SECTION 17.** 48.396 (1j) of the statutes is created to read:

24 48.396 (1j) If requested by a court assigned to exercise jurisdiction under this
25 chapter and ch. 938, a court exercising jurisdiction under s. 48.16, a court exercising

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1 jurisdiction under s. 938.17 (2), or a person representing the interests of the public
2 under s. 48.09 or 938.09, a law enforcement agency may, subject to official agency
3 policy, disclose to the requester any information in its records relating to a child or
4 an adult expectant mother of an unborn child as necessary for the court to conduct,
5 or the person representing the interests of the public to prepare for, any proceedings
6 in the court. A court that obtains information under this subdivision shall keep the
7 information confidential as required under sub. (2) (a) and s. 938.396 (2) (a) and may
8 disclose the information only for the purpose of conducting those proceedings or as
9 permitted under sub. (2) (a) and s. 938.396 (2) (a). A person representing the
10 interests of the public who obtains any information under this subdivision shall keep
11 the information confidential and may disclose the information only as necessary for
12 the person to perform the person's official duties relating to those proceedings.

13 **SECTION 18.** 48.396 (1k) of the statutes is created to read:

14 48.396 (1k) If requested by any person designated to provide intake services
15 under s. 48.067 or 938.067, a law enforcement agency may, subject to official agency
16 policy, disclose to the person any information in its records relating to a child or an
17 adult expectant mother of an unborn child as necessary for the person to provide
18 those services. A person designated to provide intake services who obtains any
19 information under this subdivision shall keep the information confidential and may
20 disclose the information only as necessary for the person to provide those services.

21 **SECTION 19.** 48.396 (2) (c) of the statutes is created to read:

22 48.396 (2) (c) Upon request of any law enforcement agency to review court
23 records for the purpose of pursuing an investigation of any alleged delinquent or
24 criminal activity, the court shall open for inspection by any authorized
25 representative of the requester the records of the court relating to a child or an adult

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1 expectant mother of an unborn child who has been the subject of a proceeding under
2 this chapter as necessary for the law enforcement agency to pursue the investigation.
3 A law enforcement agency that obtains information under this paragraph shall keep
4 the information confidential as required under sub. (1) and s. 938.396 (1) and may
5 disclose the information only for the purpose of pursuing that investigation or as
6 permitted under sub. (1) or s. 938.396 (1).

7 **SECTION 20.** 48.396 (2) (g) of the statutes is renumbered 48.396 (2) (gm) and
8 amended to read:

9 48.396 (2) (gm) Upon request of any other court assigned to exercise
10 jurisdiction under this chapter and ch. 938, ~~a district attorney or corporation counsel~~
11 any court exercising jurisdiction under s. 48.16, any court exercising jurisdiction
12 under s. 938.17 (2), or any person representing the interests of the public under s.
13 48.09 or 938.09 to review court records for the purpose of conducting or preparing for
14 any proceeding in that other court, the court shall open for inspection by any
15 authorized representative of the requester the records of the court relating to any
16 child who has been the subject of a proceeding under this chapter. A court that
17 obtains information under this paragraph shall keep the information confidential as
18 required under par. (a) and s. 938.396 (2) (a) and may disclose the information only
19 for the purpose of conducting those proceedings or as permitted under par. (a) and
20 s. 938.396 (2) (a). A person representing the interests of the public who obtains any
21 information under this paragraph shall keep the information confidential and may
22 disclose the information only as necessary for the person to perform the person's
23 official duties relating to that proceeding.

24 **SECTION 21.** 48.396 (2) (gr) of the statutes is created to read:

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1 48.396 (2) (gr) Upon request of any person designated to provide intake
2 services under s. 48.067 or 938.067 to review court records for the purpose of
3 performing those services, the court shall open for inspection by the person the
4 records of the court relating to a child or an adult expectant mother of an unborn child
5 who has been the subject of a proceeding under this chapter. A person designated
6 to provide intake services who obtains any information under this paragraph shall
7 keep the information confidential and may disclose the information only as
8 necessary for the person to provide those services.

9 **SECTION 22.** 48.396 (5) (a) (intro.) of the statutes is amended to read:

10 48.396 (5) (a) (intro.) Any person who is denied access to a record under sub.
11 (1), (1b) ~~or~~ (1d), (1h), (1j), or (1k) may petition the court to order the disclosure of the
12 records governed by the applicable subsection record. The petition shall be in writing
13 and shall describe as specifically as possible all of the following:

14 **SECTION 23.** 66.0137 (4) of the statutes is amended to read:

15 66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
16 a village provides health care benefits under its home rule power, or if a town
17 provides health care benefits, to its officers and employees on a self-insured basis,
18 the self-insured plan shall comply with ss. 49.493 (3) (d), 610.65, 631.89, 631.90,
19 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87
20 (4) and (5), 632.895 (9) to (14), 632.896₁ and 767.25 (4m) (d).

21 **SECTION 24.** 74.80 of the statutes is created to read:

22 **74.80 Internet information.** No taxation district may put photographs of
23 residential property located within the taxation district on the Internet.

24 **SECTION 25.** 100.52 (1) (bg) and (br) of the statutes are created to read:

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1 100.52 (1) (bg) “Blocking service” means a service that allows a person who
2 makes a telephone call to withhold his or her telephone number or name from a
3 person who receives the telephone call and who uses a caller identification service.

4 (br) “Caller identification service” means a service that allows a person who
5 receives a telephone call to identify the telephone number or name of the person
6 making the telephone call.

7 **SECTION 26.** 100.52 (4) (a) 4. of the statutes is created to read:

8 100.52 (4) (a) 4. Use a blocking service when making a telephone solicitation.

9 **SECTION 27.** 111.91 (2) (kc) of the statutes is amended to read:

10 111.91 (2) (kc) Compliance with the insurance requirements under ~~s. ss. 610.65~~
11 and 631.95.

12 **SECTION 28.** 118.39 of the statutes is created to read:

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

20 **SECTION 29.** 120.13 (2) (g) of the statutes is amended to read:

21 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
22 49.493 (3) (d), 610.65, 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747
23 (3), 632.85, 632.853, 632.855, 632.87 (4) and (5), 632.895 (9) to (14), 632.896, and
24 767.25 (4m) (d).

25 **SECTION 30.** 146.81 (1) (fm) of the statutes is amended to read:

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1 146.81 (1) (fm) A pharmacist or pharmacy licensed under ch. 450.

2 **SECTION 31.** 146.81 (4) of the statutes is amended to read:

3 146.81 (4) “Patient health care records” means all records related to the health
4 of a patient prepared by or under the supervision of or owned by a health care
5 provider, including the records required under s. 146.82 (2) (d) and (3) (c), but not
6 those records subject to s. 51.30, reports collected under s. 69.186, records of tests
7 administered under s. 252.15 (2) (a) 7., 343.305, 938.296 (4) or (5) or 968.38 (4) or (5),
8 fetal monitor tracings, as defined under s. 146.817 (1), or a pupil’s physical health
9 records maintained by a school under s. 118.125. “Patient health care records” also
10 includes health summary forms prepared under s. 302.388 (2).

11 **SECTION 32.** 146.82 (2) (bm) of the statutes is created to read:

12 146.82 (2) (bm) No recipient of a patient health care record under par. (a) may
13 use identifying information in the record to market a service or product to a patient
14 or health care provider.

15 **SECTION 33.** 146.84 (1) (d) of the statutes is created to read:

16 146.84 (1) (d) Any person who obtains a patient health care record from a
17 pharmacy or pharmacist under circumstances that constitute a violation of s. 146.82
18 or 146.83 in a manner that is knowing and willful shall be liable to any person injured
19 as a result of the violation for actual damages to that person, exemplary damages of
20 not more than \$25,000, costs, and reasonable actual attorney fees.

21 **SECTION 34.** 146.84 (5) of the statutes is created to read:

22 146.84 (5) ENFORCEMENT. The department of justice or a district attorney may
23 bring an action in the name of the state to enforce sub. (2) or to restrain by temporary
24 or permanent injunction a violation of sub. (2).

25 **SECTION 35.** 175.22 of the statutes is created to read:

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1 **175.22 Policy on privacy for professional athletic teams.** Any
2 professional athletic team that has its home field or arena in this state shall adopt
3 a written policy on who may enter and remain, to interview or seek information from
4 any person, in a locker room used by the professional athletic team. The policy shall
5 reflect the privacy interests of members of the professional athletic team.

6 **SECTION 36.** 185.981 (4t) of the statutes is amended to read:

7 185.981 (4t) A sickness care plan operated by a cooperative association is
8 subject to ss. 252.14, 610.65, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749,
9 632.85, 632.853, 632.855, 632.87 (2m), (3), (4), and (5), 632.895 (10) to (14), and
10 632.897 (10) and chs. 149 and 155.

11 **SECTION 37.** 185.983 (1) (intro.) of the statutes is amended to read:

12 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
13 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
14 601.42, 601.43, 601.44, 601.45, 610.65, 611.67, 619.04, 628.34 (10), 631.17, 631.89,
15 631.93, 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85,
16 632.853, 632.855, 632.87 (2m), (3), (4), and (5), 632.895 (5) and (9) to (14), 632.896,
17 and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association
18 shall:

19 **SECTION 38.** 230.08 (4) (b) 5. of the statutes is created to read:

20 230.08 (4) (b) 5. Functions performed by the privacy information officer under
21 s. 22.21 (1) and functions performed by the security information officer under s. 22.21
22 (2).

23 **SECTION 39.** 301.029 (2) (a) of the statutes is amended to read:

24 301.029 (2) (a) The department may not enter into any contract or other
25 agreement if, in the performance of the contract or agreement, a prisoner would

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1 perform data entry or telemarketing services and have access to an individual's
2 financial transaction card numbers, checking or savings account numbers, date of
3 birth, or social security number.

4 **SECTION 40.** 609.837 of the statutes is created to read:

5 **609.837 Prohibiting social security numbers on identification cards.**

6 Defined network plans, preferred provider plans, and limited service health
7 organizations are subject to s. 610.65.

8 **SECTION 41.** 610.65 of the statutes is created to read:

9 **610.65 Prohibiting social security numbers on identification cards. (1)**

10 In this section, "insurer" means an insurer, as defined in s. 600.03 (27); the state or
11 a city, village, town, or school district with respect to any self-insured plan; the
12 health insurance risk-sharing plan under ch. 149; the private employer health care
13 coverage program under subch. X of ch. 40; or a risk-sharing plan created under ch.
14 619.

15 **(2)** An identification card, or other similar identification device, that is issued
16 to an insured or enrollee by an insurer may not show the insured's or enrollee's social
17 security number as an identification number, as part of an identification number, or
18 in any other manner.

19 **SECTION 42.** 938.396 (1) of the statutes is amended to read:

20 938.396 **(1)** Law enforcement officers' records of juveniles shall be kept
21 separate from records of adults. Law enforcement officers' records of juveniles shall
22 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),
23 (1h), (1j), (1k), (1m), (1r), (1t), (1x) or (5) or s. 938.293 or by order of the court. This
24 subsection does not apply to representatives of the news media who wish to obtain
25 information for the purpose of reporting news without revealing the identity of the

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1 juvenile involved, to the confidential exchange of information between the police and
2 officials of the school attended by the juvenile or other law enforcement or social
3 welfare agencies, or to juveniles 10 years of age or older who are subject to the
4 jurisdiction of the court of criminal jurisdiction. A public school official who obtains
5 information under this subsection shall keep the information confidential as
6 required under s. 118.125, and a private school official who obtains information
7 under this subsection shall keep the information confidential in the same manner as
8 is required of a public school official under s. 118.125. A law enforcement agency that
9 obtains information under this subsection shall keep the information confidential as
10 required under this subsection and s. 48.396 (1). A social welfare agency that obtains
11 information under this subsection shall keep the information confidential as
12 required under ss. 48.78 and 938.78.

13 **SECTION 43.** 938.396 (1h) of the statutes is created to read:

14 938.396 (1h) If requested by another law enforcement agency, a law
15 enforcement agency may, subject to official agency policy, disclose to the other law
16 enforcement agency any information in its records relating to a juvenile as necessary
17 for the other law enforcement agency to pursue an investigation of any alleged
18 criminal or delinquent activity. A law enforcement agency that obtains information
19 under this subdivision shall keep the information confidential as required under sub.
20 (1) and s. 48.396 (1) and may disclose the information only for the purpose of
21 pursuing that investigation or as permitted under sub. (1) or s. 48.396 (1).

22 **SECTION 44.** 938.396 (1j) of the statutes is created to read:

23 938.396 (1j) If requested by a court assigned to exercise jurisdiction under this
24 chapter and ch. 48, a court exercising jurisdiction under s. 48.16, a court exercising
25 jurisdiction under s. 938.17 (2), or a person representing the interests of the public

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1 under s. 48.09 or 938.09, a law enforcement agency may, subject to official agency
2 policy, disclose to the requester any information in its records relating to a juvenile
3 as necessary for the court to conduct, or for the person representing the interests of
4 the public to prepare for, any proceedings in the court. A court that obtains
5 information under this subdivision shall keep the information confidential as
6 required under sub. (2) (a) and s. 48.396 (2) (a) and may disclose the information only
7 for the purpose of conducting those proceedings or as permitted under sub. (2) (a) or
8 s. 48.396 (2) (a). A person representing the interests of the public who obtains any
9 information under this subdivision shall keep the information confidential and may
10 disclose the information only as necessary for the person to perform the person's
11 official duties relating to those proceedings.

12 **SECTION 45.** 938.396 (1k) of the statutes is created to read:

13 938.396 (1k) If requested by any person designated to provide intake services
14 under s. 48.067 or 938.067, a law enforcement agency may, subject to official agency
15 policy, disclose to the person any information in its records relating to a juvenile as
16 necessary for the person to provide those services. A person designated to provide
17 intake services who obtains any information under this subdivision shall keep the
18 information confidential and may disclose the information only as necessary for the
19 person to provide those services.

20 **SECTION 46.** 938.396 (2) (c) of the statutes is amended to read:

21 938.396 (2) (c) Upon request of a law enforcement agency to review court
22 records for the purpose of ~~investigating a crime that might constitute criminal gang~~
23 ~~activity, as defined in s. 941.38 (1) (b) pursuing an investigation of any alleged~~
24 delinquent or criminal activity, the court shall open for inspection by authorized
25 representatives of the law enforcement agency the records of the court relating to any

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1 juvenile who has been found to have committed a delinquent act at the request of or
2 for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been
3 a felony under chs. 939 to 948 or 961 if committed by an adult the subject of a
4 proceeding under this chapter as necessary for the law enforcement agency to pursue
5 the investigation. A law enforcement agency that obtains information under this
6 paragraph shall keep the information confidential as required under sub. (1) and s.
7 48.396 (1) and may disclose the information only for the purpose of pursuing that
8 investigation or as permitted under sub. (1) or s. 48.396 (1).

9 **SECTION 47.** 938.396 (2) (gm) of the statutes is amended to read:

10 938.396 (2) (gm) Upon request of any other court assigned to exercise
11 jurisdiction under this chapter and ch. 48, ~~a district attorney or corporation counsel~~
12 any court exercising jurisdiction under s. 48.16, any court exercising jurisdiction
13 under s. 938.17 (2), or any person representing the interests of the public under s.
14 48.09 or 938.09 to review court records for the purpose of conducting or preparing for
15 any proceeding in that other court, the court shall open for inspection by any
16 authorized representative of the requester the records of the court relating to any
17 juvenile who has been the subject of a proceeding under this chapter. A court that
18 obtains information under this paragraph shall keep the information confidential as
19 required under par. (a) and s. 48.396 (2) (a) and may disclose the information only
20 for the purpose of conducting those proceedings or as permitted under par. (a) or s.
21 48.396 (2) (a). A person representing the interests of the public who obtains any
22 information under this paragraph shall keep the information confidential and may
23 disclose the information only as necessary for the person to perform the person's
24 official duties relating to that proceeding.

25 **SECTION 48.** 938.396 (2) (gr) of the statutes is created to read:

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1 938.396 (2) (gr) Upon request of any person designated to provide intake
2 services under s. 48.067 or 938.067 to review court records for the purpose of
3 performing those services, the court shall open for inspection by the person the
4 records of the court relating to a juvenile who has been the subject of a proceeding
5 under this chapter. A person designated to provide intake services who obtains any
6 information under this paragraph shall keep the information confidential and may
7 disclose the information only as necessary for the person to provide those services.

8 **SECTION 49.** 938.396 (5) (a) (intro.) of the statutes is amended to read:

9 938.396 (5) (a) (intro.) Any person who is denied access to a record under sub.
10 (1), (1b), (1d), (1g), (1h), (1j), (1k), (1m), (1r), or (1t) may petition the court to order
11 the disclosure of the records ~~governed by the applicable subsection~~ record. The
12 petition shall be in writing and shall describe as specifically as possible all of the
13 following:

14 **SECTION 50.** 979.028 of the statutes is created to read:

15 **979.028 Confidentiality of autopsy records.** Autopsy records, including
16 photographs or other pictorial images of a deceased person that are taken during an
17 autopsy, are confidential and are not subject to the right of inspection or copying
18 under s. 19.35 (1). Except as required to complete a medical certification of death
19 under s. 69.18 (2), the custodian of an autopsy record or a person involved in
20 conducting an autopsy may not release to the public any information learned as a
21 result of an autopsy concerning the deceased or the cause of his or her death without
22 permission from the deceased's next of kin.

23 **SECTION 51. Initial applicability.**

24 (1) **PRIVACY IMPACT STATEMENTS.** The creation of section 13.0991 of the statutes
25 by this act first applies with respect to bills introduced in the 2001–03 legislative

ASSEMBLY BILL 621**SECTION 52**

1 session and jacketed by the legislative reference bureau after the effective date of
2 this subsection.

3 **SECTION 52. Effective dates.** This act takes effect on the day after publication,
4 except as follows:

5 (1) The treatment of sections 36.11 (35) and 36.32 (1) of the statutes takes effect
6 on January 1, 2007.

7 (2) The treatment of sections 40.51 (8) and (8m), 66.0137 (4), 111.91 (2) (kc),
8 120.13 (2) (g), 185.981 (4t), 185.983 (1) (intro.), 609.837, and 610.65 of the statutes
9 takes effect on January 1, 2005.

10 (3) **PRIVACY IN ATHLETIC LOCKER ROOMS.** The treatment of sections 36.38, 38.12
11 (12), 39.49, 118.39, and 175.22 of the statutes takes effect on the first day of the 6th
12 month beginning after publication.

13 **(END)**