

2003 DRAFTING REQUEST

Bill

Received: 07/17/2003

Received By: gmalaise

Wanted: As time permits

Identical to LRB:

For: Carol Roessler (608) 266-5300

By/Representing: Sara Seaquist

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact: Gary Radloff 6-3262
Mark Mitchell 261-8316

Addl. Drafters:

Subject: Children - child welfare

Extra Copies:

Submit via email: YES

Requester's email: Sen.Roessler@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Confidentiality of child welfare records; sharing within and between county departments

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 09/11/2003	jdyer 09/15/2003 jdyer 09/16/2003		_____			S&L
/1			jfrantze	_____	lemery	lemery	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			09/16/2003 _____	_____	09/16/2003	02/24/2004	
			_____	_____	lemery		
			_____	_____	02/23/2004		

FE Sent For:

AF
Intro.

<END>

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/1			jfrantze	_____	lemery		

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

09/16/2003 _____

09/16/2003
lemery
02/23/2004

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<END>

*resubmitted
for email*

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/1			jfrantze	_____	lemery		

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1?	gmalaise	1 9/16 jld 6/3/16		1/16 3/16			

FE Sent For:

<END>



State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Helene Nelson, Secretary

July 14, 2003

Attached is a summary of the bill draft requests from DHFS. For further information contact Gary Radloff 266-3262 or Mark Mitchell 261-8316

Confidentiality → allows sharing info. in limited circumstances
This proposal would essentially change state law to reflect the reality of sharing information contained in case records, particularly given the implementation of WiSACWIS. In short, it allows the sharing of information between subunits of County Departments of Social Services which is already allowed in County Departments of Human Services. In addition, it would allow the sharing of such case information between counties so that we can better assure the safety and treatment of children and families served by those agencies.) current law

This would involve a range of information relating to child protective services, mental health services, alcohol and other drug abuse services, and developmental disabilities information. Because the federal government requires that WiSACWIS be a statewide system, it is important that our law be changed to reflect the fact that this information will be shared among county agencies. This does not affect the overall concepts of confidentiality and "need to know" that are represented by current law and child welfare practice.

#4
(#1)
many questions
this is needed!

Lined area for handwritten notes or comments.

(4) (#1)

46.21(2m)(c)
51.42(3)(e)
51.437(4r)(b)

Confidentiality

Section 46.215(1m) is renumbered 46.215(1m)(a).

Section 46.215(1m)(b) is created to read:

(1m)(b) Notwithstanding par. (a), appropriate staff of a county department under this section, s. 46.22 or 46.23, the department, and any organization or agency approved by the department and which has entered into an information sharing and access agreement with the county department or department shall have access to information on a client of the agency seeking access under chs. 48 and 938 maintained in the statewide child welfare information system under 45 USC 1355, et. seq., and s. 46.22(1)(c)8.f., if necessary to enable an employee or service provider to perform his or her duties under chs. 48 or 938 with respect to the client or to enable the county department, the department or organization or agency approved by the department to coordinate the delivery of services under chs. 48 or 938 to the client. A client shall be notified by any agency which creates information on the client in the statewide child welfare information system that information may be shared pursuant to this paragraph.

Section 46.22(1)(dm) is renumbered 46.22(1)(dm)1.

Section 46.22(1)(dm)2. is created to read:

(1)(dm)2. Notwithstanding subd. 1., appropriate staff of a county department under this section, s. 46.215 or 46.23, the department, and any organization or agency approved by the department and which has entered into an information sharing and access agreement with the county department or department shall have access to information on a client of the agency seeking access under chs. 48 and 938 maintained in the statewide child welfare information system under 45 USC 1355, et. seq., and s. 46.22(1)(c)8.f., if necessary to enable an employee or service provider to perform his or her duties under chs. 48 or 938 with respect to the client, or to enable the county department, the department or organization or agency approved by the department to coordinate the delivery of services under chs. 48 or 938 to the client. A client shall be notified by any agency which creates information on the client in the statewide child welfare information system that information may be shared pursuant to this paragraph.

Section 46.23(3)(e) is renumbered 46.23(3)(e)1.

Section 46.23(3)(e)2. is created to read:

(3)(e)2. Notwithstanding subd. 1., appropriate staff of a county department under this section, s. 46.215 or 46.22, the department, and any organization or agency approved by the department and which has entered into an information sharing and access agreement with the county department or department shall have access to information on a client of the agency seeking access under chs. 48 or 938 maintained in the statewide child welfare information system under 45 USC 1355, et. seq., and s. 46.22(1)(c)8.f., if necessary to enable an employee or service provider to perform his or her duties under chs. 48 or 938 with respect to the client, or to enable the county department, the department or organization or agency approved by the department to coordinate the delivery of services under chs. 48 or 938 to the client. [A client shall be notified by any agency which creates information on the client in the statewide child welfare information system that information may be shared pursuant to this paragraph.]

Section 48.78(2)(h) is created to read:

(2)(h) Paragraph (a) does not prohibit a county department under s. 46.215, 46.22, or 46.23, the department, or any organization or agency approved by the department from having access to information on a client of the agency seeking access under this chapter or ch. 938 maintained in the statewide child welfare information system under 45 USC 1355, et. seq., and s. 46.22(1)(c)8.f. if necessary to enable an employee or service provider to perform his or her duties under this chapter or ch. 938, or to enable the county department, the department or organization or agency approved by the department to coordinate the delivery of services under this chapter or ch. 938 to the client.

Section 51.30(4)(b)27. is created to read:

(4)(b)27. To appropriate staff of a county department under s. 46.215, 46.22, or 46.23, the department, and any organization or agency approved by the department and which has entered into an information sharing and access agreement with the county department or department. This subdivision applies only if the individual who is the subject of the treatment record is a client of the county department or department under chs. 48 or 938 and the information on the individual is maintained in the statewide child information system under 45 USC 1355, et. seq., and s. 46.22(1)(c)8.f., and only if necessary to enable an employee or service provider to perform his or her duties under chs. 48 or 938 with respect to the client, or to enable the county department, the department or organization or agency approved by the department to coordinate the delivery of services under chs. 48 or 938 to the client. A client shall be

notified by any agency which creates information on the client in the statewide child welfare information system that information may be shared pursuant to this subdivision.

✓ Section 938.78(2)(h) is created to read:

(2)(h) Paragraph (a) does not prohibit a county department under s. 46.215, 46.22, or 46.23, the department of health and family services, any organization or agency approved by the department of health and family services from having access to information on a client under this chapter or ch. 48 maintained in the statewide child welfare information system under 45 USC 1355, et. seq., and s. 46.22(1)(c)8.f. if necessary to enable an employee or service provider to perform his or her duties under this chapter or ch. 48, or to enable the county department, the department of health and family services or organization or agency approved by the department of health and family services to coordinate the delivery of services under this chapter or ch. 48 to the client.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2993/1
GMM.....

DN-TE

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Jld 1

Gen

1 AN ACT ...; relating to: permitting confidential information to be entered into,
2 and accessed from, the statewide automated child welfare information system.

Analysis by the Legislative Reference Bureau

Under current law, information received by the Department of Health and Family Services (DHFS), the Department of Corrections (DOC), a county department of human services or social services, a licensed child welfare agency, or a licensed day care center (collectively "agency") about an individual who is in the care or legal custody of the agency is confidential and may not be disclosed, except under certain exceptions. Similarly, under current law, treatment records concerning an individual who is receiving or who has received services for mental illness, developmental disabilities, alcoholism, or drug dependence that are maintained by DHFS, a county department of community programs or developmental disabilities services, or a treatment facility are confidential and may be released without the informed consent of the individual who is the subject of the record (subject individual) only under certain circumstances.

This bill permits an agency to enter information received about an individual in its care or legal custody, and a person maintaining treatment records to enter information concerning a subject individual, in the statewide automated child welfare information system (generally referred to as "WISACWIS"). The bill also permits DHFS; DOC; a county department of humans services, social services, community programs, or developmental disabilities services (county department); or any other organization that has entered into an information sharing and access agreement with DHFS, DOC, or a county department and that has been approved for access to WISACWIS by DHFS to have access to information concerning a client under the Children's Code, the Juvenile Justice Code, or the Mental Health Act that

is maintained on WISACWIS, if necessary to enable DHFS, DOC, the county department, or other organization to perform its duties under the Children's Code, the Juvenile Justice Code, or the Mental Health Act or to coordinate the delivery of services under the Children's Code, the Juvenile Justice Code, or the Mental Health Act to a client.

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. 48.78 (2) (h) of the statutes is created to read:

2 48.78 (2) (h) Paragraph (a) does not prohibit an agency from entering the
3 content of any record kept or information received about an individual in its care or
4 legal custody ~~in~~^{into} the statewide automated child welfare information system
5 established under s. 46.03 (7) (g). Paragraph (a) also does not prohibit a county
6 department under s. 46.215, 46.22, 46.23, 51.42, or 51.437, the department of health
7 and family services, the department of corrections, or any other organization that
8 has entered into an information sharing and access agreement with one of those
9 county departments or departments and that has been approved for access to the
10 statewide automated child welfare information system by the department of health
11 and family services from having access to information concerning a client of that
12 county department, department, or organization under this chapter or ch. 51 or 938
13 that is maintained ~~in~~ⁱⁿ the statewide automated child welfare information system, if
14 necessary to enable the county department, department, or organization to perform
15 its duties under this chapter or ch. 51 or 938 or to coordinate the delivery of services
16 under this chapter or ch. 51 or 938 to the client. Before entering any information
17 about an individual ~~in~~^{into} the statewide automated child welfare information system,

1 the agency entering the information shall notify the individual that the information
2 entered may be disclosed as provided in this paragraph. ✓

3 SECTION 2. 51.30 (4) (b) 27. ✓ of the statutes is created to read:

4 51.30 (4) (b) 27. For the purpose of entering information concerning the subject
5 individual in ^{to} the statewide automated child welfare information system established
6 under s. 46.03 (7) (g). ✓ A county department under s. 46.215, 46.22, 46.23, 51.42, or
7 51.437, ✓ the department of health and family services, the department of corrections,
8 or any other organization that has entered ✓ into an information sharing and access
9 agreement with one of those county departments or departments and that has been
10 approved for access to the statewide automated child welfare information system by
11 the department of health and family services may have access to information
12 concerning a client of that county department, department, or organization under
13 this chapter or ch. 48 or 938 that is maintained in ✓ the statewide automated child
14 welfare information system, if necessary to enable the county department,
15 department, or organization to perform its duties under this chapter ✓ or ch. 48 or 938
16 or to coordinate the delivery of services under this chapter or ch. 48 or 938 to the
17 client. Before entering any information about an ✓ individual ^{into} ~~the~~ the statewide
18 automated child welfare information system, the person entering the information
19 shall notify the individual that the information entered may be disclosed as provided
20 in this subdivision. ✓

21 SECTION 3. 938.78 (2) (h) ✓ of the statutes is created to read:

22 938.78 (2) (h) Paragraph (a) ✓ does not prohibit an agency from entering the
23 content of any record kept or information received about an individual in its care or
24 legal custody ^{into} ~~the~~ the statewide automated child welfare information system
25 established under s. 46.03 (7) (g). Paragraph (a) also does not prohibit a county

1 department under s. 46.215, 46.22, 46.23, 51.42, or 51.437, the department of health
 2 and family services, the department of corrections, or any other organization that
 3 has entered [✓] into an information sharing and access agreement with one of those
 4 county departments or departments and that has been approved for access to the
 5 statewide automated child welfare information system by the department of health
 6 and family services from having access to information concerning a client of that
 7 county department, department, or organization under this chapter or [✓] ch. 48 or 51
 8 that is [✓] maintained ⁱⁿ ~~of~~ the statewide automated child welfare information system, if
 9 necessary to enable the county department, department, or organization to perform
 10 its duties under this chapter or ch. 48 or 51 [✓] or to coordinate the delivery of services
 11 under this chapter or ch. 48 or 51 to the client. Before entering any information about
 12 an individual ^{into} ~~in~~ the statewide automated child welfare information system, the
 13 agency entering the information shall notify the individual that the information
 14 entered may be disclosed as provided in this paragraph. [✓]

(END)

d-note
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2993/1dn

GMM.....

Jed

Senator Roessler:

Because ss. 48.78 (2) (h)[✓], 51.30 (4) (b) 27[✓], and 938.78 (2) (h)[✓], as created by this draft authorize county departments, DHFS, DOC,[✓] and other organizations to access information maintained in WISACWIS, the language suggested by DHFS for ss. 46.215, 46.22, and 46.23[✓] appears to be redundant. As such, that language is not included in this draft.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2993/1dn
GMM:jld:jf

September 16, 2003

Senator Roessler:

Because ss. 48.78 (2) (h), 51.30 (4) (b) 27., and 938.78 (2) (h), as created by this draft authorize county departments, DHFS, DOC, and other organizations to access information maintained in WISACWIS, the language suggested by DHFS for ss. 46.215, 46.22, and 46.23 appears to be redundant. As such, that language is not included in this draft.

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Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us

Emery, Lynn

From: Seaquist, Sara
Sent: Monday, February 23, 2004 4:31 PM
To: LRB.Legal
Subject: Draft review: LRB 03-2993/1 Topic: Confidentiality of child welfare records; sharing within and between county departments

It has been requested by <Seaquist, Sara> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-2993/1 Topic: Confidentiality of child welfare records; sharing within and between county departments