



State of Wisconsin

2001 - 2002 LEGISLATURE

JTK/DK/PK/ML/PG/PD/RC/MK/GM/JK/RR: wj&cs:kjf

LRBs0264/P

Wanted Pr: 1/4

rm is run

SA

ASSEMBLY SUBSTITUTE AMENDMENT,

TO 2001 ASSEMBLY BILL 621

wj & cs

regenerate

1 AN ACT to renumber 36.11 (35) (title) and 230.13 (3); to renumber and amend
2 36.11 (35) and 48.396 (2) (g); to amend 40.07 (1) (intro.) and (3), 40.51 (8), 40.51
3 (8m), 48.396 (1), 48.396 (5) (a) (intro.), 66.0137 (4), 111.91 (2) (kc), 120.13 (2) (g),
4 146.81 (1) (fm), 146.81 (4), 185.981 (4t), 185.983 (1) (intro.), 230.13 (1) (intro.),
5 233.13 (intro.), 301.029 (2) (a), 938.396 (1), 938.396 (2) (c), 938.396 (2) (gm) and
6 938.396 (5) (a) (intro.); and to create 13.0991, 19.32 (1bg), (1de), (1dm), (2g) and
7 (4), 19.345, 19.356, 19.36 (10), 22.21, 36.32 (1), 36.38, 38.12 (12), 39.49, 48.396
8 (1h), 48.396 (1j), 48.396 (1k), 48.396 (2) (c), 48.396 (2) (gr), 74.80, 100.52 (1) (bg)
9 and (br), 100.52 (4) (a) 4., 118.39, 146.82 (2) (bm), 146.84 (1) (d), 146.84 (5),
10 175.22, 230.08 (4) (b) 5., 230.13 (3) (b), 609.837, 610.65, 938.396 (1h), 938.396
11 (1j), 938.396 (1k), 938.396 (2) (gr) and 979.028 of the statutes; relating to: the
12 use of a person's social security number in his or her student identification
13 number at private institutions of higher education; ~~and to amend 13.0991~~

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~~Security numbers on insurance identification cards~~ department of corrections contracts involving prisoner access to an individual's date of birth; confidentiality of patient health care records; access to public records; access to autopsy records; preparation of privacy impact statements for bills that would impact personal privacy; written policies on entering locker rooms being used by athletic teams representing certain schools or by professional athletic teams; prohibiting certain telephone solicitations; ~~prohibiting posting photographs of residential property on the Internet~~; appointment of certain officers in the department of electronic government; and disclosure of the records of a law enforcement agency or of a juvenile or municipal court to other law enforcement agencies, to other juvenile or municipal courts, to juvenile court intake workers, and to district attorneys, corporation counsels, and other representatives of the public interest.

to dispositional staff of the department of health and family services, the department of corrections, a county department of human services or social services, or a child welfare agency,

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

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SECTION 1. 13.0991 of the statutes is created to read:
13.0991 Privacy impact statements. (1) In this section:
(a) "Authority" means a body created under ch. 231, 232, 233, 234, or 235.
(b) "Impact upon personal privacy" means that a bill would do one or more of the following:
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.

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

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

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

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

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

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

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

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

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

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

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

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

20 **19.32 (1bg)** "Employee" means an individual who is engaged in employment
21 in this state, other than an individual holding a state public office or a local public
22 office.

23 **(1de)** "Local governmental unit" has the meaning given in s. 19.42 (7u).

24 **(1dm)** "Local public office" has the meaning given in s. 19.42 (7w), and also
25 includes any appointive office or position of a local governmental unit in which an

1 individual serves as the head of a department, agency, or division of the local
2 governmental unit.

3 (2g) "Record subject" means an individual about whom personally identifiable
4 information is contained in a record.

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

7 SECTION 3. 19.345 of the statutes is created to read:

8 **19.345 Time computation.** In ss. 19.33 to 19.39, when a time period is
9 provided for performing an act, whether the period is expressed in hours or days, the
10 whole of Saturday, Sunday, and any legal holiday, from midnight to midnight, shall
11 be excluded in computing the period.

12 SECTION 4. 19.356 of the statutes is created to read:

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

18 (2) (a) Except as provided in pars. (b) to (d) and as otherwise authorized or
19 required by statute, if an authority decides to permit access to a record containing
20 information relating to an employee that is created or kept by the authority as a
21 result of the authority's investigation into a disciplinary matter involving the
22 employee or possible violation by the employee of a statute, ordinance, rule,
23 regulation, or policy of the employee's employer, or any record obtained by the
24 authority through a subpoena or search warrant, the authority shall, before
25 permitting access and within 72 hours after making the decision to permit access,

1 serve written notice of that decision on any record subject to whom that record
2 pertains, either by certified mail or by personally serving the notice on the subject.
3 The notice shall briefly describe the requested record and include a description of the
4 rights of the record subject under subs. (3) and (4).

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

10 (c) Paragraph (a) does not apply to an investigation by an authority who or
11 which is charged with the responsibility to enforce a law, ordinance, rule, or
12 regulation that is applicable to individuals other than officers or employees of the
13 authority or persons under contract with the authority unless the investigation
14 involves an officer or employee of the authority or a person under contract with the
15 authority.

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

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

22 (4) Within 10 days after receipt of a notice under sub. (2), any record subject
23 may commence an action seeking a court order to restrain the authority from
24 providing access to the requested record. If a record subject commences such an

1 action, the record subject shall name the authority as a defendant. Notwithstanding
2 s. 803.09, the requester may intervene in the action as a matter of right.

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

13 (6) The court may restrain the authority from providing access to the requested
14 record. The court shall apply substantive common law principles construing the
15 right to inspect, copy, or receive copies of records in making its decision.

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

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

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SECTION 5. 19.36 (10) ^{and (11) ✓} of the statutes ^{are} is created to read:

1 **19.36 (10) EMPLOYEE PERSONNEL RECORDS.** Unless access is specifically
2 authorized or required by statute, an authority shall not provide access to records
3 containing the following information under s. 19.35 (1), except to an employee or the
4 employee's representative to the extent required under s. 103.13 or to a collective
5 bargaining representative to the extent required to fulfill a duty to bargain under ch.
6 111 or pursuant to a collective bargaining agreement under ch. 111:

7 (a) Information prepared or provided by an employer concerning the home
8 address or telephone number of an employee, unless the employee authorizes the
9 authority to provide access to such information.

10 (b) Information relating to the current investigation of a possible criminal
11 offense or possible misconduct connected with employment by an employee prior to
12 disposition of the investigation.

13 (c) Information pertaining to an employee's employment examination, except
14 an examination score if access to that score is not otherwise prohibited.

15 (d) Information relating to one or more specific employees that is used by an
16 authority or by the employer of the employees for staff management planning,
17 including performance evaluations, judgments or recommendations concerning
18 future salary adjustments or other wage treatments, management bonus plans,
19 promotions, job assignments, letters of reference, or other comments or ratings
20 relating to employees.

21 **SECTION 6. 22.21 of the statutes is created to read:**

22 **22.21 Privacy and security information officers.** (1) The chief
23 information officer shall appoint an employee of the department to serve as a privacy
24 information officer. The privacy information officer shall provide information to
25 employees of the department and other persons who are or may be the subject of any

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1 information maintained or processed by the department concerning applicable laws,
2 rules, and regulations governing the protection of privacy.

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

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

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

9 36.32 (2) ~~The board~~ An institution of higher education may assign to each
10 student enrolled in the ~~system~~ institution a unique identification number. ~~The board~~
11 An institution of higher education shall not assign to any student an identification
12 number that is identical to or incorporates the student's social security number. This
13 subsection does not prohibit ~~the board~~ an institution of higher education from
14 requiring a student to disclose his or her social security number, nor from using a
15 student's social security number if such use is required by a federal or state agency
16 or private organization in order for the system or the student to participate in a
17 particular program.

18 SECTION 9. 36.32 (1) of the statutes is created to read:

19 36.32 (1) In this section, "institution of higher education" means an institution
20 within the system, or a private educational institution located in this state that
21 awards a bachelor's or higher degree or provides a program that is acceptable toward
22 such a degree.

23 SECTION 10. 36.38 of the statutes is created to read:

24 36.38 Policy on privacy in athletic locker rooms. Each institution and
25 college campus shall adopt a written policy on who may enter and remain, to

1 interview or seek information from any person, in a locker room being used by an
2 athletic team representing the institution or college campus. The policy shall reflect
3 the privacy interests of members of athletic teams representing the institution or
4 college campus.

5 **SECTION 11. 38.12 (12) of the statutes is created to read:**

6 **38.12 (12) POLICY ON PRIVACY IN ATHLETIC LOCKER ROOMS.** The district board shall
7 adopt a written policy on who may enter and remain, to interview or seek information
8 from any person, in a locker room being used by an athletic team representing the
9 district. The policy shall reflect the privacy interests of members of athletic teams
10 representing the district.

11 **SECTION 12. 39.49 of the statutes is created to read:**

12 **39.49 Policy on privacy in athletic locker rooms. (1)** In this section,
13 “institution of higher education” means a private educational institution that
14 awards a bachelor’s or higher degree or provides a program that is acceptable for
15 credit toward such a degree, and that fields an athletic team that represents the
16 institution.

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

22 **SECTION 13. 40.07 (1) (intro.) and (3) of the statutes are amended to read:**

23 **40.07 (1) (intro.)** Notwithstanding any other statutory provision, individual
24 personal information in the records of the department is not ~~a public record and shall~~

1 ~~not be disclosed, unless subject to access under s. 19.35 (1), but access to that~~
2 ~~information may be provided, unless prohibited under s. 19.36 (10), if:~~

3 (3) The department shall not furnish lists of participants, annuitants or
4 beneficiaries to any person or organization except as permitted under s. 19.36 (10)
5 and as required for the proper administration of the department.

6 SECTION 14. 40.51 (8) of the statutes is amended to read:

7 ~~40.51 (8) Every health care coverage plan offered by the state under sub. (6)~~
8 ~~shall comply with ss. 610.65, 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746~~
9 ~~(1) to (8) and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855,~~
10 ~~632.87 (3) to (5), 632.895 (5m) and (8) to (14), and 632.896.~~

11 SECTION 15. 40.51 (8m) of the statutes is amended to read:

12 40.51 (8m) Every health care coverage plan offered by the group insurance
13 board under sub. (7) shall comply with ss. 610.65, 631.95, 632.746 (1) to (8) and (10),
14 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, and 632.895 (11) to (14).

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

16 48.396 (1) Law enforcement officers' records of children shall be kept separate
17 from records of adults. Law enforcement officers' records of the adult expectant
18 mothers of unborn children shall be kept separate from records of other adults. Law
19 enforcement officers' records of children and the adult expectant mothers of unborn
20 children shall not be open to inspection or their contents disclosed except under sub.
21 (1b), (1d), (1h), (1j), (1k), or (5) or s. 48.293 or by order of the court. This subsection
22 does not apply to the representatives of newspapers or other reporters of news the
23 news media who wish to obtain information for the purpose of reporting news
24 without revealing the identity of the child or adult expectant mother involved, to the
25 confidential exchange of information between the police and officials of the school

and an agency, as defined in s. 48.38 (1)(a) or 938.73 (1)

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

Paragraph ✓

12 SECTION 17. 48.396 (1h) of the statutes is created to read:

13 48.396 (1h) If requested by another law enforcement agency, a law enforcement
 14 agency may, subject to official agency policy, disclose to the other law enforcement
 15 agency any information in its records relating to a child or an adult expectant mother
 16 of an unborn child as necessary for the other law enforcement agency to pursue an
 17 investigation of any alleged criminal or delinquent activity. A law enforcement
 18 agency that obtains information under this subdivision shall keep the information
 19 confidential as required under sub. (1) and s. 938.396 (1) and may disclose the
 20 information only for the purpose of pursuing that investigation or as permitted under
 21 sub. (1) or s. 938.396 (1).

22 SECTION 18. 48.396 (1j) of the statutes is created to read:

23 48.396 (1j) If requested by a court assigned to exercise jurisdiction under this
 24 chapter and ch. 938, a court exercising jurisdiction under s. 48.16, a court exercising
 25 jurisdiction under s. 938.17 (2), or a person representing the interests of the public

or 938.069 or any other person employed by an agency, in s. 48.38(1)(a) or 938.78(1)

to provide any other professional services as defined paragraph

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SECTION 18

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

12 SECTION 19. 48.396 (1k) of the statutes is created to read: authorized or dispositional

13 48.396 (1k) If requested by any person designated to provide intake services
14 under s. 48.067 or 938.067, a law enforcement agency may, subject to official agency
15 policy, disclose to the person any information in its records relating to a child or an
16 adult expectant mother of an unborn child as necessary for the person to provide
17 those services. A person designated to provide intake services who obtains any
18 information under this subdivision shall keep the information confidential and may
19 disclose the information only as necessary for the person to provide those services.

20 SECTION 20. 48.396 (2) (c) of the statutes is created to read:

21 48.396 (2) (c) Upon request of any law enforcement agency to review court
22 records for the purpose of pursuing an investigation of any alleged delinquent or
23 criminal activity, the court shall open for inspection by any authorized
24 representative of the requester the records of the court relating to a child or an adult
25 expectant mother of an unborn child who has been the subject of a proceeding under

1 this chapter as necessary for the law enforcement agency to pursue the investigation.
 2 A law enforcement agency that obtains information under this paragraph shall keep
 3 the information confidential as required under sub. (1) and s. 938.396 (1) and may
 4 disclose the information only for the purpose of pursuing that investigation or as
 5 permitted under sub. (1) or s. 938.396 (1).

6 SECTION 21. 48.396 (2) (g) of the statutes is renumbered 48.396 (2) (gm) and
 7 amended to read:

8 48.396 (2) (gm) Upon request of any other court assigned to exercise
 9 jurisdiction under this chapter and ch. 938, ~~a district attorney or corporation counsel~~
 10 any court exercising jurisdiction under s. 48.16, any court exercising jurisdiction
 11 under s. 938.17 (2), or any person representing the interests of the public under s.
 12 48.09 or 938.09 to review court records for the purpose of conducting or preparing for
 13 any proceeding in that other court, the court shall open for inspection by any
 14 authorized representative of the requester the records of the court relating to any
 15 child who has been the subject of a proceeding under this chapter. A court that
 16 obtains information under this paragraph shall keep the information confidential as
 17 required under par. (a) and s. 938.396 (2) (a) and may disclose the information only
 18 for the purpose of conducting those proceedings or as permitted under par. (a) and
 19 s. 938.396 (2) (a). A person representing the interests of the public who obtains any
 20 information under this paragraph shall keep the information confidential and may
 21 disclose the information only as necessary for the person to perform the person's
 22 official duties relating to that proceeding. *authorized*

23 SECTION 22. 48.396 (2) (gr) of the statutes is created to read: *or dispositional*

24 48.396 (2) (gr) Upon request of any person *designated* to provide intake
 25 services under s. *48.069* ~~48.067~~ *or* 938.067 to review court records for the purpose of

*or 938.069 or any other person employed by an agency, as defined in
 s. 48.38(1)(a) or 938.78(1), to provide any other professional services*

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

7 SECTION 23. 48.396 (5) (a) (intro.) of the statutes is amended to read:

8 48.396 (5) (a) (intro.) Any person who is denied access to a record under sub.
 9 (1), (1b) ~~or~~, (1d), (1h), (1j), or (1k) may petition the court to order the disclosure of the
 10 records governed by the applicable subsection record. The petition shall be in writing
 11 and shall describe as specifically as possible all of the following:

12 SECTION 24. 66.0137 (4) of the statutes is amended to read:

13 66.0137 (4) ~~SELF-INSURED HEALTH PLANS~~. If a city, including a 1st class city, or
 14 a village provides health care benefits under its home rule power, or if a town
 15 provides health care benefits, to its officers and employees on a self-insured basis,
 16 the self-insured plan shall comply with ss. 49.493 (3) (d), ~~610.65~~, 631.89, 631.90,
 17 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3), ~~632.85~~, 632.853, 632.855, 632.87
 18 (4) and (5), 632.895 (9) to (14), 632.896, and 767.25 (4m) (d).

19 ~~SECTION 25. 74.80 of the statutes is created to read:~~

20 ~~74.80 Internet information. No taxation district may put photographs of~~
 21 ~~residential property located within the taxation district on the Internet.~~

22 SECTION 26. 100.52 (1) (bg) and (br) of the statutes are created to read:

23 100.52 (1) (bg) "Blocking service" means a service that allows a person who
 24 makes a telephone call to withhold his or her telephone number or name from a
 25 person who receives the telephone call and who uses a caller identification service.

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

4 SECTION 27. 100.52 (4) (a) 4. of the statutes is created to read:

5 100.52 (4) (a) 4. Use a blocking service when making a telephone solicitation.

6 SECTION 28. 111.91 (2) (kc) of the statutes is amended to read:

7 111.91 (2) (kc) Compliance with the insurance requirements under ~~ss. 610.65~~
8 and 631.95.

9 SECTION 29. 118.39 of the statutes is created to read:

10 **118.39 Policy on privacy in athletic locker rooms.** Each school board, and
11 the governing body of each private school that fields an athletic team representing
12 the school, shall adopt a written policy on who may enter and remain, to interview
13 or seek information from any person, in a locker room being used by an athletic team
14 representing the private school or representing a public school in the school district.
15 The policy shall reflect the privacy interests of members of athletic teams
16 representing the school.

17 SECTION 30. 120.13 (2) (g) of the statutes is amended to read:

18 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
19 ~~49.493 (3) (d), 610.65, 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747~~
20 ~~(3), 632.85, 632.853, 632.855, 632.87 (4) and (5), 632.895 (9) to (14), 632.896, and~~
21 767.25 (4m) (d).

22 SECTION 31. 146.81 (1) (fm) of the statutes is amended to read:

23 146.81 (1) (fm) A pharmacist or pharmacy licensed under ch. 450.

24 SECTION 32. 146.81 (4) of the statutes is amended to read:

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 33.** 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.

*Except as otherwise permitted under
45 CFR Parts 160 and 164,*

13 **SECTION 34.** 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 35.** 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 36.** 175.22 of the statutes is created to read:

24 **175.22 Policy on privacy for professional athletic teams.** Any
25 professional athletic team that has its home field or arena in this state shall adopt

1 a written policy on who may enter and remain, to interview or seek information from
2 any person, in a locker room used by the professional athletic team. The policy shall
3 reflect the privacy interests of members of the professional athletic team.

4 **SECTION 37.** 185.981 (4t) of the statutes is amended to read:

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

9 **SECTION 38.** 185.983 (1) (intro.) of the statutes is amended to read:

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

17 **SECTION 39.** 230.08 (4) (b) 5. of the statutes is created to read:

18 230.08 (4) (b) 5. Functions performed by the privacy information officer under
19 s. 22.21 (1) and functions performed by the security information officer under s. 22.21
20 (2).

21 **SECTION 40.** 230.13 (1) (intro.) of the statutes is amended to read:

22 230.13 (1) (intro.) Except as provided in sub. (3) and ~~s. ss. 19.36 (10) and 103.13~~,
23 the secretary and the administrator may keep records of the following personnel
24 matters closed to the public:

25 **SECTION 41.** 230.13 (3) of the statutes is renumbered 230.13 (3) (a).

1 SECTION 42. 230.13 (3) (b) of the statutes is created to read:

2 230.13 (3) (b) The secretary and the administrator may provide any agency
3 with personnel information relating to the hiring and recruitment process, including
4 specifically the examination scores and ranks and other evaluations of applicants.

5 SECTION 43. 233.13 (intro.) of the statutes is amended to read:

6 233.13 Closed records. (intro.) Except as provided in s. ss. 19.36 (10) and
7 103.13, the authority may keep records of the following personnel matters closed to
8 the public:

9 SECTION 44. 301.029 (2) (a) of the statutes is amended to read:

10 301.029 (2) (a) The department may not enter into any contract or other
11 agreement if, in the performance of the contract or agreement, a prisoner would
12 perform data entry or telemarketing services and have access to an individual's
13 financial transaction card numbers, checking or savings account numbers, date of
14 birth, or social security number.

15 SECTION 45. 609.837 of the statutes is created to read:

16 609.837 Prohibiting social security numbers on identification cards.
17 Defined network plans, preferred provider plans, and limited service health
18 organizations are subject to s. 610.65.

19 SECTION 46. 610.65 of the statutes is created to read:

20 610.65 Prohibiting social security numbers on identification cards. (1)
21 In this section, "insurer" means an insurer, as defined in s. 600.03 (27); the state or
22 a city, village, town, or school district with respect to any self-insured plan; the
23 health insurance risk-sharing plan under ch. 149; the private employer health care
24 coverage program under subch. X of ch. 40; or a risk-sharing plan created under ch.
25 619.

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

(an agency, as defined in s. 48.38(1)(a) or 938.78(1))

5 SECTION 47. 938.396 (1) of the statutes is amended to read:

6 938.396 (1) Law enforcement officers' records of juveniles shall be kept
 7 separate from records of adults. Law enforcement officers' records of juveniles shall
 8 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),
 9 (1h), (1j), (1k), (1m), (1r), (1t), (1x) or (5) or s. 938.293 or by order of the court. This
 10 subsection does not apply to representatives of the news media who wish to obtain
 11 information for the purpose of reporting news without revealing the identity of the
 12 juvenile involved, ~~to~~ the confidential exchange of information between the police and
 13 officials of the school attended by the juvenile ~~(or other law enforcement or social~~
 14 ~~welfare agencies,~~ ~~or to juveniles 10 years of age or older who are subject to the~~
 15 jurisdiction of the court of criminal jurisdiction. A public school official who obtains
 16 information under this subsection shall keep the information confidential as
 17 required under s. 118.125, and a private school official who obtains information
 18 under this subsection shall keep the information confidential in the same manner as
 19 is required of a public school official under s. 118.125. A law enforcement agency that
 20 obtains information under this subsection shall keep the information confidential as
 21 required under this subsection and s. 48.396 (1). A social welfare agency that obtains
 22 information under this subsection shall keep the information confidential as
 23 required under ss. 48.78 and 938.78.

24 SECTION 48. 938.396 (1h) of the statutes is created to read:

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Strike comma

Score comma

Scored semi

Scored delete comma

Paragraph

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 49. 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 50. 938.396 (1k) of the statutes is created to read:

48,069

JTK/DK/PK/ML/PG/PD/RC/MK/GM/JK/RR-wh&cjs:kif

LRBs0264/1

SECTION 50

defined in s. 48.38 (1) (a) or 938.78 (1) to provide any other professional services

authorized

or dispositioned

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

comma

SECTION 51. 938.396 (2) (c) of the statutes is amended to read:

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

SECTION 52. 938.396 (2) (gm) of the statutes is amended to read:

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

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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 53. 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 ^{938.069} 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 54. 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

or 938.069 or any other person employed by an agency, as defined in
 s. 48.38(1)(a) or 938.74(1), to provide any other professional services

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

SECTION 55. 979.028 of the statutes is created to read:

979.028 Confidentiality of autopsy pictures. Photographs or other

pictorial images of a deceased person that are taken during an autopsy are confidential and are not subject to the right of inspection or copying under s. 19.35. The custodian of such photographs or other pictorial images may not release them for public inspection or copying without the consent of the deceased's spouse or, if there is no living spouse, the deceased's next of kin unless the custodian is ordered to release them by a court of record.

Insert 24-16

SECTION 56. Initial applicability.

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

INSERT 24-15

SECTION 57. Effective dates. This act takes effect on the day after publication, except as follows:

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

(2) The treatment of sections 40.51 (8) and (8m), 66.0187 (4), 111.91 (2) (kc), 120.13 (2) (g), 185.981 (4t), 185.983 (1) (intro.), 609.837, and 610.65 of the statutes takes effect on January 1, 2005.

1 (3) PRIVACY IN ATHLETIC LOCKER ROOMS, The treatment of sections 36.38, 38.12
2 (12), 39.49, 118.39, and 175.22 of the statutes takes effect on the first day of the 6th
3 month beginning after publication.

4

(END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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JTK.....

Insert 8-20

(11) INFORMATION RELATING TO CERTAIN EMPLOYEES. Except as otherwise authorized or required by statute, no authority may permit access to a record prepared or provided by an employer, other than an authority, that contains personally identifiable information relating to an employee of that employer, unless the employee authorizes the authority to provide access to that information.

(Ad of insert)



Insert 11-14

Section #. 48.236 (4) (a) of the statutes is amended to read:

48.236 (4) (a) Inspect any reports and records relating to the child who is the subject of the proceeding, the child's family and any other person residing in the same home as the child that are relevant to the subject matter of the proceeding, including records discoverable under s. 48.293, examination reports under s. 48.295 (2), law enforcement reports and records under ss. 48.396 (1) and 938.396 (1), court records under ss. 48.396 (2) (a) and 938.396 (2) (a), ~~social welfare~~ agency records under ss. 48.78 (2) (a) and 938.78 (2) (a), abuse and neglect reports and records under s. 48.981 (7) (a) 11r. and pupil records under s. 118.125 (2) (L). The order shall also require the custodian of any report or record specified in this paragraph to permit the court-appointed special advocate to inspect the report or record on presentation by the court-appointed special advocate of a copy of the order. A court-appointed special advocate that obtains access to a report or record described in this paragraph shall keep the information contained in the report or record confidential and may disclose that information only to the court. If a court-appointed special advocate discloses any information to the court under this paragraph, the court-appointed special advocate shall also disclose that information to all parties to the proceeding. If a court-appointed special advocate discloses information in violation of the confidentiality requirement specified in this paragraph, the court-appointed special advocate is liable to any person damaged as a result of that disclosure for such damages as may be proved and, notwithstanding s. 814.04 (1), for such costs and reasonable actual attorney fees as may be incurred by the person damaged.

History: 1999 a. 149.

(Redacted)

✓

Insert 15-21

Section #. 48.78 (2) (b) of the statutes is amended to read:

48.78 (2) (b) Paragraph (a) does not apply to the confidential exchange of information between an agency and another ~~social welfare~~ agency, a law enforcement agency, a public school or a private school regarding an individual in the care or legal custody of the agency. ~~A social welfare~~ agency that obtains information under this paragraph shall keep the information confidential as required under this section and s. 938.78. A law enforcement agency that obtains information under this paragraph shall keep the information confidential as required under ss. 48.396 (1) and 938.396 (1). A public school that obtains information under this paragraph shall keep the information confidential as required under s. 118.125) and a private school that obtains information under this paragraph shall keep the information confidential in the same manner as is required of a public school under s. 118.125.

History: 1979 c. 34; 1981 c. 359; 1983 a. 471 s. 7; 1985 a. 29 s. 3202 (23); 1985 a. 176, 292, 332; 1987 a. 332; 1989 a. 31, 107, 336; 1991 a. 17, 39; 1993 a. 16, 92, 95, 218, 227, 377, 385, 395, 479, 491; 1995 a. 27 ss. 2610 to 2614p, 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283, 292.

(ed of mat)

Insert 24 - 2

Section #. 938.78 (2) (b) 1. of the statutes is amended to read:

938.78 (2) (b) 1. Paragraph (a) does not apply to the confidential exchange of information between an agency and another ~~social welfare~~ agency, a law enforcement agency, the victim-witness coordinator, a fire investigator under s. 165.55 (15), a public school district or a private school regarding an individual in the care or legal custody of the agency. ~~A social welfare~~ agency that obtains information under this paragraph shall keep the information confidential as required under this section and s. 48.78. A law enforcement agency that obtains information under this paragraph shall keep the information confidential as required under ss. 48.396 (1) and 938.396 (1). A public school that obtains information under this paragraph shall keep the information confidential as required under s. 118.125) and a private school that obtains information under this paragraph shall keep the information confidential in the same manner as is required of a public school under s. 118.125.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283; 1999 a. 9.

Cal Finet

**2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0264/r1r2ins
RLR:.....

1 **Insert 24-10:**

2 (2) Notwithstanding sub. (1), the custodian of photographs or other pictorial
3 images of a deceased person that are taken during an autopsy may release the
4 photographs or other pictorial images for use in educational activities conducted by
5 a coroner or medical examiner or conducted under the auspices of a postsecondary
6 educational institution, or to persons conducting health care peer reviews or health
7 care quality assurance audits.

INSERT 24-15

CS

(2) MARKETING SERVICES OR PRODUCTS FROM HEALTH

CS

CARE RECORD INFORMATION. The creation of section 146.82(2)

(bm) of the statutes (by this act) first applies to the
a covered entity

use by a covered entity, as defined in 45 (Code of)

CFR

Federal Regulations 160.13, of identifying information

to market a service or product to a patient or health

care provider on April 14, 2003, except that the

creation of section 146.82(2)(bm) of the statutes (by)

this act first applies to that use by a small health

plan, as defined in 45 (Code of Federal Regulations)

160.13, on April 14, 2004.

CFR

NON STAT - INIT APP

Emery, Lynn

From: Emery, Lynn
Sent: Friday, January 04, 2002 4:42 PM
To: Rep.Powers
Subject: LRBs0264/2 (attached)

Lynn Emery

Lynn Emery - Program Asst. (PH. 608-266-3561)
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1/4/2002