



State of Wisconsin
2001 - 2002 LEGISLATURE

JTK/DK/PK/ML/PD/RC/MK/GM:wlj&cjs:jf

LRB-3774/2

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Wanted Mon 10/15

2001 BILL

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(regenerate)
AN ACT ~~to renumber 19.37 (4) and 36.11 (35) (title); to renumber and amend~~
~~36.11 (35) and 48.396 (2) (g); to amend 48.396 (1), 48.396 (5) (a) (intro.), 59.20~~
~~(3) (d), 146.81 (1) (fm), 146.81 (4), 146.82 (2) (a) 20., 301.029 (2) (a), 938.396 (1),~~
~~938.396 (2) (c), 938.396 (2) (gm) and 938.396 (5) (a) (intro.); and to create~~
~~13.0991, 19.32 (1bg), (1dm), (2g) and (4), 19.356, 19.36 (10), 19.37 (2) (c), 19.37~~
~~(4) (b) and (c), 22.21, 36.32 (1), 40.07 (4), 48.396 (1h), 48.396 (1j), 48.396 (1k),~~
~~48.396 (2) (c), 48.396 (2) (gr), 100.52 (1) (bg) and (br), 100.52 (4) (a) 4., 146.84~~
~~(1) (d), 230.08 (4) (b) 5., 938.396 (1h), 938.396 (1j), 938.396 (1k), 938.396 (2) (gr)~~
~~and 971.19 (11) of the statutes; relating to: the use of a person's social security~~
number in his or her student identification number at private institutions of
higher education; department of corrections contracts involving prisoner access
to an individual's date of birth; requiring pharmacies to keep patient health
care records confidential; access to certain public records containing personally
identifiable information; the place of trial for persons charged with certain

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1 ~~crimes~~ use of social security numbers as medical identifiers; ~~access to certain~~
 2 ~~public records containing social security account numbers of individuals,~~
 3 preparation of privacy impact statements for bills that would impact personal
 4 privacy; prohibiting certain telephone solicitations; appointment of certain
 5 officers in the department of electronic government; ^{and} disclosure of the records
 6 of a law enforcement agency or of a juvenile or municipal court to other law
 7 enforcement agencies, to other juvenile or municipal courts, to juvenile court
 8 intake workers, and to district attorneys, corporation counsels, and other
 9 representatives of the public interest; ~~and providing penalties.~~

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 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.

Requiring pharmacies to keep patient health care records confidential

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

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exceptions to this prohibition, including the instance in which the patient health care records and the circumstances of the release do not provide information that would permit the patient to be identified. Both civil liability and criminal penalties apply to violations related to the unauthorized release of patient health care records. Also under current law, the pharmacy examining board may deny, revoke, suspend, or limit the license of or reprimand a pharmacy or pharmacist that violates state law.

This 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 confidentiality laws.

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 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

BILL

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.

Place of trial in certain criminal cases

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

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

Prohibiting social security numbers for certain patient identification

This bill prohibits a health care provider from assigning to any patient an identification number that is identical to or that incorporates the patient's social security number. However, under the bill, a health care provider is not prohibited from requiring that the patient 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 to participate in a particular program.

Access to public records containing social security numbers of individuals

Currently, the custodian of the records of any state or local governmental unit must provide access to any public record in his or her custody unless otherwise authorized or required by law or unless the custodian demonstrates that the public interest in withholding access to the record outweighs the strong public interest in providing access to that record. Federal law prohibits state and local governmental units from disclosing social security account numbers under certain conditions.

This bill 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

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

The bill also provides that, 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.

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;

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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.

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.

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,

BILL

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.

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.

BILL

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

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

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

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

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

11 (c) "Personally identifiable information" has the meaning given under s. 19.62
12 (5).

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

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

21 (b) Either house of the legislature may, under rules of that house or joint rules
22 of the legislature, request the department of administration to order the preparation
23 of a privacy impact statement with respect to any bill before that house, either in its
24 original form or as affected by one or more amendments. If a house so requests, the

BILL

1 chief clerk of that house shall thereupon transmit a copy of that bill and any affected
2 amendments to the department of administration.

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

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

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

16 (6) Whenever a bill requires preparation of a privacy impact statement under
17 this section, the legislative reference bureau shall include a notation to that effect
18 on the jacket of the bill when the jacket is prepared. If the preparation of a privacy
19 impact statement is requested by a house of the legislature, the chief clerk of that
20 house shall include a notation to that effect on the jacket of the bill.

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

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

BILL

SECTION 2

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

4 (1dm) "Local public office" has the meaning given in s. 19.42 (7w).

5 (2g) "Record subject" means an individual about whom personally identifiable
6 information is contained in a record.

7 (4) "State public office" has the meaning given in s. 19.42 (13), but does not
8 include a position identified in s. 20.923 (6) (em) to (gm).

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

10 **19.356 Notice to record subject; right of action.** (1) Except as authorized
11 in this section or as otherwise provided by statute, no authority is required to notify
12 a record subject prior to providing to a requester access to a record containing
13 information pertaining to that record subject, and no person is entitled to judicial
14 review of the decision of an authority to provide a requester with access to a record.

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

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

BILL

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

4 3. Information relating to one or more employees that is used by the authority
5 or by the employer of the employees for staff management planning or employee
6 evaluation, including employee performance evaluations, judgments or
7 recommendations concerning future salary adjustments or other employee wage
8 treatments, management employee bonus plans, promotions, job assignments,
9 letters of reference, or other comments or ratings relating to individual employees.

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

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

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

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

BILL**SECTION 3**

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

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

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

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

23 (1).

24 (8) The court shall not grant any request by a requester to delay the
25 proceedings. The court shall issue a decision within 10 days after the filing of the

BILL

1 summons and complaint and proof of service of the summons and complaint upon the
2 defendant and the requester, unless a party demonstrates cause for extension of this
3 period. In any event, the court shall issue a decision within 30 days after those filings
4 are complete.

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

8 ~~SECTION 4. 19.36 (10) of the statutes is created to read:~~

9 19.36 (10) SOCIAL SECURITY ACCOUNT NUMBERS. (a) Except as provided in par.
10 (b), if a new record containing a social security account number of an individual,
11 together with information revealing the identity of that individual, is kept by an
12 authority on or after January 1, 2003, or if a record in the custody of an authority is
13 modified to insert the social security account number of an individual on or after
14 January 1, 2003, and the record contains information revealing the identity of that
15 individual, the authority shall delete the social security account number before
16 permitting access to the record, unless the requester is specifically authorized by
17 federal or state law to have access to the social security account number.

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

21 1. The record pertains to that individual alone, to the marital or parental rights
22 or responsibilities of that individual and his or her spouse or former spouse, to
23 property of that individual held jointly or in common tenancy with one or more other
24 individuals, or to a civil legal action or proceeding in which the individual is a

BILL**SECTION 4**

1 specifically named party, and the individual provides appropriate identification to
2 the custodian.

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

7 **SECTION 5.** 19.37 (2) (c) of the statutes is created to read:

8 19.37 (2) (c) This subsection does not apply to any action filed by a record subject
9 against an authority under s. 19.356.

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

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

12 ~~19.37 (4) (b) If any person misrepresents his or her identity for the purpose of
13 obtaining access to the social security account number of another individual under
14 s. 19.36 (10) (a), the person may be required to forfeit not more than \$1,000 for each
15 social security account number obtained by the person by means of such
16 misrepresentation.~~

17 ~~(c) If an insurer or other person obtains a social security account number under
18 s. 19.36 (10) (b) and uses that number for purposes other than an investigation as
19 provided in that paragraph, the person may be required to forfeit not more than
20 \$1,000 for each social security account number used by the person for such
21 unauthorized purposes.~~

22 **SECTION 8.** 22.21 of the statutes is created to read:

23 **22.21 Privacy and security information officers.** (1) The chief
24 information officer shall appoint an employee of the department to serve as a privacy
25 information officer. The privacy information officer shall provide information to

BILL

1 employees of the department and other persons who are or may be the subject of any
2 information maintained or processed by the department concerning applicable laws,
3 rules, and regulations governing the protection of privacy.

4 (2) The chief information officer shall appoint an employee of the department
5 to serve as a security information officer. The security information officer shall
6 ensure the security of information maintained or processed by the department.

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

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

10 36.32 (2) ~~The board~~ An institution of higher education may assign to each
11 student enrolled in the ~~system~~ institution a unique identification number. ~~The board~~
12 An institution of higher education shall not assign to any student an identification
13 number that is identical to or incorporates the student's social security number. This
14 subsection does not prohibit ~~the board~~ an institution of higher education from
15 requiring a student to disclose his or her social security number, nor from using a
16 student's social security number if such use is required by a federal or state agency
17 or private organization in order for the system or the student to participate in a
18 particular program.

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

20 36.32 (1) In this section, "institution of higher education" means an institution
21 within the system, or a private educational institution located in this state that
22 awards a bachelor's or higher degree or provides a program that is acceptable toward
23 such a degree.

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

BILL**SECTION 12**

1 40.07(4) Section 19.356 does not apply to any request for information described
2 in this section.

3 **SECTION 13.** 48.396 (1) of the statutes is amended to read:

4 48.396 (1) Law enforcement officers' records of children shall be kept separate
5 from records of adults. Law enforcement officers' records of the adult expectant
6 mothers of unborn children shall be kept separate from records of other adults. Law
7 enforcement officers' records of children and the adult expectant mothers of unborn
8 children shall not be open to inspection or their contents disclosed except under sub.
9 (1b), (1d), (1h), (1j), (1k), or (5) or s. 48.293 or by order of the court. This subsection
10 does not apply to the representatives of ~~newspapers or other reporters of news~~ the
11 news media who wish to obtain information for the purpose of reporting news
12 without revealing the identity of the child or adult expectant mother involved, to the
13 confidential exchange of information between the police and officials of the school
14 attended by the child or other law enforcement or social welfare agencies, or to
15 children 10 years of age or older who are subject to the jurisdiction of the court of
16 criminal jurisdiction. A public school official who obtains information under this
17 subsection shall keep the information confidential as required under s. 118.125, and
18 a private school official who obtains information under this subsection shall keep the
19 information confidential in the same manner as is required of a public school official
20 under s. 118.125. A law enforcement agency that obtains information under this
21 subsection shall keep the information confidential as required under this subsection
22 and s. 938.396 (1). A social welfare agency that obtains information under this
23 subsection shall keep the information confidential as required under ss. 48.78 and
24 938.78.

25 **SECTION 14.** 48.396 (1h) of the statutes is created to read:

BILL

1 48.396 (1h) If requested by another law enforcement agency, a law enforcement
2 agency may, subject to official agency policy, disclose to the other law enforcement
3 agency any information in its records relating to a child or an adult expectant mother
4 of an unborn child as necessary for the other law enforcement agency to pursue an
5 investigation of any alleged criminal or delinquent activity. A law enforcement
6 agency that obtains information under this subdivision shall keep the information
7 confidential as required under sub. (1) and s. 938.396 (1) and may disclose the
8 information only for the purpose of pursuing that investigation or as permitted under
9 sub. (1) or s. 938.396 (1).

10 **SECTION 15.** 48.396 (1j) of the statutes is created to read:

11 48.396 (1j) If requested by a court assigned to exercise jurisdiction under this
12 chapter and ch. 938, a court exercising jurisdiction under s. 48.16, a court exercising
13 jurisdiction under s. 938.17 (2), or a person representing the interests of the public
14 under s. 48.09 or 938.09, a law enforcement agency may, subject to official agency
15 policy, disclose to the requester any information in its records relating to a child or
16 an adult expectant mother of an unborn child as necessary for the court to conduct,
17 or the person representing the interests of the public to prepare for, any proceedings
18 in the court. A court that obtains information under this subdivision shall keep the
19 information confidential as required under sub. (2) (a) and s. 938.396 (2) (a) and may
20 disclose the information only for the purpose of conducting those proceedings or as
21 permitted under sub. (2) (a) and s. 938.396 (2) (a). A person representing the
22 interests of the public who obtains any information under this subdivision shall keep
23 the information confidential and may disclose the information only as necessary for
24 the person to perform the person's official duties relating to those proceedings.

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

BILL

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

8 **SECTION 17.** 48.396 (2) (c) of the statutes is created to read:

9 48.396 (2) (c) Upon request of any law enforcement agency to review court
10 records for the purpose of pursuing an investigation of any alleged delinquent or
11 criminal activity, the court shall open for inspection by any authorized
12 representative of the requester the records of the court relating to a child or an adult
13 expectant mother of an unborn child who has been the subject of a proceeding under
14 this chapter as necessary for the law enforcement agency to pursue the investigation.
15 A law enforcement agency that obtains information under this paragraph shall keep
16 the information confidential as required under sub. (1) and s. 938.396 (1) and may
17 disclose the information only for the purpose of pursuing that investigation or as
18 permitted under sub. (1) or s. 938.396 (1).

19 **SECTION 18.** 48.396 (2) (g) of the statutes is renumbered 48.396 (2) (gm) and
20 amended to read:

21 48.396 (2) (gm) Upon request of any other court assigned to exercise
22 jurisdiction under this chapter and ch. 938, ~~a district attorney or corporation counsel~~
23 any court exercising jurisdiction under s. 48.16, any court exercising jurisdiction
24 under s. 938.17 (2), or any person representing the interests of the public under s.
25 48.09 or 938.09 to review court records for the purpose of conducting or preparing for

BILL

1 any proceeding in that other court, the court shall open for inspection by any
2 authorized representative of the requester the records of the court relating to any
3 child who has been the subject of a proceeding under this chapter. A court that
4 obtains information under this paragraph shall keep the information confidential as
5 required under par. (a) and s. 938.396 (2) (a) and may disclose the information only
6 for the purpose of conducting those proceedings or as permitted under par. (a) and
7 s. 938.396 (2) (a). A person representing the interests of the public who obtains any
8 information under this paragraph shall keep the information confidential and may
9 disclose the information only as necessary for the person to perform the person's
10 official duties relating to that proceeding.

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

12 48.396 (2) (gr) Upon request of any person designated to provide intake
13 services under s. 48.067 or 938.067 to review court records for the purpose of
14 performing those services, the court shall open for inspection by the person the
15 records of the court relating to a child or an adult expectant mother of an unborn child
16 who has been the subject of a proceeding under this chapter. A person designated
17 to provide intake services who obtains any information under this paragraph shall
18 keep the information confidential and may disclose the information only as
19 necessary for the person to provide those services.

20 **SECTION 20.** 48.396 (5) (a) (intro.) of the statutes is amended to read:

21 48.396 (5) (a) (intro.) Any person who is denied access to a record under sub.
22 (1), (1b) ~~or~~, (1d), (1h), (1j), or (1k) may petition the court to order the disclosure of the
23 records governed by the applicable subsection record. The petition shall be in writing
24 and shall describe as specifically as possible all of the following:

25 **SECTION 21.** 59.20 (3) (d) of the statutes is amended to read:

BILL**SECTION 21**

1 ~~59.20 (3) (d) Any register of deeds who in good faith makes an erroneous~~
2 ~~determination as to the accessibility of a portion of a record, to members of the public~~
3 ~~under s. 19.36 (6), is not subject to any penalty for denial of access to the record under~~
4 ~~s. 19.37 (4) (a).~~

5 **SECTION 22.** 100.52 (1) (bg) and (br) of the statutes are created to read:

6 100.52 (1) (bg) "Blocking service" means a service that allows a person who
7 makes a telephone call to withhold his or her telephone number or name from a
8 person who receives the telephone call and who uses a caller identification service.

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

12 **SECTION 23.** 100.52 (4) (a) 4. of the statutes is created to read:

13 100.52 (4) (a) 4. Use a blocking service when making a telephone solicitation.

14 **SECTION 24.** 146.81 (1) (fm) of the statutes is amended to read:

15 146.81 (1) (fm) A pharmacist or pharmacy licensed under ch. 450.

16 **SECTION 25.** 146.81 (4) of the statutes is amended to read:

17 146.81 (4) "Patient health care records" means all records related to the health
18 of a patient prepared by or under the supervision of or owned by a health care
19 provider, including the records required under s. 146.82 (2) (d) and (3) (c), but not
20 those records subject to s. 51.30, reports collected under s. 69.186, records of tests
21 administered under s. 252.15 (2) (a) 7., 343.305, 938.296 (4) or (5) or 968.38 (4) or
22 (5), fetal monitor tracings, as defined under s. 146.817 (1), or a pupil's physical health
23 records maintained by a school under s. 118.125. "Patient health care records" also
24 includes health summary forms prepared under s. 302.388 (2).

25 **SECTION 26.** 146.82 (2) (a) 20. of the statutes is amended to read:

BILL

1 146.82 (2) (a) 20. If the patient health care records do not contain information
2 and the circumstances of the release do not provide information that would permit
3 the identification of the patient and, in the instance of a patient health care record
4 prepared by or under the supervision of a pharmacist or owned by a pharmacy,
5 identification of the patient's health care provider.

6 **SECTION 27.** 146.84 (1) (d) of the statutes is created to read:

7 146.84 (1) (d) Any person who obtains a patient health care record from a
8 pharmacy or pharmacist under circumstances that constitute a violation of s. 146.82
9 or 146.83 in a manner that is knowing and willful shall be liable to any person injured
10 as a result of the violation for actual damages to that person, exemplary damages of
11 not more than \$25,000, costs, and reasonable actual attorney fees.

12 **SECTION 28.** 230.08 (4) (b) 5. of the statutes is created to read:

13 230.08 (4) (b) 5. Functions performed by the privacy information officer under
14 s. 22.21 (1) and functions performed by the security information officer under s. 22.21
15 (2).

16 **SECTION 29.** 301.029 (2) (a) of the statutes is amended to read:

17 301.029 (2) (a) The department may not enter into any contract or other
18 agreement if, in the performance of the contract or agreement, a prisoner would
19 perform data entry or telemarketing services and have access to an individual's
20 financial transaction card numbers, checking or savings account numbers, date of
21 birth, or social security number.

22 **SECTION 30.** 938.396 (1) of the statutes is amended to read:

23 938.396 (1) Law enforcement officers' records of juveniles shall be kept
24 separate from records of adults. Law enforcement officers' records of juveniles shall
25 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),

BILL**SECTION 30**

1 (1h), (1j), (1k), (1m), (1r), (1t), (1x) or (5) or s. 938.293 or by order of the court. This
2 subsection does not apply to representatives of the news media who wish to obtain
3 information for the purpose of reporting news without revealing the identity of the
4 juvenile involved, to the confidential exchange of information between the police and
5 officials of the school attended by the juvenile or other law enforcement or social
6 welfare agencies, or to juveniles 10 years of age or older who are subject to the
7 jurisdiction of the court of criminal jurisdiction. A public school official who obtains
8 information under this subsection shall keep the information confidential as
9 required under s. 118.125, and a private school official who obtains information
10 under this subsection shall keep the information confidential in the same manner as
11 is required of a public school official under s. 118.125. A law enforcement agency that
12 obtains information under this subsection shall keep the information confidential as
13 required under this subsection and s. 48.396 (1). A social welfare agency that obtains
14 information under this subsection shall keep the information confidential as
15 required under ss. 48.78 and 938.78.

16 **SECTION 31.** 938.396 (1h) of the statutes is created to read:

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

25 **SECTION 32.** 938.396 (1j) of the statutes is created to read:

BILL

1 938.396 (1j) If requested by a court assigned to exercise jurisdiction under this
2 chapter and ch. 48, a court exercising jurisdiction under s. 48.16, a court exercising
3 jurisdiction under s. 938.17 (2), or a person representing the interests of the public
4 under s. 48.09 or 938.09, a law enforcement agency may, subject to official agency
5 policy, disclose to the requester any information in its records relating to a juvenile
6 as necessary for the court to conduct, or for the person representing the interests of
7 the public to prepare for, any proceedings in the court. A court that obtains
8 information under this subdivision shall keep the information confidential as
9 required under sub. (2) (a) and s. 48.396 (2) (a) and may disclose the information only
10 for the purpose of conducting those proceedings or as permitted under sub. (2) (a) or
11 s. 48.396 (2) (a). A person representing the interests of the public who obtains any
12 information under this subdivision shall keep the information confidential and may
13 disclose the information only as necessary for the person to perform the person's
14 official duties relating to those proceedings.

15 **SECTION 33.** 938.396 (1k) of the statutes is created to read:

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

23 **SECTION 34.** 938.396 (2) (c) of the statutes is amended to read:

24 938.396 (2) (c) Upon request of a law enforcement agency to review court
25 records for the purpose of investigating a crime that might constitute criminal gang

BILL

SECTION 34

1 ~~activity, as defined in s. 941.38 (1) (b) pursuing an investigation of any alleged~~
2 ~~delinquent or criminal activity, the court shall open for inspection by authorized~~
3 ~~representatives of the law enforcement agency the records of the court relating to any~~
4 ~~juvenile who has been found to have committed a delinquent act at the request of or~~
5 ~~for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been~~
6 ~~a felony under chs. 939 to 948 or 961 if committed by an adult the subject of a~~
7 ~~proceeding under this chapter as necessary for the law enforcement agency to pursue~~
8 ~~the investigation. A law enforcement agency that obtains information under this~~
9 ~~paragraph shall keep the information confidential as required under sub. (1) and s.~~
10 ~~48.396 (1) and may disclose the information only for the purpose of pursuing that~~
11 ~~investigation or as permitted under sub. (1) or s. 48.396 (1).~~

12 SECTION 35. 938.396 (2) (gm) of the statutes is amended to read:

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

BILL

1 disclose the information only as necessary for the person to perform the person's
2 official duties relating to that proceeding.

3 **SECTION 36.** 938.396 (2) (gr) of the statutes is created to read:

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

11 **SECTION 37.** 938.396 (5) (a) (intro.) of the statutes is amended to read:

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

17 **SECTION 38.** 971.19 (11) of the statutes is created to read:

18 ~~971.19 (11) In an action under s. 942.01, 942.03, 943.201, 943.205, 943.30,~~
19 ~~943.31, 943.41, 943.70, 946.72, 947.012, or 947.0125, the defendant may be tried in~~
20 ~~the defendant's county of residence, in the victim's county of residence, or in any~~
21 ~~other county in which the trial may be conducted under this section.~~

22 **SECTION 39. Initial applicability.**

23 ~~(1) VENUE OF CRIMINAL TRIAL. The treatment of section 971.19 (11) of the statutes~~
24 ~~first applies to criminal actions commenced on the effective date of this subsection.~~

rpm
Insert
2LR Text

rpm

BILL

1 ~~(1)~~ **PRIVACY IMPACT STATEMENTS.** The creation of section 13.0991 of the statutes
2 by this act first applies with respect to bills introduced in the 2001-03 legislative
3 session and jacketed by the legislative reference bureau after the effective date of
4 this subsection.

5 **SECTION 40. Effective dates.** This act takes effect on the day after publication,
6 except as follows:

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

9 **(END)**

~~2001 BILL~~

Insert to LRB-3774/2

1 AN ACT to create 979.028 of the statutes; relating to: confidentiality of autopsy
2 reports.

Insert RLR Analysis:

subsub

B&F ^{l.c.} **Analysis by the Legislative Reference Bureau** ^{strong}

~~Autopsy Records~~

Under current law, the public ~~generally~~ 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 ~~information contained in~~ a record outweighs the public interest in providing access. ~~Public records include any writing, drawing, or printed, spoken, visual, or electromagnetic information that is recorded or preserved, and that is maintained by a government entity or government official.~~ 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. ~~Autopsy records are therefore open to public inspection unless a current law exception applies to the records (for example, district attorney records are generally confidential) or unless the custodian determines that the public interest in withholding an autopsy report outweighs the public interest in providing access.~~

This bill creates an exception to the public right to inspect or copy public records specifically for autopsy reports, and prohibits the custodian of an autopsy record or any person involved in conducting an autopsy from releasing to the public any

The bill also

BILL

except information necessary to complete the medical certification on a certificate of death

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.

END INSERT

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

Insert RLR text:

lk
SECTION 1. 979.028 of the statutes is created to read:

2 **979.028 Confidentiality of autopsy records.** Autopsy records, including
3 photographs or other pictorial images of a deceased person that are taken during an
4 autopsy, are confidential and are not subject to the right of inspection or copying
5 under s. 19.35 (1). *The* custodian of an autopsy record or a person involved in
6 conducting an autopsy may not release to the public any information learned as a
7 result of an autopsy concerning the deceased or the cause of his or her death without
8 permission from the deceased's next of kin.

~~(END)~~

no. 11 Except as required to complete a medical certification of death under s. 69.18(2), the

Emery, Lynn

From: Emery, Lynn
Sent: Monday, October 15, 2001 4:21 PM
To: Rep.Powers
Subject: LRB-3774/3 (attached as requested)

Lynn Emery

Lynn Emery - Program Asst. (PH. 608-266-3561)
(E-Mail: lynn.emery@legis.state.wi.us) (FAX: 608-264-6948)

Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street - 5th Floor
Madison, WI 53703

10/15/2001

10/16 From Dan Schmidt: Redraft - 3774/3, to delete
7-7251 - 3806/1 and substitute 01a 0686 - fix analysis

Qs for Dan Schmidt

① Does Erpenbach know we're using his audit? (yes)

② Shouldn't 146.81(1)(fm) + (4) be amended,
as in SB 237? (yes)

③ Is the audit broad enough (see 146.82(2)(a)2.)

* Change: Create 146.82(2)(b): "No recipient
of a pt. health care record under par. (a) may use
identifying info in the record to market a
service or product to a pt or health care
provider."

Delete Item 2

Keep Item 3

Keep audits to s. 146.81(4) and 146.81(1)(fm)
that now are in - 3774/3

Keep creation of 146.84(1)(d) that now
is in - 3774/3



LRB-40327 /
DAK: ^....
Jld

~~NOTED~~

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Gen

1
2
3

AN ACT ...; relating to: ~~prohibiting the disclosure, for marketing purposes, of~~
~~identifying information about a patient's health care provider contained in~~
~~released patient health care records.~~

~~to market a service or product~~
confidentiality of patient health care records

Analysis by the Legislative Reference Bureau

*

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.

using

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 ~~disclosing, for marketing purposes,~~ identifying information about the patient's 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.

INSERT A ✓

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

✓ in the record to market a service or product to a patient or

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

2 146.81 (1) (fm) A pharmacist or pharmacy licensed under ch. 450.

History: 1979 c. 221; 1981 c. 39 s. 22; 1983 a. 27; 1983 a. 189 s. 329 (1); 1983 a. 535; 1985 a. 315; 1987 a. 27, 70, 264; 1987 a. 399 ss. 403br, 491r; 1987 a. 403; 1989 a. 31, 168, 199, 200, 229, 316, 359; 1991 a. 39, 160, 269; 1993 a. 27, 32, 105, 112, 183, 385, 443, 496; 1995 a. 27 s. 9145 (1); 1995 a. 77, 98, 352; 1997 a. 27, 67, 75, 156, 175; 1999 a. 9, 32, 151, 180, 188; s. 13.93 (2) (c).

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

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

NOTE:NOTE: Sub. (4) is shown as affected by two acts of the 1999 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:

History: 1979 c. 221; 1981 c. 39 s. 22; 1983 a. 27; 1983 a. 189 s. 329 (1); 1983 a. 535; 1985 a. 315; 1987 a. 27, 70, 264; 1987 a. 399 ss. 403br, 491r; 1987 a. 403; 1989 a. 31, 168, 199, 200, 229, 316, 359; 1991 a. 39, 160, 269; 1993 a. 27, 32, 105, 112, 183, 385, 443, 496; 1995 a. 27 s. 9145 (1); 1995 a. 77, 98, 352; 1997 a. 27, 67, 75, 156, 175; 1999 a. 9, 32, 151, 180, 188; s. 13.93 (2) (c).

12 SECTION 3. 146.82 (2) (b) of the statutes is amended to read:

13 146.82 (2) (b) Except as provided in s. 610.70 (3) and (5), unless authorized by
14 a court of record, the recipient of any information under par. (a) shall keep the
15 information confidential and, may not disclose identifying information about the
16 patient whose patient health care records are released, and may not, for marketing
17 purposes, disclose identifying information about the patient's health care provider.

History: 1979 c. 221; 1983 a. 398; 1985 a. 29, 241, 332, 340; 1987 a. 40, 70, 127, 215, 233, 380, 399; 1989 a. 31, 102, 334, 336; 1991 a. 39; 1993 a. 16, 27, 445, 479; 1995 a. 98, 169, 417; 1997 a. 35, 114, 231, 272, 292, 305; 1999 a. 32, 78, 84, 114, 151; s. 13.93 (1) (b).

18 SECTION 4. 655.275 (8) of the statutes is amended to read:

19 655.275 (8) PATIENT RECORDS. The council may obtain any information relating
20 to any claim it reviews under this section that is in the possession of the
21 commissioner or the board of governors. The council shall keep patient health care

INSERT 2-20

1 information, including identifying information about the patient and the patient's
2 health care provider, confidential as required by s. 146.82 (2) (b).

History: 1985 a. 340; 1989 a. 187; 1991 a. 214, 315; 1999 a. 9.

(END)

3
INSERT 3-2

NOTE

INSERT A

no# 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. hastly, 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.

FF FE - S/L

(end ins A)

INSERT ~~2A~~ 3-2A

SECTION # . CR; 146.82(2)(bm) ✓

146.82(2)(bm) ^{CS} No recipient of a patient health care record under par. (a) ✓ may use identifying information in the record to market a service or product to a patient or health care provider. ✓

SECTION # . CR; 146.84(5) ✓

146.84(5) ^{CS} ENFORCEMENT. ^B The department of justice or a district attorney may bring an action in the name of the state to enforce sub. (2) ✓ or to restrain by temporary or permanent injunction a violation of sub. (2). ✓

ENFORCE

SECTION . CR; 146.84(1)(d) ✓

~~146.84(1)(d)~~ INSERT 3-2B ✓

(end ins 3-2A) ✓

BILL

SECTION 21

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

9 **SECTION 22.** 146.82 (2) (a) 20. of the statutes is amended to read:

10 146.82 (2) (a) 20. If the patient health care records do not contain information
11 and the circumstances of the release do not provide information that would permit
12 the identification of the patient and, in the instance of a patient health care record
13 prepared by or under the supervision of a pharmacist or owned by a pharmacy,
14 identification of the patient's health care provider.

15 **SECTION 23.** 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. (end ins 3-26)

21 **SECTION 24.** 230.08 (4) (b) 5. of the statutes is created to read:

22 230.08 (4) (b) 5. Functions performed by the privacy information officer under
23 s. 22.21 (1) and functions performed by the security information officer under s. 22.21
24 (2).

25 **SECTION 25.** 301.029 (2) (a) of the statutes is amended to read:

INSERT
3-2A
↓