

2003 ASSEMBLY BILL 62

AN ACT *to amend* 48.396 (2) (g), 118.125 (5) (b), 938.396 (2) (a), 938.396 (2) (ag), 938.396 (2) (am), 938.396 (2) (gm), 938.396 (2) (h), 938.396 (4), 938.396 (7) (am) and 938.396 (7) (c); and *to create* 938.342 (1r) of the statutes; **relating to:** dispositional orders for truancy or habitual truancy and the disclosure of juvenile records by a juvenile court or a municipal court.

Analysis by the Legislative Reference Bureau

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

1 **SECTION 1.** 48.396 (2) (g) of the statutes is amended to read:
2 48.396 (2) (g) Upon request of any ~~other~~ court assigned to exercise jurisdiction
3 under this chapter and ch. 938, any municipal court exercising jurisdiction under s.
4 938.17 (2), or a district attorney or, corporation counsel, or city, village, or town
5 attorney to review court records for the purpose of any proceeding in that ~~other~~ court

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1 or upon request of the attorney or guardian ad litem for a party to a proceeding in
2 that court to review court records for the purpose of that proceeding, the court shall
3 open for inspection by any authorized representative of the requester the records of
4 the court relating to any child who has been the subject of a proceeding under this
5 chapter.

6 **SECTION 2.** 118.125 (5) (b) of the statutes is amended to read:

7 118.125 (5) (b) Law enforcement officers' records obtained under s. 48.396 (1)
8 or 938.396 (1) or (1m) ~~and,~~ records of the court assigned to exercise jurisdiction under
9 chs. 48 and 938 obtained under s. 938.396 (7) (a), (am), (ar), (b), or (bm), and records
10 of a municipal court obtained under s. 938.396 (7) (ar) may not be used by a school
11 district as the sole basis for expelling or suspending a pupil or as the sole basis for
12 taking any other disciplinary action, including action under the school district's
13 athletic code, against a pupil.

14 **SECTION 3.** 938.342 (1r) of the statutes is created to read:

15 938.342 (1r) If school attendance under sub. (1d) (a) or (1g) (g) is a condition
16 of an order under sub. (1d) or (1g), the order shall specify what constitutes a violation
17 of the condition and shall direct the school board of the school district, or the
18 governing body of the private school, in which the person is enrolled to notify the
19 court or, if the person is under the supervision of an agency under sub. (1g) (j), the
20 agency that is responsible for supervising the person within 5 days after any
21 violation of the condition by the person.

22 **SECTION 4.** 938.396 (2) (a) of the statutes is amended to read:

23 938.396 (2) (a) Records of the court assigned to exercise jurisdiction under this
24 chapter and ch. 48 and of municipal courts exercising jurisdiction under s. 938.17 (2)
25 shall be entered in books or deposited in files kept for that purpose only. ~~They~~ Those

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1 records shall not be open to inspection or their contents disclosed except by order of
2 the court assigned to exercise jurisdiction under this chapter and ch. 48 or as
3 permitted under this section.

4 **SECTION 5.** 938.396 (2) (ag) of the statutes is amended to read:

5 938.396 (2) (ag) Upon request of the parent, guardian, or legal custodian of a
6 juvenile who is the subject of a record of a court ~~specified in par. (a)~~ assigned to
7 exercise jurisdiction under this chapter and ch. 48 or of a municipal court exercising
8 jurisdiction under s. 938.17 (2), or upon request of the juvenile, if 14 years of age or
9 over, the court that is the custodian of the record shall open for inspection by the
10 parent, guardian, legal custodian, or juvenile ~~the its records of the court~~ relating to
11 that juvenile, unless ~~the~~ that court finds, after due notice and hearing, that
12 inspection of those records by the parent, guardian, legal custodian, or juvenile
13 would result in imminent danger to anyone.

14 **SECTION 6.** 938.396 (2) (am) of the statutes is amended to read:

15 938.396 (2) (am) Upon the written permission of the parent, guardian, or legal
16 custodian of a juvenile who is the subject of a record of a court ~~specified in par. (a)~~
17 assigned to exercise jurisdiction under this chapter and ch. 48 or of a municipal court
18 exercising jurisdiction under s. 938.17 (2), or upon written permission of the juvenile
19 if 14 years of age or over, the court that is the custodian of the record shall open for
20 inspection by the person named in the permission any records specifically identified
21 by the parent, guardian, legal custodian, or juvenile in the written permission,
22 unless ~~the~~ that court finds, after due notice and hearing, that inspection of those
23 records by the person named in the permission would result in imminent danger to
24 anyone.

25 **SECTION 7.** 938.396 (2) (gm) of the statutes is amended to read:

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1 938.396 (2) (gm) Upon request of any ~~other~~ court assigned to exercise
2 jurisdiction under this chapter and ch. 48, any municipal court exercising
3 jurisdiction under s. 938.17 (2), or a district attorney or corporation counsel, or city,
4 village, or town attorney to review court records for the purpose of any proceeding
5 in that ~~other~~ court or upon request of the attorney or guardian ad litem for a party
6 to a proceeding in that court to review court records for the purpose of that
7 proceeding, the court assigned to exercise jurisdiction under this chapter and ch. 48
8 or the municipal court exercising jurisdiction under s. 938.17 (2) shall open for
9 inspection by any authorized representative of the requester ~~the~~ its records ~~of the~~
10 ~~court~~ relating to any juvenile who has been the subject of a proceeding under this
11 chapter.

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

13 938.396 (2) (h) Upon request of the court having jurisdiction over an action
14 affecting the family or of an attorney for a party or a guardian ad litem in an action
15 affecting the family to review court records for the purpose of considering the custody
16 of a juvenile, the court assigned to exercise jurisdiction under this chapter and ch.
17 48 or a municipal court exercising jurisdiction under s. 938.17 (2) shall open for
18 inspection by an authorized representative of the requester ~~the~~ its records ~~of the~~
19 ~~court~~ relating to any juvenile who has been the subject of a proceeding under this
20 chapter.

21 **SECTION 9.** 938.396 (4) of the statutes is amended to read:

22 938.396 (4) When a court assigned to exercise jurisdiction under this chapter
23 and ch. 48 or a municipal court exercising jurisdiction under s. 938.17 (2) revokes,
24 suspends, or restricts a juvenile's operating privilege under this chapter, the
25 department of transportation shall may not disclose information concerning or

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1 relating to the revocation, suspension, or restriction to any person other than a court,
2 assigned to exercise jurisdiction under this chapter and ch. 48, a municipal court
3 exercising jurisdiction under s. 938.17 (2), a district attorney, county corporation
4 counsel, or city, village, or town attorney, a law enforcement agency, or the juvenile
5 whose operating privilege is revoked, suspended, or restricted, or his or her the
6 juvenile's parent or guardian. Persons entitled to receive this information may not
7 disclose the information to other persons or agencies.

8 **SECTION 10.** 938.396 (7) (am) of the statutes is amended to read:

9 938.396 (7) (am) Notwithstanding sub. (2) (a) and subject to par. (b), if a
10 juvenile is adjudged delinquent, within 5 days after the date on which the
11 dispositional order is entered, the court clerk shall notify the school board of the
12 school district, or the governing body of the private school, in which the juvenile is
13 enrolled or the designee of the school board or governing body of the fact that the
14 juvenile has been adjudicated delinquent, the nature of the violation committed by
15 the juvenile, and the disposition imposed on the juvenile under s. 938.34 as a result
16 of ~~that~~ the violation.

17 (ar) Notwithstanding sub. (2) (a), if school attendance is a condition of a
18 dispositional order under s. 938.342 (1d) or (1g) or 938.355 (2) (b) 7., within 5 days
19 after the date on which the dispositional order is entered, the ~~court~~ clerk of the court
20 assigned to exercise jurisdiction under this chapter and ch. 48 or the clerk of the
21 municipal court exercising jurisdiction under s. 938.17 (2) shall notify the school
22 board of the school district, or the governing body of the private school, in which the
23 juvenile is enrolled or the designee of the school board or governing body of the fact
24 that the juvenile's school attendance is a condition of a dispositional order.

25 **SECTION 11.** 938.396 (7) (c) of the statutes is amended to read:

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1 938.396 (7) (c) No information from the juvenile’s court records, other than
2 information disclosed under par. (a), (am), (ar), (b), or (bm), may be disclosed to the
3 school board of the school district, or the governing body of the private school, in
4 which the juvenile is enrolled or the designee of the school board or governing body
5 except by order of the court. Any information provided under this subsection to the
6 school board of the school district, or the governing body of the private school, in
7 which the juvenile is enrolled or the designee of the school board or governing body
8 shall be disclosed by the school board, governing body, or designee to employees of
9 the school district or private school who work directly with the juvenile or who have
10 been determined by the school board, governing body, or designee to have legitimate
11 educational interests, including safety interests, in the information. A school district
12 or private school employee to whom information is disclosed under this paragraph
13 may not further disclose the information. A school board ~~shall~~ may not use any
14 information provided under this subsection as the sole basis for expelling or
15 suspending a juvenile or as the sole basis for taking any other disciplinary action,
16 including action under the school district’s athletic code, against the juvenile. A
17 member of a school board or of the governing body of a private school or an employee
18 of a school district or private school may not be held personally liable for any damages
19 caused by the nondisclosure of any information specified in this paragraph unless
20 the member or employee acted with actual malice in failing to disclose the
21 information. A school district or private school may not be held liable for any
22 damages caused by the nondisclosure of any information specified in this paragraph
23 unless the school district, private school, or its agent acted with gross negligence or

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1 with reckless, wanton, or intentional misconduct in failing to disclose the
2 information.

3 (END)