

**2001 BILL**

1 **AN ACT to amend 146.81 (1) (fm) and 146.81 (4); and to create 146.82 (2) (bm),**  
 2 **146.84 (1) (d) and 146.84 (5) of the statutes; relating to: confidentiality of**  
 3 **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.

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

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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. ✓

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

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

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 (5),  
9 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). ✓

12       **SECTION 3.** 146.82 (2) (bm) of the statutes is created to read:

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

16       **SECTION 4.** 146.84 (1) (d) of the statutes is created to read:

17       146.84 (1) (d) Any person who obtains a patient health care record from a  
18 pharmacy or pharmacist under circumstances that constitute a violation of s. 146.82  
19 or 146.83 in a manner that is knowing and willful shall be liable to any person injured

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1 as a result of the violation for actual damages to that person, exemplary damages of  
2 not more than \$25,000, costs, and reasonable actual attorney fees.

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

4 146.84 (5) ENFORCEMENT. The department of justice or a district attorney may  
5 bring an action in the name of the state to enforce sub. (2) or to restrain by temporary  
6 or permanent injunction a violation of sub. (2).

(END)

**Basford, Sarah**

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**From:** Basford, Sarah  
**Sent:** Wednesday, October 17, 2001 2:12 PM  
**To:** Rep.Powers  
**Subject:** LRB -3774/4 (attached)

Vince:  
Here is your request per our phone conversation.

**Sarah Basford**  
Program Assistant  
State of Wisconsin  
Legislative Reference Bureau  
PH: (608) 266-3561/FAX: (608) 264-6948  
[sarah.basford@legis.state.wi.us](mailto:sarah.basford@legis.state.wi.us)



State of Wisconsin  
2001 - 2002 LEGISLATURE

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

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2001 BILL

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prohibiting showing social security numbers on insurance identification cards;

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

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**BILL**

*prohibiting posting photographs of residential property on the Internet;*

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

***Analysis by the Legislative Reference Bureau***

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

***Identification numbers for private college students***

Under current law, the University of Wisconsin System, a technical college district board, a school board, and the governing body of a private school are prohibited from assigning to any student an identification number that is identical to or incorporates the student's social security number.

Beginning January 1, 2007, this bill extends this prohibition to private institutions of higher education located in this state.

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

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

***Confidentiality of patient health care records***

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

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

***Access to public records containing personally identifiable information***

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

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

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

***Autopsy records***

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

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

***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.

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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.

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*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.

**BILL****SECTION 3**

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

Handwritten notes on the left margin:  
 - A circle containing "INS. 13-12" with an arrow pointing to line 9.  
 - A larger circle containing "Insert 13-15" with an arrow pointing to line 13.

**BILL****SECTION 10**

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

**BILL**

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

**BILL**

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:

Insert 17-13  
A & B

Insert 17-22

**BILL**

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) (bm) of the statutes is created to read:

10           146.82 (2) (bm) No recipient of a patient health care record under par. (a) may  
11 use identifying information in the record to market a service or product to a patient  
12 or health care provider.

13           **SECTION 23.** 146.84 (1) (d) of the statutes is created to read:

14           146.84 (1) (d) Any person who obtains a patient health care record from a  
15 pharmacy or pharmacist under circumstances that constitute a violation of s. 146.82  
16 or 146.83 in a manner that is knowing and willful shall be liable to any person injured  
17 as a result of the violation for actual damages to that person, exemplary damages of  
18 not more than \$25,000, costs, and reasonable actual attorney fees.

19           **SECTION 24.** 146.84 (5) of the statutes is created to read:

20           146.84 (5) ENFORCEMENT. The department of justice or a district attorney may  
21 bring an action in the name of the state to enforce sub. (2) or to restrain by temporary  
22 or permanent injunction a violation of sub. (2).

23           **SECTION 25.** 230.08 (4) (b) 5. of the statutes is created to read:

Insert 18-22A + B

**BILL**

1 230.08 (4) (b) 5. Functions performed by the privacy information officer under  
2 s. 22.21 (1) and functions performed by the security information officer under s. 22.21  
3 (2).

4 **SECTION 26.** 301.029 (2) (a) of the statutes is amended to read:

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

Insert 19-9 ✓

10 **SECTION 27.** 938.396 (1) of the statutes is amended to read:

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

**BILL****SECTION 27**

1 required under this subsection and s. 48.396 (1). A social welfare agency that obtains  
2 information under this subsection shall keep the information confidential as  
3 required under ss. 48.78 and 938.78.

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

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

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

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

3 **SECTION 30.** 938.396 (1k) of the statutes is created to read:

4 938.396 (1k) If requested by any person designated to provide intake services  
5 under s. 48.067 or 938.067, a law enforcement agency may, subject to official agency  
6 policy, disclose to the person any information in its records relating to a juvenile as  
7 necessary for the person to provide those services. A person designated to provide  
8 intake services who obtains any information under this subdivision shall keep the  
9 information confidential and may disclose the information only as necessary for the  
10 person to provide those services.

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

12 938.396 (2) (c) Upon request of a law enforcement agency to review court  
13 records for the purpose of ~~investigating a crime that might constitute criminal gang~~  
14 ~~activity, as defined in s. 941.38 (1) (b) pursuing an investigation of any alleged~~  
15 delinquent or criminal activity, the court shall open for inspection by authorized  
16 representatives of the law enforcement agency the records of the court relating to any  
17 juvenile who has been found to have committed a delinquent act at the request of or  
18 ~~for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been~~  
19 ~~a felony under chs. 020 to 048 or 061 if committed by an adult~~ the subject of a  
20 proceeding under this chapter as necessary for the law enforcement agency to pursue  
21 the investigation. A law enforcement agency that obtains information under this  
22 paragraph shall keep the information confidential as required under sub. (1) and s.  
23 48.396 (1) and may disclose the information only for the purpose of pursuing that  
24 investigation or as permitted under sub. (1) or s. 48.396 (1).

25 **SECTION 32.** 938.396 (2) (gm) of the statutes is amended to read:

**BILL**

1           938.396 (2) (gm) Upon request of any other court assigned to exercise  
2 jurisdiction under this chapter and ch. 48, ~~a district attorney or corporation counsel~~  
3 any court exercising jurisdiction under s. 48.16, any court exercising jurisdiction  
4 under s. 938.17 (2), or any person representing the interests of the public under s.  
5 48.09 or 938.09 to review court records for the purpose of conducting or preparing for  
6 any proceeding in that other court, the court shall open for inspection by any  
7 authorized representative of the requester the records of the court relating to any  
8 juvenile who has been the subject of a proceeding under this chapter. A court that  
9 obtains information under this paragraph shall keep the information confidential as  
10 required under par. (a) and s. 48.396 (2) (a) and may disclose the information only  
11 for the purpose of conducting those proceedings or as permitted under par. (a) or s.  
12 48.396 (2) (a). A person representing the interests of the public who obtains any  
13 information under this paragraph shall keep the information confidential and may  
14 disclose the information only as necessary for the person to perform the person's  
15 official duties relating to that proceeding.

16           **SECTION 33.** 938.396 (2) (gr) of the statutes is created to read:

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

24           **SECTION 34.** 938.396 (5) (a) (intro.) of the statutes is amended to read:

**BILL**

1           938.396 (5) (a) (intro.) Any person who is denied access to a record under sub.  
2           (1), (1b), (1d), (1g), (1h), (1j), (1k), (1m), (1r), or (1t) may petition the court to order  
3           the disclosure of the records governed by the applicable subsection record. The  
4           petition shall be in writing and shall describe as specifically as possible all of the  
5           following:

6           **SECTION 35.** 979.028 of the statutes is created to read:

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

15          **SECTION 36. Initial applicability.**

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

20          **SECTION 37. Effective dates.** This act takes effect on the day after publication,  
21          except as follows:

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

24

(END)

Insert 23-23 ✓

## ASSEMBLY BILL 459

INS  
L-PG

1 the purchase of motor fuel; use of caller identification blocking services by  
2 telephone solicitors; credit card records; disclosure of credit reports; use of  
3 social security numbers as medical or health insurance identifiers; preparation  
4 of privacy impact statements for bills that would have an impact on personal  
5 privacy; place of trial for persons charged with certain crimes; the use of a  
6 person's social security number in his or her student identification number at  
7 private institutions of higher education; written policies on entering locker  
8 rooms being used by athletic teams representing certain schools or by  
9 professional athletic teams; interception of oral communications between an  
10 employee of a retail business and a customer of the retail business; expanding  
11 the right of privacy; tracking of consumer Internet usage by issuers of consumer  
12 credit; and providing penalties.

---

***Analysis by the Legislative Reference Bureau***

Under current law, a person whose privacy is unreasonably invaded is entitled to equitable relief to prevent and restrain the invasion, compensatory damages, and reasonable attorney fees. Current law defines "invasion of privacy" to mean any of the following:

1. A highly offensive intrusion upon the privacy of another in a place that a reasonable person would consider private or in a manner that is actionable for trespass.

2. The advertising or trade use of the name or picture of a living person without first receiving that person's permission.

3. The publicity given to the private life of another that is highly offensive if the person that publicized the private life had acted unreasonably or recklessly as to whether there was a legitimate public interest in the matter involved or with actual knowledge that there was no legitimate public interest in the matter publicized.

This bill expands the definition of "invasion of privacy" to include publicity given to a matter concerning the person that places that person in a false light if that false light would be highly offensive to another person. If the person placed in the false light is a public person, the person who publicized the matter is liable for an invasion of the person's privacy if the publisher had knowledge of the falsity of the matter or acted with reckless disregard as to the falsity of the matter. If the person



2001 BILL

Insert 2-PJK

anal title sub-sub  
↓

Prohibiting social security numbers on insurance cards

1 AN ACT to amend 10.51 (8), 10.51 (8m), 66.0137 (4), 111.91 (2) (kc), 120.13 (2) (g),  
2 185.981 (4t) and 185.983 (1) (intro.); and to create 609.837 and 610.65 of the  
3 statutes; relating to: prohibiting showing social security numbers on  
4 insurance identification cards.

**Analysis by the Legislative Reference Bureau**

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

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

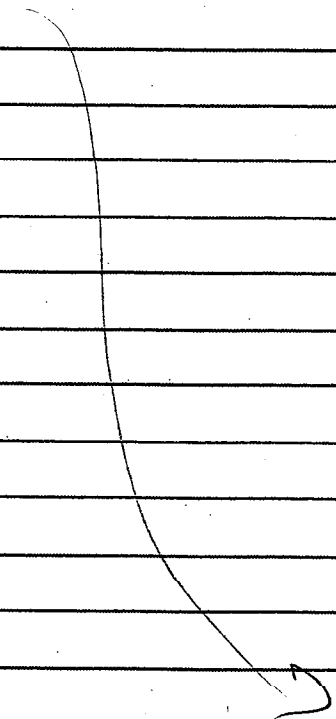
**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

(and of ins 2-PJK

104  
RE: 58  
SA:1

sub sub

II ~~II~~ Policies on entering locker rooms



## ASSEMBLY BILL 459

5A:2

This bill provides that the one-party consent exception does not apply to an interception of an oral communication between an employee of a retail business and a customer of the retail business if the communication is uttered while both the employee and the customer are present in or on the store or premises of the retail business and if the communication is intercepted using an electronic, mechanical, or other device that is attached to or in the possession of the employee. Because interception of an oral communication between a retail business employee and a customer of the retail business under these circumstances would not be covered by the one-party consent exception, the person engaged in the interception would be violating the prohibition against interception of an oral communications and, if convicted, would be subject to the current penalties for the violation.

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

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

Under current law, the University of Wisconsin System, a technical college district board, a school board, and the governing body of a private school are prohibited from assigning to any student an identification number that is identical to or incorporates the student's social security number.

Beginning January 1, 2003, this bill extends this prohibition to private institutions, of higher education located in this state.

This bill ~~also~~ requires each school board, private school, technical college district board, institution and two-year collegiate campus of the University of Wisconsin System, private institution of higher education, and professional athletic team that has its home field or arena in this state to adopt a written policy on who may enter and remain in a locker room used by the school or team to interview or seek information from any person. The policy must reflect the privacy interests of the members of the teams representing the school or the professional athletic team.

The bill also provides that whenever a bill is introduced in either house of the legislature that would have an impact upon personal privacy, any standing committee to which the bill is referred must not hold a public hearing on the bill or report the bill until a privacy impact statement is prepared and received. The statement is prepared by one or more state agencies or authorities, as determined by the department of administration. The statement describes the impact upon personal privacy that would result from enactment of the bill and analyzes the

INSERT 5-B

subsub

Photographs of residential property

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

✓



13-12:1

1 social security account number obtained by the person by means of such  
2 misrepresentation.

3 (c) If an insurer or other person obtains a social security account number under  
4 s. 19.36 (10) (b) 2. and uses that number for purposes other than an investigation as  
5 provided in s. 19.36 (10) (b) 2., the person may be required to forfeit not more than  
6 \$1,000 for each social security account number used by the person for such  
7 unauthorized purposes.

8 SECTION 5. 36.11 (35) (title) of the statutes is renumbered 36.32 (title).

9 SECTION 6. 36.11 (35) of the statutes is renumbered 36.32 (2) and amended to  
10 read:

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

20 SECTION 7. 36.32 (1) of the statutes is created to read:

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

25 SECTION 8. 36.38<sup>\*</sup> of the statutes is created to read:

- 12 -  
13-12:2

1           **36.38 Policy on privacy in athletic locker rooms.** Each institution and  
2 college campus shall adopt a written policy on who may enter and remain, to  
3 interview or seek information from any person, in a locker room being used by an  
4 athletic team representing the institution or college campus. The policy shall reflect  
5 the privacy interests of members of athletic teams representing the institution or  
6 college campus.

7           **SECTION 9.** 38.12 (12) of the statutes is created to read:

STET: leave as originally typed

8           **38.12 (12) POLICY ON PRIVACY IN ATHLETIC LOCKER ROOMS.** The district board shall  
9 adopt a written policy on who may enter and remain, to interview or seek information  
10 from any person, in a locker room being used by an athletic team representing the  
11 district. The policy shall reflect the privacy interests of members of athletic teams  
12 representing the district.

13           **SECTION 10.** 39.49 of the statutes is created to read:

14           **39.49 Policy on privacy in athletic locker rooms.** (1) In this section,  
15 “institution of higher education” means a private educational institution that  
16 awards a bachelor’s or higher degree or provides a program that is acceptable for  
17 credit toward such a degree, and that fields an athletic team that represents the  
18 institution.

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

24           ~~**SECTION 11.** 59.20 (3) (d) of the statutes is amended to read:~~

**BILL**

Insert 13-15

SECTION 1. 40.51 (8) of the statutes is amended to read:

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

SECTION 2. 40.51 (8m) of the statutes is amended to read:

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

Insert 17-13A

SECTION 3. 66.0137 (4) of the statutes is amended to read:

66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or a village provides health care benefits under its home rule power, or if a town provides health care benefits, to its officers and employees on a self-insured basis, the self-insured plan shall comply with ss. 49.493 (3) (d), 610.65, 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4) and (5), 632.895 (9) to (14), 632.896, and 767.25 (4m) (d).

Insert 17-22

SECTION 4. 111.91 (2) (kc) of the statutes is amended to read:

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

→ Insert 17-22A ← THIS IS AN INSERT TO THE INSERT

SECTION 5. 120.13 (2) (g) of the statutes is amended to read:

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

Insert 18-22B  
1 of 2

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

1062

↓  
Continued

**ASSEMBLY AMENDMENT ,  
TO 2001 ASSEMBLY BILL (LRB-3774/1)**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 8: after "privacy;" insert "prohibiting posting photographs of  
3 residential property on the Internet;"

4 **2.** Page 21, line 20: after that line insert:

5 ~~SECTION 24m.~~ <sup>#</sup> 74.80 of the statutes is created to read:

6 **74.80 Internet information.** No taxation district may put photographs of  
7 residential property located within the taxation district on the Internet.

8 (END)

INSERT 17-13B

17-22A

1 listing or symbol indicating that the residential customer does not want to receive  
2 any telephone solicitation.

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

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

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

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

13 (b) A person who violates sub. (2) (c) may be required to forfeit not more than  
14 \$10,000.

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

18 SECTION 26. 118.39 of the statutes is created to read:

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

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

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

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

12 SECTION 37. 146.833 of the statutes is created to read:

13 **146.833 Use of social security numbers prohibited.** A health care  
14 provider may not use for any patient an identification number that is identical to or  
15 incorporates the patient's social security number. This section does not prohibit the  
16 health care provider from requiring a patient to disclose his or her social security  
17 number, or from using a patient's social security number if that use is required by  
18 a federal or state agency in order for the patient to participate in a particular  
19 program.

20 SECTION 38. 175.22 of the statutes is created to read:

21 **175.22 Policy on privacy for professional athletic teams.** Any  
22 professional athletic team that has its home field or arena in this state shall adopt  
23 a written policy on who may enter and remain, to interview or seek information from  
24 any person, in a locker room used by the professional athletic team. The policy shall  
25 reflect the privacy interests of members of the professional athletic team.

**BILL**

Insert 18-2-28 282 continued

1 185.981 (4t) A sickness care plan operated by a cooperative association is  
2 subject to ss. 252.14, 610.65, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749,  
3 632.85, 632.853, 632.855, 632.87 (2m), (3), (4), and (5), 632.895 (10) to (14), and  
4 632.897 (10) and chs. 149 and 155.

5 **SECTION 7.** 185.983 (1) (intro.) of the statutes is amended to read:

6 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be  
7 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,  
8 601.42, 601.43, 601.44, 601.45, 610.65, 611.67, 619.04, 628.34 (10), 631.17, 631.89,  
9 631.93, 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85,  
10 632.853, 632.855, 632.87 (2m), (3), (4), and (5), 632.895 (5) and (9) to (14), 632.896,  
11 and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association  
12 shall:

13 **SECTION 8.** 609.837 of the statutes is created to read:

14 **609.837 Prohibiting social security numbers on identification cards.**

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

17 **SECTION 9.** 610.65 of the statutes is created to read:

18 **610.65 Prohibiting social security numbers on identification cards. (1)**

19 In this section, "insurer" means an insurer, as defined in s. 600.03 (27); the state or  
20 a city, village, town, or school district with respect to any self-insured plan; the  
21 health insurance risk-sharing plan under ch. 149; the private employer health care  
22 coverage program under subch. X of ch. 40; or a risk-sharing plan created under ch.  
23 619.

24 (2) An identification card, or other similar identification device, that is issued  
25 to an insured or enrollee by an insurer may not show the insured's or enrollee's social

Insert 19-9 1062

↓  
continued

↓

202

**BILL**

security number as an identification number, as part of an identification number, or  
in any other manner.

~~(3) The prohibition under this section applies to identification cards, or other  
similar identification devices, that are in use on or after the first day of the 13th  
month beginning after the effective date of this subsection .... [revisor inserts date].~~

(END of ins 19-9)

INSERT  
19-9  
2002

2  
3  
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5  
6

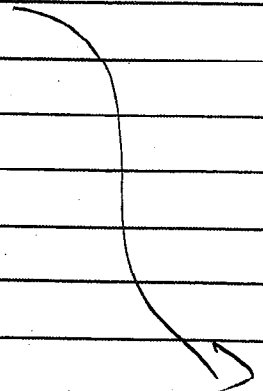


NON STAT EFF DATE

Insert 23-23:1

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

~~(copy of ins. 23-23)~~



23-23:2

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

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

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

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

8 (1) USE OF SOCIAL SECURITY NUMBERS BY INSURERS. The treatment of sections  
9 610.75 and 632.725 (2) (d) of the statutes takes effect on the first day of the 7th month  
10 beginning after publication.

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

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

16 (3) ~~21~~ PRIVACY IN ATHLETIC LOCKER ROOMS. The treatment of sections 36.38, 38.12  
17 (2), 39.49, 118.39, and 175.22 of the statutes takes effect on the first day of the 6th  
18 month beginning after publication.

19 (3) INTERNET COOKIES. The treatment of sections 421.301 (13m) and 422.422 of  
20 the statutes and SECTION 9159 (2) of this act takes effect on the first day of the 7th  
21 month beginning after publication.

22 (ENR)

NON STAT EFFECT DATE

STET: leave as originally typed



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

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

STEPHEN R. MILLER  
CHIEF

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

October 29, 2001

### MEMORANDUM

To: Representative Powers

From: Jeffery T. Kuesel, Managing Attorney

Re: LRB-3774/5 Access to public records; use of SS numbers; prisoner activities; prescription and credit/debit card information; caller ID blocking; privacy impact statements; place of certain trials; DEG officers

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



JACKET FOR ASSEMBLY  JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-6778 or at the address indicated at the top of this memorandum.

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

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