



TODAY by 3:00 pm

State of Wisconsin  
2001 - 2002 LEGISLATURE

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

LRB-3774/4

stays

2001 BILL

1 AN ACT to renumber 36.11 (35) (title); to renumber and amend 36.11 (35) and  
2 48.396 (2) (g); to amend 48.396 (1), 48.396 (5) (a) (intro.), 146.81 (1) (fm), 146.81  
3 (4), 146.82 (2) (a) 20., 301.029 (2) (a), 938.396 (1), 938.396 (2) (c), 938.396 (2)  
4 (gm) and 938.396 (5) (a) (intro.); and to create 13.0991, 19.32 (1bg), (1dm), (2g)  
5 and (4), 19.356, 19.37 (2) (c), 22.21, 36.32 (1), 40.07 (4), 48.396 (1h), 48.396 (1j),  
6 48.396 (1k), 48.396 (2) (c), 48.396 (2) (gr), 100.52 (1) (bg) and (br), 100.52 (4) (a)  
7 4., 146.84 (1) (d), 230.08 (4) (b) 5., 938.396 (1h), 938.396 (1j), 938.396 (1k),  
8 938.396 (2) (gr) and 979.028 of the statutes; relating to: the use of a person's  
9 social security number in his or her student identification number at private  
10 institutions of higher education; department of corrections contracts involving  
11 prisoner access to an individual's date of birth; ~~maintaining the confidentiality of~~  
12 confidentiality of patient health care records ~~and~~; access to certain public records  
13 containing personally identifiable information; ~~use of~~ social security numbers.  
14 ~~as medical identifiers~~ access to autopsy records; preparation of privacy impact

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1 statements for bills that would impact personal privacy; prohibiting certain  
2 telephone solicitations; appointment of certain officers in the department of  
3 electronic government; and disclosure of the records of a law enforcement  
4 agency or of a juvenile or municipal court to other law enforcement agencies,  
5 to other juvenile or municipal courts, to juvenile court intake workers, and to  
6 district attorneys, corporation counsels, and other representatives of the public  
7 interest.

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***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.

***Confidentiality of - (BI)*  
~~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 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~~

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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.

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**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 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.

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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.

***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.

***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.

***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;

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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.

***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

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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.

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.

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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

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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:



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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 in connection  
24 with the employee's employment.

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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.

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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

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

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

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

12 **22.21 Privacy and security information officers.** (1) The chief  
13 information officer shall appoint an employee of the department to serve as a privacy  
14 information officer. The privacy information officer shall provide information to  
15 employees of the department and other persons who are or may be the subject of any  
16 information maintained or processed by the department concerning applicable laws,  
17 rules, and regulations governing the protection of privacy.

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

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

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

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

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

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

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

13 **SECTION 9.** 40.07 (4) of the statutes is created to read:

14 40.07 (4) Section 19.356 does not apply to any request for information described  
15 in this section.

16 **SECTION 10.** 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 11.** 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 12.** 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 13.** 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 14.** 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 15.** 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 16.** 48.396 (2) (gr) of the statutes is created to read:



**BILL**

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 17.** 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 18.** 100.52 (1) (bg) and (br) of the statutes are created to read:

15           100.52 (1) (bg) "Blocking service" means a service that allows a person who  
16 makes a telephone call to withhold his or her telephone number or name from a  
17 person who receives the telephone call and who uses a caller identification service.

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

21           **SECTION 19.** 100.52 (4) (a) 4. of the statutes is created to read:

22           100.52 (4) (a) 4. Use a blocking service when making a telephone solicitation.

23           **SECTION 20.** 146.81 (1) (fm) of the statutes is amended to read:

24           146.81 (1) (fm) A pharmacist or pharmacy licensed under ch. 450.

25           **SECTION 21.** 146.81 (4) of the statutes is amended to read:

**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.

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:

**BILL**

1           301.029 (2) (a) The department may not enter into any contract or other  
2 agreement if, in the performance of the contract or agreement, a prisoner would  
3 perform data entry or telemarketing services and have access to an individual's  
4 financial transaction card numbers, checking or savings account numbers, date of  
5 birth, or social security number.

6           **SECTION 26.** 938.396 (1) of the statutes is amended to read:

7           938.396 (1) Law enforcement officers' records of juveniles shall be kept  
8 separate from records of adults. Law enforcement officers' records of juveniles shall  
9 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),  
10 (1h), (1j), (1k), (1m), (1r), (1t), (1x) or (5) or s. 938.293 or by order of the court. This  
11 subsection does not apply to representatives of the news media who wish to obtain  
12 information for the purpose of reporting news without revealing the identity of the  
13 juvenile involved, to the confidential exchange of information between the police and  
14 officials of the school attended by the juvenile or other law enforcement or social  
15 welfare agencies, or to juveniles 10 years of age or older who are subject to the  
16 jurisdiction of the court of criminal jurisdiction. A public school official who obtains  
17 information under this subsection shall keep the information confidential as  
18 required under s. 118.125, and a private school official who obtains information  
19 under this subsection shall keep the information confidential in the same manner as  
20 is required of a public school official under s. 118.125. A law enforcement agency that  
21 obtains information under this subsection shall keep the information confidential as  
22 required under this subsection and s. 48.396 (1). A social welfare agency that obtains  
23 information under this subsection shall keep the information confidential as  
24 required under ss. 48.78 and 938.78.

25           **SECTION 27.** 938.396 (1h) of the statutes is created to read:

**BILL****SECTION 27**

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

9           **SECTION 28.** 938.396 (1j) of the statutes is created to read:

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

24           **SECTION 29.** 938.396 (1k) of the statutes is created to read:

**BILL**

1           938.396 (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 juvenile as  
4 necessary for the person to provide those services. A person designated to provide  
5 intake services who obtains any information under this subdivision shall keep the  
6 information confidential and may disclose the information only as necessary for the  
7 person to provide those services.

8           **SECTION 30.** 938.396 (2) (c) of the statutes is amended to read:

9           938.396 (2) (c) Upon request of a law enforcement agency to review court  
10 records for the purpose of ~~investigating a crime that might constitute criminal gang~~  
11 ~~activity, as defined in s. 941.38 (1) (b) pursuing an investigation of any alleged~~  
12 delinquent or criminal activity, the court shall open for inspection by authorized  
13 representatives of the law enforcement agency the records of the court relating to any  
14 juvenile who has been found to ~~have committed a delinquent act at the request of or~~  
15 ~~for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been~~  
16 ~~a felony under chs. 939 to 948 or 961 if committed by an adult~~ the subject of a  
17 proceeding under this chapter as necessary for the law enforcement agency to pursue  
18 the investigation. A law enforcement agency that obtains information under this  
19 paragraph shall keep the information confidential as required under sub. (1) and s.  
20 48.396 (1) and may disclose the information only for the purpose of pursuing that  
21 investigation or as permitted under sub. (1) or s. 48.396 (1).

22           **SECTION 31.** 938.396 (2) (gm) of the statutes is amended to read:

23           938.396 (2) (gm) Upon request of any other court assigned to exercise  
24 jurisdiction under this chapter and ch. 48, ~~a district attorney or corporation counsel~~  
25 any court exercising jurisdiction under s. 48.16, any court exercising jurisdiction

**BILL****SECTION 31**

1 under s. 938.17 (2), or any person representing the interests of the public under s.  
2 48.09 or 938.09 to review court records for the purpose of conducting or preparing for  
3 any proceeding in that other court, the court shall open for inspection by any  
4 authorized representative of the requester the records of the court relating to any  
5 juvenile who has been the subject of a proceeding under this chapter. A court that  
6 obtains information under this paragraph shall keep the information confidential as  
7 required under par. (a) and s. 48.396 (2) (a) and may disclose the information only  
8 for the purpose of conducting those proceedings or as permitted under par. (a) or s.  
9 48.396 (2) (a). A person representing the interests of the public who obtains any  
10 information under this paragraph shall keep the information confidential and may  
11 disclose the information only as necessary for the person to perform the person's  
12 official duties relating to that proceeding.

13 **SECTION 32.** 938.396 (2) (gr) of the statutes is created to read:

14 938.396 (2) (gr) Upon request of any person designated to provide intake  
15 services under s. 48.067 or 938.067 to review court records for the purpose of  
16 performing those services, the court shall open for inspection by the person the  
17 records of the court relating to a juvenile who has been the subject of a proceeding  
18 under this chapter. A person designated to provide intake services who obtains any  
19 information under this paragraph shall keep the information confidential and may  
20 disclose the information only as necessary for the person to provide those services.

21 **SECTION 33.** 938.396 (5) (a) (intro.) of the statutes is amended to read:

22 938.396 (5) (a) (intro.) Any person who is denied access to a record under sub.  
23 (1), (1b), (1d), (1g), (1h), (1j), (1k), (1m), (1r), or (1t) may petition the court to order  
24 the disclosure of the ~~records governed by the applicable subsection~~ record. The

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1 petition shall be in writing and shall describe as specifically as possible all of the  
2 following:

3 **SECTION 34.** 979.028 of the statutes is created to read:

4 **979.028 Confidentiality of autopsy records.** Autopsy records, including  
5 photographs or other pictorial images of a deceased person that are taken during an  
6 autopsy, are confidential and are not subject to the right of inspection or copying  
7 under s. 19.35 (1). Except as required to complete a medical certification of death  
8 under s. 69.18 (2), the custodian of an autopsy record or a person involved in  
9 conducting an autopsy may not release to the public any information learned as a  
10 result of an autopsy concerning the deceased or the cause of his or her death without  
11 permission from the deceased's next of kin.

12 **SECTION 35. Initial applicability.**

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

17 **SECTION 36. Effective dates.** This act takes effect on the day after publication,  
18 except as follows:

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

21 (END)