

## 2003 ASSEMBLY BILL 62

February 18, 2003 – Introduced by Representatives LADWIG, OLSEN, AINSWORTH, ALBERS, BIES, GIELOW, GROTHMAN, HAHN, HINES, KERKMAN, KESTELL, F. LASEE, LASSA, J. LEHMAN, M. LEHMAN, MUSSER, OTT, OWENS, SERATTI, STONE, TOWNSEND, VUKMIR, ZIEGELBAUER and HUNDERTMARK, cosponsored by Senators STEPP, S. FITZGERALD and ROESSLER. Referred to Committee on Corrections and the Courts.

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

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

Under current law, if school attendance is a condition of a dispositional order of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) for a juvenile who is delinquent or in need of protection or services, the order must specify what constitutes a violation of the condition and must direct the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled to notify the county department of human services or social services that is responsible for supervising the juvenile of any violation of that condition.

This bill provides that, if school attendance is a condition of a dispositional order of the juvenile court or of a municipal court for a person who is truant or habitually truant, the order must specify what constitutes a violation of the condition and must direct the school board of the school district, or the governing body of the private school, in which the person is enrolled to notify the juvenile court or municipal court, or, if the person is under the supervision of an agency, to notify the agency, of any violation of that condition.

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Under current law, records of the juvenile court and of a municipal court exercising jurisdiction over a juvenile for a violation of a municipal ordinance, subject to certain exceptions, are not open to inspection and their contents may not be disclosed except by order of the juvenile court. Current law, however, requires the juvenile court to open its records of a juvenile for inspection by the parent, guardian, or legal custodian of the juvenile or the juvenile, if 14 years of age or over, upon request of the parent, guardian, legal custodian, or juvenile; by any third person, upon the written permission of the parent, guardian, or legal custodian of the juvenile or the juvenile, if 14 years of age or over; by any other juvenile court, a district attorney, or corporation counsel for purposes of proceedings in that other juvenile court; and by a family court or an attorney or guardian ad litem for a party in an action affecting the family for purposes of considering the custody of the juvenile.

This bill requires a municipal court to open its records of a juvenile for inspection by the parent, guardian, or legal custodian of the juvenile or the juvenile, if 14 years of age or over, upon request of the parent, guardian, legal custodian, or juvenile; by any third person, upon the written permission of the parent, guardian, or legal custodian of the juvenile or the juvenile, if 14 years of age or over; by any juvenile court, municipal court, district attorney, corporation counsel, city, village, or town attorney, or attorney or guardian ad litem for a party for purposes of proceedings in that juvenile court or municipal court; or by a family court or an attorney or guardian ad litem for a party in an action affecting the family for purposes of considering the custody of the juvenile. The bill also requires a juvenile court to open its records of a juvenile for inspection by a municipal court, city, village, or town attorney, or attorney or guardian ad litem for a party for purposes of proceedings in that municipal court.

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***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  
6 or upon request of the attorney or guardian ad litem for a party to a proceeding in  
7 that court to review court records for the purpose of that proceeding, the court shall  
8 open for inspection by any authorized representative of the requester the records of

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1 the court relating to any child who has been the subject of a proceeding under this  
2 chapter.

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

4 118.125 (5) (b) Law enforcement officers' records obtained under s. 48.396 (1)  
5 or 938.396 (1) or (1m) ~~and~~, records of the court assigned to exercise jurisdiction under  
6 chs. 48 and 938 obtained under s. 938.396 (7) (a), (am), (ar), (b), or (bm), and records  
7 of a municipal court obtained under s. 938.396 (7) (ar) may not be used by a school  
8 district as the sole basis for expelling or suspending a pupil or as the sole basis for  
9 taking any other disciplinary action, including action under the school district's  
10 athletic code, against a pupil.

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

12 938.342 (1r) If school attendance under sub. (1d) (a) or (1g) (g) is a condition  
13 of an order under sub. (1d) or (1g), the order shall specify what constitutes a violation  
14 of the condition and shall direct the school board of the school district, or the  
15 governing body of the private school, in which the person is enrolled to notify the  
16 court or, if the person is under the supervision of an agency under sub. (1g) (j), the  
17 agency that is responsible for supervising the person within 5 days after any  
18 violation of the condition by the person.

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

20 938.396 (2) (a) Records of the court assigned to exercise jurisdiction under this  
21 chapter and ch. 48 and of municipal courts exercising jurisdiction under s. 938.17 (2)  
22 shall be entered in books or deposited in files kept for that purpose only. ~~They~~ Those  
23 records shall not be open to inspection or their contents disclosed except by order of  
24 the court assigned to exercise jurisdiction under this chapter and ch. 48 or as  
25 permitted under this section.

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

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

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

12           938.396 (2) (am) Upon the written permission of the parent, guardian, or legal  
13 custodian of a juvenile who is the subject of a record of a court ~~specified in par. (a)~~  
14 assigned to exercise jurisdiction under this chapter and ch. 48 or of a municipal court  
15 exercising jurisdiction under s. 938.17 (2), or upon written permission of the juvenile  
16 if 14 years of age or over, the court that is the custodian of the record shall open for  
17 inspection by the person named in the permission any records specifically identified  
18 by the parent, guardian, legal custodian, or juvenile in the written permission,  
19 unless ~~the~~ that court finds, after due notice and hearing, that inspection of those  
20 records by the person named in the permission would result in imminent danger to  
21 anyone.

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

23           938.396 (2) (gm) Upon request of any ~~other~~ court assigned to exercise  
24 jurisdiction under this chapter and ch. 48, any municipal court exercising  
25 jurisdiction under s. 938.17 (2), or a district attorney ~~or~~, corporation counsel, or city.

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

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

10 938.396 (2) (h) Upon request of the court having jurisdiction over an action  
11 affecting the family or of an attorney for a party or a guardian ad litem in an action  
12 affecting the family to review court records for the purpose of considering the custody  
13 of a juvenile, the court assigned to exercise jurisdiction under this chapter and ch.  
14 48 or a municipal court exercising jurisdiction under s. 938.17 (2) shall open for  
15 inspection by an authorized representative of the requester ~~the its records of the~~  
16 ~~court~~ relating to any juvenile who has been the subject of a proceeding under this  
17 chapter.

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

19 938.396 (4) When a court assigned to exercise jurisdiction under this chapter  
20 and ch. 48 or a municipal court exercising jurisdiction under s. 938.17 (2) revokes,  
21 suspends, or restricts a juvenile's operating privilege under this chapter, the  
22 department of transportation ~~shall~~ may not disclose information concerning or  
23 relating to the revocation, suspension, or restriction to any person other than a court,  
24 assigned to exercise jurisdiction under this chapter and ch. 48, a municipal court  
25 exercising jurisdiction under s. 938.17 (2), a district attorney, county corporation

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1 counsel, or city, village, or town attorney, a law enforcement agency, or the juvenile  
2 whose operating privilege is revoked, suspended, or restricted, or his or her the  
3 juvenile's parent or guardian. Persons entitled to receive this information may not  
4 disclose the information to other persons or agencies.

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

6 938.396 (7) (am) Notwithstanding sub. (2) (a) and subject to par. (b), if a  
7 juvenile is adjudged delinquent, within 5 days after the date on which the  
8 dispositional order is entered, the court clerk shall notify the school board of the  
9 school district, or the governing body of the private school, in which the juvenile is  
10 enrolled or the designee of the school board or governing body of the fact that the  
11 juvenile has been adjudicated delinquent, the nature of the violation committed by  
12 the juvenile, and the disposition imposed on the juvenile under s. 938.34 as a result  
13 of ~~that~~ the violation.

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

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

23 938.396 (7) (c) No information from the juvenile's court records, other than  
24 information disclosed under par. (a), (am), (ar), (b), or (bm), may be disclosed to the  
25 school board of the school district, or the governing body of the private school, in

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1 which the juvenile is enrolled or the designee of the school board or governing body  
2 except by order of the court. Any information provided under this subsection 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 shall be disclosed by the school board, governing body, or designee to employees of  
6 the school district or private school who work directly with the juvenile or who have  
7 been determined by the school board, governing body, or designee to have legitimate  
8 educational interests, including safety interests, in the information. A school district  
9 or private school employee to whom information is disclosed under this paragraph  
10 may not further disclose the information. A school board ~~shall~~ may not use any  
11 information provided under this subsection as the sole basis for expelling or  
12 suspending a juvenile or as the sole basis for taking any other disciplinary action,  
13 including action under the school district's athletic code, against the juvenile. A  
14 member of a school board or of the governing body of a private school or an employee  
15 of a school district or private school may not be held personally liable for any damages  
16 caused by the nondisclosure of any information specified in this paragraph unless  
17 the member or employee acted with actual malice in failing to disclose the  
18 information. A school district or private school may not be held liable for any  
19 damages caused by the nondisclosure of any information specified in this paragraph  
20 unless the school district, private school, or its agent acted with gross negligence or  
21 with reckless, wanton, or intentional misconduct in failing to disclose the  
22 information.

23 (END)