



JEAN HUNDERTMARK
STATE REPRESENTATIVE

Hi Gordon,

Please add the
highlighted portions
on pg 2 + 3 to
LRB 2810/1. If
you have questions,
please give me a call.

Jason Rosta
Administrative Ass't

3. when providing information to other schools that have a legitimate interest in the behavior of the student;
4. when authorized by state law (providing the agency to whom the records are disclosed certifies in writing that the information will not be disclosed to any other party, except as provided under state law without prior written consent of the parent of the student);
5. when the records disclosed are law enforcement records kept by a law enforcement records unit of the educational agency or institution for the purposes of law enforcement;
6. in connection with an emergency if the disclosure is necessary to protect the health or safety of the student or other individual.

The reassessment of Wis Stat section 118.125 should include the matter of whether or not the rigidity of its current provisions serves a modern purpose independent of FERPA. Where feasible the provisions of state law should be brought into conformity with federal law. The following proposal suggests one approach in this regard.

2. PROPOSED AMENDMENT

Section 118.125 of Wisconsin Statutes is amended to read:

[NOTE: proposed changes in brackets and **BOLD**, underlined print]

[**ADD: It does not apply to information known to an educator that is obtained by observation or oral communication with others independent of and not previously made apart of any record maintained by the school to which this section applies.**]

Add paragraph to 118.125 to allow for interagency information sharing by agreement or Memorandum of Understanding:

[(6) INTERAGENCY DISSEMINATION

(c) Notwithstanding any other provision of law, any school district, including any county office of education or superintendent of schools, may

participate in an interagency data information system that permits access to a computerized data base system within and between governmental agencies or districts as to information or records, as long as each of the following requirements are met:

(1) Each agency and school district shall develop security procedures or devices by which unauthorized personnel cannot access data contained in the system.

(2) Each agency and school district shall develop procedures or devices to secure privileged or confidential data from unauthorized disclosure.

(3) Each school district shall comply with the access log requirements of this section.

(4) The right of access granted shall not include the right to add, delete, or alter data without the written permission of the agency holding the data.

(5) No agency or school district may make public or otherwise release information on an individual contained in the data base where the information is protected from disclosure or release as to the requesting agency by state or federal law or regulation.]

Grant, Peter

From: Grant, Peter
Sent: Wednesday, September 17, 2003 1:28 PM
To: Rostan, Jason
Cc: Malaise, Gordon
Subject: Redraft of LRB-2810

Jason, Gordon Malaise referred your request for a redraft of LRB-2810/1 to me because the provisions you wish to add to the draft concern the pupil records law, s. 118.125, stats.

Regarding the first highlighted provision: As I mentioned in my drafter's note, state law does not regulate information that is not contained in a record. So it's unnecessary to explicitly exempt oral communications or knowledge obtained by observation because if the information is not contained in a record, it is not confidential. However, if you would like to make this point explicit in the statute, I can include a definition of "record" that makes it clear.

Regarding the second highlighted provision: It looks like this would allow a school district to share information with other "governmental agencies." If this involves the sharing of personally identifiable information (and it looks like it does), it is a violation of federal law. If it does not involve the disclosure of personally identifiable information, I can add it to the draft, but I need some additional information:

- What's a "county office of education"?
- What is meant by "governmental agencies"?
- Who are the "unauthorized personnel"?
- What is an "access log"?

I would be happy to meet with Representative Hundertmark or to contact the parties who are suggesting the language that you forwarded to discuss the issues raised by this e-mail.

Peter Grant, Managing Attorney
Wisconsin Legislative Reference Bureau
608-267-3362
peter.grant@legis.state.wi.us

9/18/03 mtg w/ Rep. Hundertmark & Jason
if exception applies so disclosure is allowed,
should
can put paper in database -

(sd's w/ m-oia.
↳ inter-agency agreements
+ other agencies)

if exception no longer applies, info must
be removed.

✓ → [also include exception for
emergency & health & safety
OITA FERPA]

✓ → [define record to exclude
oral communications etc.]

Permit, not require, law enforcement agency to
notify school when juvenile is arrested for
violating any criminal law

TC 9/22
w/ Jason: delete computer database; it
could be in any form

9/25/03

TC w/ JRSU2

need integov. agreement ~~spk~~ to disclose records under
new bases provided in bill.

500m

slays

X-1
SA ✓

2003 BILL

repeal

1 AN ACT *to renumber and amend* 118.125 (1) (d); *to amend* 118.125 (1) (a),
 2 118.125 (2) (intro.), 118.125 (2) (d), 118.125 (2) (e), 118.125 (2) (j) 3., 118.125 (3),
 3 118.125 (5) (b), 118.127 and 938.396 (1m) (ar); and *to create* 118.125 (1) (be),
 4 118.125 (1) (bL), 118.125 (1) (bs), 118.125 (1) (d) 3., 118.125 (2) (n), 118.125 (7)
 5 and 968.073 of the statutes; **relating to:** the confidentiality of pupil records and
 6 the exchange of information between a pupil's school, the juvenile justice
 7 system, and law enforcement agencies.

Analysis by the Legislative Reference Bureau

Under current law, law enforcement officers' records of juveniles (persons who are less than 17 years of age) are confidential and their contents may not be disclosed, except under certain exceptions. One of those exceptions permits a law enforcement agency to provide to a school district administrator, an administrator of a private school, or a designee of a school district administrator or private school administrator any information in its records relating to an act for which a juvenile enrolled in the school district or private school was taken into custody based on a law enforcement officer's reasonable belief that the juvenile was committing or had committed a violation for which a juvenile may be placed in the Serious Juvenile Offender Program (generally, a violation that would be a Class A, B, or C felony if committed by an adult). That information may be disclosed only to teachers, other school

BILL

- 2 - relating to an

any information in its records

NOI

permits

allows

act for which a juvenile enrolled in the school district or private school was taken into custody based on a law enforcement officer's

officials who have legitimate educational interests, including safety interests, in the information, and employees of the school who provide treatment programs for pupils. That information may not be used as the sole basis for expelling or suspending a pupil or for taking any other disciplinary action, including action under the school's athletic code, against a pupil.

reasonable belief that the juvenile

was committing or had committed a violation

Unlike records of juveniles, law enforcement records pertaining to adults are generally subject to public inspection unless the custodian of the records determines that the harm to the public interest resulting from public inspection of the records outweighs the public interest in access to the records.

to provide to a

This bill requires a law enforcement agency that either takes a pupil who is a juvenile into custody for violating any state or federal criminal law or that arrests a pupil who is 17 years of age or older to notify the school district administrator of the school district in which the pupil is enrolled, the administrator of the private school in which the pupil is enrolled, or a designee of that school district administrator or private school administrator of the identity of the pupil, the violation for which the pupil was taken into custody or arrested, and a description of the incident from which the violation arose. As under current law, any information provided to a school district or private school under the bill may be disclosed only to teachers, other school officials who have legitimate educational interests, including safety interests, in the information, and employees of the school who provide treatment programs for pupils, and that information may not be used as the sole basis for expelling or suspending a pupil or for taking any other disciplinary action, including action under the school's athletic code, against a pupil.

an of any state or federal criminal law

Under current law, with certain exceptions, all pupil records maintained by a public school are confidential. This bill allows a school board to disclose pupil records to a law enforcement agency, district attorney, city attorney, corporation counsel, county department of social or human services, juvenile intake worker, or court for the purpose of providing services to the pupil before adjudication if the person to whom the records are disclosed certifies that the records will not be further disclosed.

The bill also provides that records created and maintained by a law enforcement unit of a school district (an office or other component of a school district that is authorized to maintain the physical security or safety of a school or to enforce any law or ordinance, or refer to the appropriate authorities a matter for enforcement of any law or ordinance, against any person) are not treated as pupil records for confidentiality purposes. Instead, the bill directs the school board to treat such records as law enforcement officers' records of juveniles. Such records are more easily accessible by law enforcement agencies.

ins. 2A

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

finally

AB

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

1

SECTION 1. 118.125 (1) (a) of the statutes is amended to read:

the disclosure is pursuant to an inter-governmental agreement and

BILL

1 ~~118.125 (1) (a) "Behavioral records" means those pupil records which include~~
2 ~~psychological tests, personality evaluations, records of conversations, any written~~
3 ~~statement relating specifically to an individual pupil's behavior, tests relating~~
4 ~~specifically to achievement or measurement of ability, the pupil's physical health~~
5 ~~records other than his or her immunization records or any lead screening records~~
6 ~~required under s. 254.162, law enforcement officers' records obtained under s. 48.396~~
7 ~~(1) or 938.396 (1) or (1m), or 968.073 and any other pupil records that are not~~
8 ~~progress records~~

9 **SECTION 2.** 118.125 (1) (be) of the statutes is created to read:

10 118.125 (1) (be) "Law enforcement agency" has the meaning given in s. 165.83

11 (1) (b).

12 **SECTION 3.** 118.125 (1) (bL) of the statutes is created to read:

13 118.125 (1) (bL) "Law enforcement unit" means any individual, office,
14 department, division, or other component of a school district that is authorized or
15 designated by the school board to do any of the following:

16 1. Enforce any law or ordinance, or refer to the appropriate authorities a matter
17 for enforcement of any law or ordinance, against any person other than the school
18 district.

19 2. Maintain the physical security and safety of a public school.

20 **SECTION 4.** 118.125 (1) (bs) of the statutes is created to read:

21 118.125 (1) (bs) "Law enforcement unit records" means records maintained by
22 a law enforcement unit that were created by that law enforcement unit for the
23 purpose of law enforcement.

24 **SECTION 5.** 118.125 (1) (d) of the statutes is renumbered 118.125 (1) (d) (intro.)
25 and amended to read:

BILL

1 118.125 (1) (d) (intro.) "Pupil records" means all records relating to individual
2 pupils maintained by a school but does not include ~~notes~~ any of the following:

3 1. Notes or records maintained for personal use by a teacher or other person
4 who is required by the state superintendent under s. 115.28 (7) to hold a certificate,
5 license, or permit if such records and notes are not available to others, ~~nor does it~~
6 ~~include records.~~

7 2. Records necessary for, and available only to persons involved in, the
8 psychological treatment of a pupil.

9 **SECTION 6.** 118.125 (1) (d) 3. of the statutes is created to read:

10 118.125 (1) (d) 3. Law enforcement unit records.

11 **SECTION 7.** 118.125 (2) (intro.) of the statutes is amended to read:

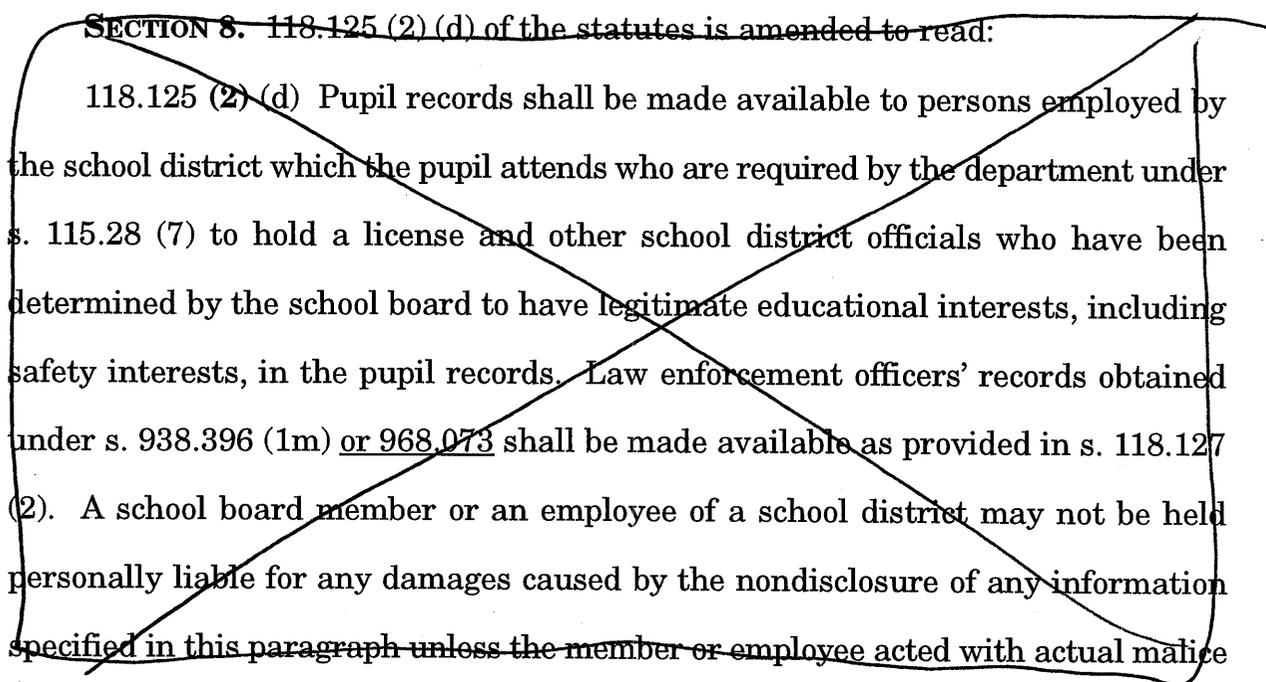
12 118.125 (2) CONFIDENTIALITY. (intro.) All pupil records maintained by a public
13 school shall be confidential, except as provided in pars. (a) to (m) ~~(n)~~ and sub. (2m).
14 The school board shall adopt regulations to maintain the confidentiality of such
15 records.

16 ~~**SECTION 8.** 118.125 (2) (d) of the statutes is amended to read:~~

17 ~~118.125 (2) (d) Pupil records shall be made available to persons employed by
18 the school district which the pupil attends who are required by the department under
19 s. 115.28 (7) to hold a license and other school district officials who have been
20 determined by the school board to have legitimate educational interests, including
21 safety interests, in the pupil records. Law enforcement officers' records obtained
22 under s. 938.396 (1m) or 968.073 shall be made available as provided in s. 118.127
23 (2). A school board member or an employee of a school district may not be held
24 personally liable for any damages caused by the nondisclosure of any information
25 specified in this paragraph unless the member or employee acted with actual malice~~

4-10 →

(P)



BILL

1 ~~in failing to disclose the information. A school district may not be held liable for any~~
2 ~~damages caused by the nondisclosure of any information specified in this paragraph~~
3 ~~unless the school district or its agent acted with gross negligence or with reckless,~~
4 ~~wanton or intentional misconduct in failing to disclose the information.~~

5 **SECTION 9.** 118.125 (2) (e) of the statutes is amended to read:

6 118.125 (2) (e) Upon the written permission of an adult pupil, or the parent or
7 guardian of a minor pupil, the school shall make available to the person named in
8 the permission the pupil's progress records or such portions of the pupil's behavioral
9 records as determined by the person authorizing the release. Law enforcement
10 officers' records obtained under s. 48.396 (1) ~~or~~, 938.396 (1) or (1m), ~~or~~ 968.073 may
11 not be made available under this paragraph unless specifically identified by the
12 ~~adult pupil or by the parent or guardian of a minor pupil in the written permission.~~

13 **SECTION 10.** 118.125 (2) (j) 3. of the statutes is amended to read:

14 118.125 (2) (j) 3. If a school has notified the parent, legal guardian or guardian
15 ad litem of the information that it has designated as directory data with respect to
16 any pupil, has informed the parent, legal guardian or guardian ad litem of the pupil
17 that he or she has 14 days to inform the school that such information may not be
18 released without the prior consent of the parent, legal guardian or guardian ad litem,
19 has allowed 14 days for the parent, legal guardian or guardian ad litem of the pupil
20 to inform the school that such information may not be released without the prior
21 consent of the parent, legal guardian or guardian ad litem and the parent, legal
22 guardian or guardian ad litem has not so informed the school, the school district clerk
23 or his or her designee, upon request, shall provide any representative of a law
24 enforcement agency, as defined in s. 165.83 (1) (b), district attorney, city attorney or
25 corporation counsel, county department under s. 46.215, 46.22 or 46.23 or a court of

BILL

1 record or municipal court with such information relating to any such pupil enrolled
2 in the school district for the purpose of enforcing that pupil's school attendance,
3 investigating alleged criminal or delinquent activity by the pupil or responding to a
4 health or safety emergency.

disclosure is pursuant to an intergovernmental agreement and

5 **SECTION 11.** 118.125 (2) (n) of the statutes is created to read:

6 118.125 (2) (n) For the purpose of providing services to a pupil before
7 adjudication, a school board may disclose pupil records to a law enforcement agency,
8 district attorney, city attorney, corporation counsel, county department under s.
9 46.215, 46.22, or 46.23, intake worker under s. 48.067 or 938.067, court of record, or
10 municipal court ~~for~~ if the person to whom the records are disclosed certifies in writing
11 that the records will not be disclosed to any other person except as permitted under
12 this subsection.

10

6-12 →

~~13 **SECTION 12.** 118.125 (3) of the statutes is amended to read.~~

~~14 118.125 (3) MAINTENANCE OF RECORDS. Each school board shall adopt rules in
15 writing specifying the content of pupil records and the time during which pupil
16 records shall be maintained. No behavioral records may be maintained for more than
17 one year after the pupil ceases to be enrolled in the school, unless the pupil specifies
18 in writing that his or her behavioral records may be maintained for a longer period.
19 A pupil's progress records shall be maintained for at least 5 years after the pupil
20 ceases to be enrolled in the school. A school board may maintain the records on
21 microfilm, optical disk or in electronic format if authorized under s. 19.21 (4) (c), or
22 in such other form as the school board deems appropriate. A school board shall
23 maintain law enforcement officers' records obtained under s. 48.396 (1) or 938.396
24 (1) or (1m), or 968.073 separately from a pupil's other pupil records. Rules adopted~~

BILL

1 under this subsection shall be published by the school board as a class 1 notice under
2 ch. 985.

3 **SECTION 13.** 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), or 968.073~~ and records of the court assigned to exercise
6 jurisdiction under chs. 48 and 938 obtained under s. 938.396 (7) may not be used by
7 a school district as the sole basis for expelling or suspending a pupil or as the sole
8 basis for taking any other disciplinary action, including action under the school
9 district's athletic code

10 **SECTION 14.** 118.125 (7) of the statutes is created to read:

11 118.125 (7) DISCLOSURE OF LAW ENFORCEMENT UNIT RECORDS. A school board shall
12 treat law enforcement unit records of juveniles in the same manner as a law
13 enforcement agency is required to treat law enforcement officers' records of juveniles
14 under s. 938.396 (1) to (1x) and (5).

15 ~~**SECTION 15.** 118.127 of the statutes is amended to read:~~

16 ~~**118.127 Law enforcement agency information.** (1) Upon receipt of
17 information from a law enforcement agency under s. 48.396 (1) ~~or, 938.396 (1) or~~
18 ~~(1m), or 968.073~~, the school district administrator or private school administrator
19 who receives the information shall notify any pupil named in the information, and
20 the parent or guardian of any minor pupil named in the information, of the
21 information.~~

22 ~~(2) A school district or private school may disclose information from law
23 enforcement officers' records obtained under s. 938.396 (1m) ~~or 968.073~~ only to
24 persons employed by the school district who are required by the department under
25 s. 115.28 (7) to hold a license, to persons employed by the private school as teachers~~

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1 and to other school district or private school officials who have been determined by
2 the school board or governing body of the private school to have legitimate
3 educational interests, including safety interests, in that information. In addition, if
4 that information relates to a pupil of the school district or private school, the school
5 district or private school may also disclose that information to those employees of the
6 school district or private school who have been designated by the school board or
7 governing body of the private school to receive that information for the purpose of
8 providing treatment programs for pupils enrolled in the school district or private
9 school. A school district may not use law enforcement officers' records obtained
10 under s. 938.396 (1m) or 968.073 as the sole basis for expelling or suspending a pupil
11 or as the sole basis for taking any other disciplinary action, including action under
12 the school district's athletic code, against a pupil.

13 **SECTION 16.** 938.396 (1m) (ar) of the statutes is amended to read:

14 938.396 (1m) (ar) A. If a juvenile who is enrolled in a school district or a private
15 school is taken into custody under s. 938.19 based on a law enforcement officer's
16 reasonable belief that the juvenile is committing or has committed an act that is a
17 violation of a state or federal criminal law, the law enforcement agency, on its own
18 initiative or on the request of that took the juvenile into custody shall, within 24
19 hours after the end of the day on which the juvenile was taken into custody, not
20 including Saturdays, Sundays, and legal holidays, orally notify the school district
21 administrator of a the public school district in which the juvenile is enrolled, the
22 administrator of a the private school in which the juvenile is enrolled, or the designee
23 of the school district administrator or the private school administrator, may, subject
24 to official agency policy, provide to of the identity of the juvenile and the violation for
25 which the juvenile was taken into custody and shall, within 72 hours after the

BILL

1 juvenile was taken into custody, not including Saturdays, Sundays, and legal
2 holidays, provide the school district administrator, private school administrator, or
3 designee any information in its records relating to an act for which a juvenile enrolled
4 in the school district or private school was taken into custody under s. 938.19 based
5 on a law enforcement officer's belief that the juvenile was committing or had
6 committed an act that is a violation specified in s. 938.34 (4h) (a). The information
7 with a written description of the incident for which the juvenile was taken into
8 custody. Any information provided to a school district or private school under this
9 paragraph shall be used by the school district or private school as provided in s.
10 118.127 (2).

11 **SECTION 17.** 968.073 of the statutes is created to read:

12 **968.073 Notifying school of arrest of pupil.** If a law enforcement officer
13 arrests a person who is enrolled in a school district or a private school, the law
14 enforcement agency that employs the officer shall, within 24 hours after the end of
15 the day on which the person is arrested, not including Saturdays, Sundays, and legal
16 holidays, orally notify the school district administrator of the public school district
17 in which the person is enrolled, the administrator of the private school in which the
18 person is enrolled, or the designee of the school district administrator or the private
19 school administrator of the identity of the person and the violation for which the
20 person was arrested and shall, within 72 hours after the person is arrested, not
21 including Saturdays, Sundays, and legal holidays, provide the school district
22 administrator, private school administrator, or designee with a written description
23 of the incident for which the person was arrested.

24 **SECTION 18. Initial applicability.**

24

Insert
9-24

(2A)

(w/ff) The bill also allows a school board to disclose pupil records to appropriate parties in connection with an emergency if

knowledge of the information is necessary to protect the health or safety of any individual. The bill defines ~~and~~

~~communications are not records a "record"~~
for purposes of the pupil records law as any material on which written, drawn, printed, spoken, visual, or electromagnetic information is recorded or preserved, thus clarifying that oral communications ^{and} ~~and~~ information obtained by observation are not ~~excluded~~ covered by the pupil records law.

4-10

SEC. CR. 118.125 (1)(e)

118.125 (1)(e) "Record" means any material on which written, drawn, printed, spoken, material on which written, drawn, printed, spoken, visual, visual, or electromagnetic information is recorded or preserved of physical recorded or preserved; regardless of physical form or characteristics.

6-12-21

X

SEC. CR. 118.125 (2)(p)

118.125 (2)(p) A school board may disclose
pupil records to appropriate parties in connection
with an emergency if
with an emergency if knowledge of the
information is necessary to protect the health
or safety of any individual
or safety of any individual.

Insert 929

Section #. 938.396 (1m) (ar) of the statutes is amended to read:

938.396 (1m) (ar) A law enforcement agency, on its own initiative or on the request of the school district administrator of a public school district, the administrator of a private school, or the designee of the school district administrator or the private school administrator, may, subject to official agency policy, provide to the school district administrator, private school administrator, or designee any information in its records relating to an act for which a juvenile enrolled in the school district or private school was taken into custody under s. 938.19 based on a law enforcement officer's belief that the juvenile was committing or had committed ~~an act that is a violation specified in s. 938.34~~

~~(4h) (a)~~. The information shall be used by the school district or private school as provided in s. 118.127 (2).

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 80, 95, 181, 205, 252, 258, 281; 1999 a. 9, 32, 89; 2001 a. 95.

a violation of any state or federal criminal law

(Handwritten initials)

3 Authorize interagency agreements
to share confidential information

Jason
Hundertmark

6-3794

Memorandum of Understanding
Waupaca County
Information Sharing Vision, Goals and Objectives

Waupaca County believes that Wisconsin Legislation presumes routine information sharing is taking place for the benefit of the children and families in our great state. This MOU is neither a binding document, nor a contract. It is a covenant among partners to share information. The degree of clarity is evident in the policies and procedures of partner agencies and individuals.

OBJECTIVES:

- To establish a positive working relationship through cooperative efforts to provide appropriate supervision and treatment of juvenile offenders.*
- To reduce delinquency through identification of youth and families that need support prior to the emergence of serious problems;*
- To facilitate timely communication among agencies when appropriate for the benefit of our children;*
- To establish and maintain safe environments in our schools and communities;*
- To promote and coordinate efforts to ensure sufficient allocation of resources;*
- To meet the needs of children and their families by creating an environment for positive youth and family development;*

Juvenile Justice Interagency Agreement History

Jason
Handwritten

Collaborating Agencies

- Waupaca County School Districts
- Waupaca County Law Enforcement Departments
- Waupaca County District Attorney
- Wisconsin State Attorney
- Waupaca County Clerk of Courts
- Waupaca County Circuit Courts
- Waupaca County Department of Health and Human Services
- Wisconsin Department of Children and Families
- Lutheran Social Services
- CAPP Service

Partners include the designee of the Waupaca County Clerk of the Courts; the Waupaca County Circuit Courts; the Waupaca County School Boards; the Waupaca County Sheriff; the Chiefs of Police of Waupaca County; the Waupaca County District Attorney; and the Waupaca County Department of Health and Human Services.

Waupaca County Interagency Agreement

WITNESSETH:

WHEREAS, all partners are committed to providing appropriate programs and services to prevent children from becoming at risk and to intervene with children already involved in the juvenile justice system; and

WHEREAS, all partners to this agreement desire a maximum degree of long range cooperation and administrative planning in order to provide for the safety and security of the community and its children; and

WHEREAS, all partners are committed to improving services to children in the juvenile justice system through sharing information, eliminating duplication of services and coordinating efforts; and

WHEREAS, all partners mutually agree that sharing resources, where feasible, and in particular, training efforts, may result in improved coordination; and

WHEREAS, is the understanding by all partners that certain roles in serving children and youth are required by law, and that these laws shall serve as the foundation for defining the role and responsibility of each participating agency; and

WHEREAS, all partners mutually agree that all obligations stated or implied in this agreement shall be interpreted in light of, and consistent with, governing state and federal laws:

NOW, THEREFORE in consideration of the following agreements, the partners do hereby covenant and agree to the following:

EACH OF THE PARTNERS AGREES TO:

1. Promote a coordinated effort among agencies and staff to achieve maximum public safety with the goal of reducing juvenile crime.
2. Participate in interagency planning meetings, as appropriate.
3. Assign staff, as appropriate, to participate in joint planning and other information-sharing activities to assess and develop plans for at-risk youth and those involved in the juvenile justice system.
4. Jointly plan, and/or provide information and access to, training opportunities, when feasible.
5. Develop internal policies and cooperative procedures, as needed, to implement this agreement to the maximum extent possible.
6. Comply with Sections 938.78; 118.125; 48.78; and other applicable rules and procedures, which relate to records use, security, dissemination, and retention/destruction. Maintain confidentiality of information that is not otherwise exempt from Section 48.396 as provided by law.

WAUPACA COUNTY SCHOOL BOARD OR DESIGNEES AGREE

Obtained **TO:**

through Confidential exchange of info 938.396 (1), 938.78 (2)(b)1. = broad catch all for law enforcement & social services records

Internal
e.g. 118.127(2)
required to hold license 118.12
118.28(7)
(teachers)
other school officials w/ legitimate educational interest, including safety interest

1. Notify, within 48 hours, the child's school principal or designee, of juveniles arrested for crimes of violence or violation of law, which would be a felony if committed by an adult, upon receipt of such information from the Sheriff's Department and/or Police Department(s). The principal or designee shall immediately provide such information to student services personnel (i.e. counselor, psychologist, or social worker), school resource officers, the student assistance coordinator if applicable, and the student's immediate teachers. (Section 118.125(2)(cg)) (Section 938.396) Notify the student services personnel and classroom teachers if a child has been placed by Waupaca County Department of Health and Human Services in an inpatient psychiatric facility.

s. 51.30
How is school bd. going to know?

2. Designate the contact person(s) to be responsible to receive juvenile arrest information, to receive confidential criminal history information, and to request juvenile criminal history information from the Juvenile Intake and Referral only for the purposes of assessment, placement or security of persons and property (Section 48.396 and 938.396). The contact person(s) will inform all partners as to the District's designee and law enforcement.

3. Ensure that ^{are} information obtained through the criminal history database and disseminated only to appropriate school personnel and law enforcement carries an appropriate warning, regarding the reliability, confidentiality and control of further dissemination. Appropriate internal written policies will be adopted.

938.78(2)(b)2.
Need c.k. order
938.396 (1m)(c)
Need c.k. order

4. Share information on student achievement, behavioral and attendance history on juvenile offenders or juveniles at risk of becoming offenders for the purpose of assessment and treatment with partners to this agreement, as appropriate. (Section 118.125; 48.345; 938.34; 938.396; 938.78).

118.125 (2)(cg) to law enforcement limited to truancy or delinquency

5. School principal shall communicate all delinquent acts (suspensions), which occur whenever a student is under the jurisdiction of the school

i.e. call the cops if commit crime at school

(OK)

to the law enforcement agency with jurisdiction over the school.
(Section 118.125).

call the cops
(OK) 6. Notify the school resource officer or law enforcement agency having jurisdiction over the school when an adult commits an offense on school property or during a school function. (Section 18.125).

(OK) 7. Enter into agreements for contracted youth services educational programs with private nonprofit providers or state or local governmental agencies contracted through the Department of Public Instruction to an extent determined feasible by the School District.

Can they do this?
- dropout
- home school
- expelled 8. Authorize schools to provide, upon request, law enforcement officers with information as to whether individual students have dropped out or been suspended from that school. School District or designee shall provide a regularly updated list of students who are home schooled, placed in alternative educational settings or expelled to the Waupaca County Sheriff, the Police Chiefs, or their designees. (Section 118.125).

Not a "record"
(OK), I guess 9. Notify appropriate designees of the Sheriff Department, Police Department(s) and Department of Health and Human Services immediately upon learning of the move or other relocation of a juvenile offender into, out of, or within Waupaca County, who has been adjudicated or had adjudication withheld for a violent misdemeanor or violent felony. (Section 118.126)

whatever 10. Serve as an active participant on the Waupaca County Interagency Council.

WAUPACA COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES AGREES TO:

938.78
Confidential
exchange

1. Notify appropriate designees of the Sheriff Department, Police Department(s) and School District(s) immediately upon learning of the move or other relocation of a juvenile offender into, out of, or within Waupaca County, who has been adjudicated or had adjudication withheld for a violent misdemeanor or violent felony. (Section 118.126)
2. Share dispositional, placement and case management information with law enforcement and school district for purposes of assessment, placement and enhanced supervision of juveniles referred to the Juvenile Intake and Referral or to inpatient mental health or AODA treatment. When appropriate, the Department will seek releases of information to allow this information provision. - 51.30
= ok if have release
3. Provide notice to the School District, or his designee, immediately upon the initiation of planning efforts with private nonprofit entities or governmental entities, including the Juvenile Intake and Referral, which could result in the location, relocation or expansion of youth services programs and which may impact the school district.
4. Provide technical assistance and resource personnel as provided through contracts and other agreements.
5. Provide local law enforcement with information as to whether individual students have dropped out or been suspended from that school.
6. Invite school and law enforcement personnel to attend cross-functional planning meetings with children and their families.
7. Provide assessment, planning and on-going monitoring information to school and law enforcement personnel, if necessary after obtaining permission to release information from the child's parents.
8. Serve as an active participant on the Waupaca County Interagency Council.

How
does
county
know?

**WAUPACA COUNTY CIRCUIT COURT AND/OR WAUPACA
COUNTY CLERK OF THE COURT AGREES TO:**

OK
(7) (a) Notwithstanding sub. (2) (a), if a petition under s. 938.12 or 938.13 (12) is filed alleging that a juvenile has committed a delinquent act that would be a felony if committed by an adult, the court clerk shall notify the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the designee of the school board or governing body of the fact that the petition has been filed and the nature of the delinquent act alleged in the petition. Notwithstanding sub. (2) (a), if later the proceeding on the petition is closed, dismissed or otherwise terminated without a finding that the juvenile has committed a delinquent act, the court clerk shall notify the school board of the school district in which the juvenile is enrolled or the school board's designee that the proceeding has been terminated without a finding that the juvenile has committed a delinquent act.

(am) Notwithstanding sub. (2) (a) and subject to par. (b), if a juvenile is adjudged delinquent, within 5 days after the date on which the dispositional order is entered, the court clerk shall notify the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the designee of the school board or governing body of the fact that the juvenile has been adjudicated delinquent, the nature of the violation committed by the juvenile and the disposition imposed on the juvenile under s. 938.34 as a result of that violation. Notwithstanding sub. (2) (a), if school attendance is a condition of a dispositional order under s. 938.355 (2) (b) 7., within 5 days after the date on which the dispositional order is entered, the court clerk shall notify the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the designee of the school board or governing body of the fact that the juvenile's school attendance is a condition of a dispositional order.

(b) If a juvenile is 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 and is adjudged delinquent on that basis, within 5 days after the date on which the dispositional order is entered the court clerk shall notify the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the designee of the school board or governing body of the fact that the juvenile has been adjudicated delinquent on that basis, the nature of the violation committed by the

juvenile and the disposition imposed on the juvenile under s. 938.34 as a result of that violation.

(bm) Notwithstanding sub. (2) (a), in addition to the disclosure made under par. (am) or (b), if a juvenile is adjudicated delinquent and as a result of the dispositional order is enrolled in a different school district or private school from the school district or private school in which the juvenile is enrolled at the time of the dispositional order, the court clerk, within 5 days after the date on which the dispositional order is entered, shall provide the school board of the juvenile's new school district, the governing body of the juvenile's new private school or the designee of the school board or governing body with the information specified in par. (am) or (b), whichever is applicable, and, in addition, shall notify that school board, governing body or designee of whether the juvenile has been adjudicated delinquent previously by that court, the nature of any previous violations committed by the juvenile and the dispositions imposed on the juvenile under s. 938.34 as a result of those previous violations.

(c) No information from the juvenile's court records, other than information disclosed under par. (a), (am), (b) or (bm), may be disclosed to the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the designee of the school board or governing body except by order of the court. Any information provided under this subsection to the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the designee of the school board or governing body shall be disclosed by the school board, governing body or designee to employees of the school district or private school who work directly with the juvenile or who have been determined by the school board, governing body or designee to have legitimate educational interests, including safety interests, in the information. A school district or private school employee to whom information is disclosed under this paragraph may not further disclose the information. A school board shall not use any information provided under this subsection as the sole basis for expelling or suspending a juvenile. A member of a school board or of the governing body of a private school or an employee of a school district or private school may not be held personally liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the member or employee acted with actual malice in failing to disclose the information. A school district or private school may not be held liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the school district, private school or its

agent acted with gross negligence or with reckless, wanton or intentional misconduct in failing to disclose the information.

WAUPACA COUNTY SHERIFF AND POLICE CHIEFS AGREE TO:

938.396(1) Confidential exchange

1. Immediately provide notification with the appropriate School District, or his designee, of juveniles within the Waupaca County educational jurisdiction arrested for crimes of violence or violations of law, which would be a felony if committed by an adult. (Sections 938.34; 938.396; 118.127)
2. (ck) Ensure and provide that information assistance, educational support services and resource personnel are provided through contracts and other agreements.
3. Develop policies and procedures that will reflect that the law enforcement, or designee, shall cause the appropriate school based administrator and DHHS designee, to be notified in a timely manner of incidents or arrests involving (at-risk) students where there is a possibility of on-going violence, underage alcohol offenses, drug offenses, victimization, or school disruption at the school site.
4. (ck) Notify the School District within 48 hours of the name and address of any employee of the school district who is charged with a felony or misdemeanor involving the following issues of the abuse of a minor child or *sex related crimes*, or the sale or possession of a controlled substance. Notification to the School District shall include the specific charge for which the employee was arrested.
adults
5. Serve as an active participant on the Waupaca County Interagency Council.

WAUPACA COUNTY DISTRICT ATTORNEY AGREES TO:

1. Serve as an active participant on the Waupaca County Interagency Council.

TERMS OF AGREEMENT:

This agreement shall be in effect as of the date the agreement is signed by the partners. The agreement shall remain in effect until such time as one or more of the partners provides written notice to the Chair of the Waupaca Interagency Council stating a desire to amend the agreement.

ADMINISTRATIVE AGENCY PARTNERS

Waupaca County Law Enforcement Offices

Clintonville Police Department
Fremont Police Department
Iola Police Department
New London Police Department
Manawa Police Department
Marion Police Department
Ogdensburg Police Department
Waupaca County Sheriff
Waupaca Police Department
Weyauwega Police Department

Waupaca County District Attorney's Office
District Attorney

Waupaca County Clerk's Office
Clerk of Courts

Waupaca County Circuit Court's Office
Waupaca County Circuit Court

Waupaca County District Schools

Clintonville School District
Iola-Scandinavia School District
New London School District
Manawa School District
Marion School District
Waupaca School District
Weyauwega-Fremont School District

Waupaca County Department of Health and Human Services
Department of Health and Human Service

The above referenced partners will develop procedures for ongoing meetings and will, at least annually, review the agreement and, if necessary, recommend any changes.

MODIFICATION OF AGREEMENT:

Modification of this agreement shall be made only by the consent of all partners. Such shall be made with the same formalities as were followed in this agreement and shall include a written document setting forth the modifications, signed by all partners.

OTHER INTERAGENCY AGREEMENTS:

All partners to this agreement acknowledge that this agreement does not preclude or preempt each of the agencies individually entering into an agreement with one or more partners to this agreement or other partners outside of this agreement. Such agreements shall not nullify the force and effect of this agreement.

SIGNATURES OF PARTNERS TO THIS AGREEMENT:

Waupaca County Law Enforcement Offices

Clintonville Police Department Designee _____
Date _____

Fremont Police Department Designee _____
Date _____

Iola Police Department Designee _____
Date _____

New London Police Department Designee _____
Date _____

Manawa Police Department Designee _____
Date _____

Marion Police Department Designee _____
Date _____

Ogdensburg Police Department Designee _____
Date _____

Waupaca County Sheriff Designee _____
Date _____

Waupaca Police Department Designee _____
Date _____

Weyauwega Police Department Designee _____
Date _____

Waupaca County District Attorney's Office

District Attorney Designee _____
Date _____

Waupaca County Clerk's Office

County Clerk Designee _____
Date _____

Waupaca County Circuit Court's Office

Waupaca County Circuit Court Designee _____
Date _____

Waupaca County District Schools

Clintonville School District Designee _____
Date _____

Iola-Scandinavia School District Designee _____
Date _____

New London School District Designee _____
Date _____

Manawa School District Designee _____
Date _____

Marion School District Designee _____
Date _____

Waupaca School District Designee _____
Date _____

Weyauwega-Fremont School District Designee _____
Date _____

Waupaca County Department of Health and Human Services

Department of Health and Human Service Designee _____
Date _____

This agreement made _____ and effective on the date
signed by all partners.



State of Wisconsin
2003 - 2004 LEGISLATURE

Soon

LRB-2810/A
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stays

3
PWR

2003 BILL

SA ✓
X-verbs ✓
new CEs ✓

Reger cut

1 AN ACT ~~to renumber and amend~~ 118.125 (1) (d); **to amend** 118.125 (2) (intro.),
 2 118.125 (2) (j) 3. and 938.396 (1m) (ar); and **to create** 118.125 (1) (be), 118.125
 3 (1) (bL), 118.125 (1) (bs), 118.125 (1) (d) 3., 118.125 (1) (e), 118.125 (2) (n),
 4 118.125 (2) (p) and 118.125 (7) of the statutes; **relating to:** the confidentiality
 5 of pupil records and the exchange of information between a pupil's school, the
 6 juvenile justice system, and law enforcement agencies.

Analysis by the Legislative Reference Bureau

Under current law, law enforcement officers' records of juveniles (persons who are less than 17 years of age) are confidential and their contents may not be disclosed, except under certain exceptions. One of those exceptions permits a law enforcement agency to provide to a school district administrator, an administrator of a private school, or a designee of a school district administrator or private school administrator any information in its records relating to an act for which a juvenile enrolled in the school district or private school was taken into custody based on a law enforcement officer's reasonable belief that the juvenile was committing or had committed a violation for which a juvenile may be placed in the Serious Juvenile Offender Program (generally, a violation that would be a Class A, B, or C felony if committed by an adult). That information may be disclosed only to teachers, other school officials who have legitimate educational interests, including safety interests, in the information, and employees of the school who provide treatment programs for pupils.

BILL

(insert A)

That information may not be used as the sole basis for expelling or suspending a pupil or for taking any other disciplinary action, including action under the school's athletic code, against a pupil.

This bill permits a law enforcement agency to provide to a school district administrator, an administrator of a private school, or a designee of that school district administrator or private school administrator any information in its records relating to an act for which a juvenile enrolled in the school district or private school was taken into custody based on a law enforcement officer's reasonable belief that the juvenile was committing or had committed a violation of *any* state or federal criminal law.

Under current law, with certain exceptions, all pupil records maintained by a public school are confidential. This bill allows a school board to disclose pupil records to a law enforcement agency, district attorney, city attorney, corporation counsel, county department of ~~social or human services~~, juvenile intake worker, or court for the purpose of providing services to the pupil before adjudication if the disclosure is pursuant to an intergovernmental agreement and the person to whom the records are disclosed certifies that the records will not be further disclosed. The bill also allows a school board to disclose pupil records to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of any individual. The bill defines "record" for purposes of the pupil records law as any material on which written, drawn, printed, spoken, visual, or electromagnetic information is recorded or preserved, thus clarifying that oral communications and information obtained by observation are not covered by the pupil records law.

Finally, the bill provides that records created and maintained by a law enforcement unit of a school district (an office or other component of a school district that is authorized to maintain the physical security or safety of a school or to enforce any law or ordinance, or refer to the appropriate authorities a matter for enforcement of any law or ordinance, against any person) are not treated as pupil records for confidentiality purposes. Instead, the bill directs the school board to treat such records as law enforcement officers' records of juveniles. Such records are more easily accessible by law enforcement agencies.

For further information see the *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.** 118.125 (1) (be) of the statutes is created to read:
2 118.125 (1) (be) "Law enforcement agency" has the meaning given in s. 165.83
3 (1) (b).

4 **SECTION 2.** 118.125 (1) (bL) of the statutes is created to read:

BILL

1 118.125 (1) (bL) “Law enforcement unit” means any individual, office,
2 department, division, or other component of a school district that is authorized or
3 designated by the school board to do any of the following:

4 1. Enforce any law or ordinance, or refer to the appropriate authorities a matter
5 for enforcement of any law or ordinance, against any person other than the school
6 district.

7 2. Maintain the physical security and safety of a public school.

8 **SECTION 3.** 118.125 (1) (bs) of the statutes is created to read:

9 118.125 (1) (bs) “Law enforcement unit records” means records maintained by
10 a law enforcement unit that were created by that law enforcement unit for the
11 purpose of law enforcement.

12 **SECTION 4.** 118.125 (1) (d) of the statutes is renumbered 118.125 (1) (d) (intro.)
13 and amended to read:

14 118.125 (1) (d) (intro.) “Pupil records” means all records relating to individual
15 pupils maintained by a school but does not include notes any of the following:

16 1. Notes or records maintained for personal use by a teacher or other person
17 who is required by the state superintendent under s. 115.28 (7) to hold a certificate,
18 license, or permit if such records and notes are not available to others, ~~nor does it~~
19 ~~include records.~~

20 2. Records necessary for, and available only to persons involved in, the
21 psychological treatment of a pupil.

22 **SECTION 5.** 118.125 (1) (d) 3. of the statutes is created to read:

23 118.125 (1) (d) 3. Law enforcement unit records.

24 **SECTION 6.** 118.125 (1) (e) of the statutes is created to read:

BILL

1 118.125 (1) (e) “Record” means any material on which written, drawn, printed,
2 spoken, visual, or electromagnetic information is recorded or preserved, regardless
3 of physical form or characteristics.

4 **SECTION 7.** 118.125 (2) (intro.) of the statutes is amended to read:

5 118.125 (2) CONFIDENTIALITY. (intro.) All pupil records maintained by a public
6 school shall be confidential, except as provided in pars. (a) to ~~(m)~~ (p) and sub. (2m).
7 The school board shall adopt regulations to maintain the confidentiality of such
8 records.

9 **SECTION 8.** 118.125 (2) (j) 3. of the statutes is amended to read:

10 118.125 (2) (j) 3. If a school has notified the parent, legal guardian or guardian
11 ad litem of the information that it has designated as directory data with respect to
12 any pupil, has informed the parent, legal guardian or guardian ad litem of the pupil
13 that he or she has 14 days to inform the school that such information may not be
14 released without the prior consent of the parent, legal guardian or guardian ad litem,
15 has allowed 14 days for the parent, legal guardian or guardian ad litem of the pupil
16 to inform the school that such information may not be released without the prior
17 consent of the parent, legal guardian or guardian ad litem and the parent, legal
18 guardian or guardian ad litem has not so informed the school, the school district clerk
19 or his or her designee, upon request, shall provide any representative of a law
20 enforcement agency, as defined in s. 165.83 (1) (b), district attorney, city attorney or
21 corporation counsel, county department under s. 46.215, 46.22 or 46.23 or a court of
22 record or municipal court with such information relating to any such pupil enrolled
23 in the school district for the purpose of enforcing that pupil’s school attendance,
24 investigating alleged criminal or delinquent activity by the pupil or responding to a
25 health or safety emergency.

BILL

1 **SECTION 9.** 118.125 (2) (n) of the statutes is created to read:

2 118.125 (2) (n) For the purpose of providing services to a pupil before
3 adjudication, a school board may disclose pupil records to a law enforcement agency,
4 district attorney, city attorney, corporation counsel, county department under s.
5 46.215, 46.22, or 46.23, intake worker under s. 48.067 or 938.067, court of record, or
6 municipal court if disclosure is pursuant to an intergovernmental agreement and the
7 person to whom the records are disclosed certifies in writing that the records will not
8 be disclosed to any other person except as permitted under this subsection.

9 **SECTION 10.** 118.125 (2) (p) of the statutes is created to read:

10 118.125 (2) (p) A school board may disclose pupil records to appropriate parties
11 in connection with an emergency if knowledge of the information is necessary to
12 protect the health or safety of any individual.

13 **SECTION 11.** 118.125 (7) of the statutes is created to read:

14 118.125 (7) DISCLOSURE OF LAW ENFORCEMENT UNIT RECORDS. A school board shall
15 treat law enforcement unit records of juveniles in the same manner as a law
16 enforcement agency is required to treat law enforcement officers' records of juveniles
17 under s. 938.396 (1) to (1x) and (5).

18 **SECTION 12.** 938.396 (1m) (ar) of the statutes is amended to read:

19 938.396 (1m) (ar) A law enforcement agency, on its own initiative or on the
20 request of the school district administrator of a public school district, the
21 administrator of a private school, or the designee of the school district administrator
22 or the private school administrator, may, subject to official agency policy, provide to
23 the school district administrator, private school administrator, or designee any
24 information in its records relating to an act for which a juvenile enrolled in the school
25 district or private school was taken into custody under s. 938.19 based on a law

BILL

1 enforcement officer's belief that the juvenile was committing or had committed an
2 ~~act that is a violation specified in s. 938.34 (4h) (a)~~ a violation of any state or federal
3 criminal law. The information shall be used by the school district or private school
4 as provided in s. 118.127 (2).

5 **SECTION 13. Initial applicability.**

6 (1) NOTIFICATION TO SCHOOL WHEN PUPIL IS TAKEN INTO CUSTODY FOR CRIMINAL
7 VIOLATION. The treatment of section 938.396 (1m) (ar) of the statutes first applies to
8 the taking into custody of a juvenile on the effective date of this subsection.

9 (END)

Insert
6-4

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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GMM.....

X
(INSERT 6-4)

SECTION 1. 938.396 (1p) of the statutes is created to read:

938.396 (1p) A law enforcement agency may enter into an interagency agreement with a school board, a private school, a social welfare agency, or another law enforcement agency providing for the routine disclosure of information under subs. (1) and (1m) to the school board, private school, social welfare agency, or other law enforcement agency.

X
SECTION 2. 938.78 (2) (b) 1m. of the statutes is created to read:

938.78 (2) (b) 1m. An agency may enter into an interagency agreement with a school board, a private school, a law enforcement agency, or another social welfare agency providing for the routine disclosure of information under subd. 1. to the school board, private school, law enforcement agency, or other social welfare agency.

(END OF INSERT)

(INSERT A)

(100P) ← The bill also permits a law enforcement agency or a social welfare agency, which is defined under current law as a county department of human services or social services (county department), a licensed child welfare agency, or the Department of Corrections, to enter into an interagency agreement with a school board, a private school, or another law enforcement agency or social welfare agency providing for the routine disclosure of information to the school board, private school, or other law enforcement agency or social welfare agency.

(END OF INSERT)



State of Wisconsin
2003 - 2004 LEGISLATURE

~~SOON~~

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(4)
RMR

2003 BILL

WED

Reger cat.

1 AN ACT *to renumber and amend* 118.125 (1) (d); *to amend* 118.125 (2) (intro.),
 2 118.125 (2) (j) 3. and 938.396 (1m) (ar); and *to create* 118.125 (1) (be), 118.125
 3 (1) (bL), 118.125 (1) (bs), 118.125 (1) (d) 3., 118.125 (1) (e), 118.125 (2) (n),
 4 118.125 (2) (p), 118.125 (7), 938.396 (1p) and 938.78 (2) (b) 1m. of the statutes;
 5 **relating to:** the confidentiality of pupil records and the exchange of
 6 information between a pupil's school, the juvenile justice system, and law
 7 enforcement agencies.

Analysis by the Legislative Reference Bureau

Under current law, law enforcement officers' records of juveniles (persons who are less than 17 years of age) are confidential and their contents may not be disclosed, except under certain exceptions. One of those exceptions permits a law enforcement agency to provide to a school district administrator, an administrator of a private school, or a designee of a school district administrator or private school administrator any information in its records relating to an act for which a juvenile enrolled in the school district or private school was taken into custody based on a law enforcement officer's reasonable belief that the juvenile was committing or had committed a violation for which a juvenile may be placed in the Serious Juvenile Offender Program (generally, a violation that would be a Class A, B, or C felony if committed by an adult). That information may be disclosed only to teachers, other school

BILL

officials who have legitimate educational interests, including safety interests, in the information, and employees of the school who provide treatment programs for pupils. That information may not be used as the sole basis for expelling or suspending a pupil or for taking any other disciplinary action, including action under the school's athletic code, against a pupil.

This bill permits a law enforcement agency to provide to a school district administrator, an administrator of a private school, or a designee of that school district administrator or private school administrator any information in its records relating to an act for which a juvenile enrolled in the school district or private school was taken into custody based on a law enforcement officer's reasonable belief that the juvenile was committing or had committed a violation of *any* state or federal criminal law. The bill also permits a law enforcement agency or a social welfare agency, which is defined under current law as a county department of human services or social services ~~(county department)~~, a licensed child welfare agency, or the Department of Corrections, to enter into an interagency agreement with a school board, a private school, or another law enforcement agency or social welfare agency providing for the routine disclosure of information to the school board, private school, or other law enforcement agency or social welfare agency.

Under current law, with certain exceptions, all pupil records maintained by a public school are confidential. This bill allows a school board to disclose pupil records to a law enforcement agency, district attorney, city attorney, corporation counsel, ~~county department~~, juvenile intake worker, ~~or~~ court, for the purpose of providing services to the pupil before adjudication if the disclosure is pursuant to an ~~intergovernmental~~ agreement and the person to whom the records are disclosed certifies that the records will not be further disclosed. The bill also allows a school board to disclose pupil records to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of any individual. The bill defines "record" for purposes of the pupil records law as any material on which written, drawn, printed, spoken, visual, or electromagnetic information is recorded or preserved, thus clarifying that oral communications and information obtained by observation are not covered by the pupil records law.

Finally, the bill provides that records created and maintained by a law enforcement unit of a school district (an office or other component of a school district that is authorized to maintain the physical security or safety of a school or to enforce any law or ordinance, or refer to the appropriate authorities a matter for enforcement of any law or ordinance, against any person) are not treated as pupil records for confidentiality purposes. Instead, the bill directs the school board to treat such records as law enforcement officers' records of juveniles. Such records are more easily accessible by law enforcement agencies.

For further information see the *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:

BILL

1 ✓
SECTION 1. 118.125 (1) (be) of the statutes is created to read:

2 118.125 (1) (be) “Law enforcement agency” has the meaning given in s. 165.83
3 (1) (b).

4 ✓
SECTION 2. 118.125 (1) (bL) of the statutes is created to read:

5 118.125 (1) (bL) “Law enforcement unit” means any individual, office,
6 department, division, or other component of a school district that is authorized or
7 designated by the school board to do any of the following:

8 1. Enforce any law or ordinance, or refer to the appropriate authorities a matter
9 for enforcement of any law or ordinance, against any person other than the school
10 district.

11 2. Maintain the physical security and safety of a public school.

12 ✓
SECTION 3. 118.125 (1) (bs) of the statutes is created to read:

13 118.125 (1) (bs) “Law enforcement unit records” means records maintained by
14 a law enforcement unit that were created by that law enforcement unit for the
15 purpose of law enforcement.

16 ✓
SECTION 4. 118.125 (1) (d) of the statutes is renumbered 118.125 (1) (d) (intro.)
17 and amended to read:

18 118.125 (1) (d) (intro.) “Pupil records” means all records relating to individual
19 pupils maintained by a school but does not include ~~notes~~ any of the following:

20 1. Notes or records maintained for personal use by a teacher or other person
21 who is required by the state superintendent under s. 115.28 (7) to hold a certificate,
22 license, or permit if such records and notes are not available to others, ~~nor does it~~
23 ~~include records.~~

24 2. Records necessary for, and available only to persons involved in, the
25 psychological treatment of a pupil.

BILL

1 **SECTION 5.** 118.125 (1) (d) 3. of the statutes is created to read:

2 118.125 (1) (d) 3. Law enforcement unit records.

3 **SECTION 6.** 118.125 (1) (e) of the statutes is created to read:

4 118.125 (1) (e) “Record” means any material on which written, drawn, printed,
5 spoken, visual, or electromagnetic information is recorded or preserved, regardless
6 of physical form or characteristics.

7 **SECTION 7.** 118.125 (2) (intro.) of the statutes is amended to read:

8 118.125 (2) CONFIDENTIALITY. (intro.) All pupil records maintained by a public
9 school shall be confidential, except as provided in pars. (a) to ~~(m)~~ (p) and sub. (2m).
10 The school board shall adopt regulations to maintain the confidentiality of such
11 records.

12 **SECTION 8.** 118.125 (2) (j) 3. of the statutes is amended to read:

13 118.125 (2) (j) 3. If a school has notified the parent, legal guardian or guardian
14 ad litem of the information that it has designated as directory data with respect to
15 any pupil, has informed the parent, legal guardian or guardian ad litem of the pupil
16 that he or she has 14 days to inform the school that such information may not be
17 released without the prior consent of the parent, legal guardian or guardian ad litem,
18 has allowed 14 days for the parent, legal guardian or guardian ad litem of the pupil
19 to inform the school that such information may not be released without the prior
20 consent of the parent, legal guardian or guardian ad litem and the parent, legal
21 guardian or guardian ad litem has not so informed the school, the school district clerk
22 or his or her designee, upon request, shall provide any representative of a law
23 enforcement agency, as defined in s. 165.83 (1) (b), district attorney, city attorney or
24 corporation counsel, county department under s. 46.215, 46.22 or 46.23 or a court of
25 record or municipal court with such information relating to any such pupil enrolled

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, private school, or another school board

1 in the school district for the purpose of enforcing that pupil's school attendance,
2 investigating alleged criminal or delinquent activity by the pupil or responding to a
3 health or safety emergency.

agency, as defined in s. 48.79(1)

4 **SECTION 9.** 118.125 (2) (n) of the statutes is created to read:

5 118.125 (2) (n) For the purpose of providing services to a pupil before
6 adjudication, a school board may disclose pupil records to a law enforcement agency,
7 district attorney, city attorney, corporation counsel, ~~county department under s.~~
8 ~~46.215, 46.22, or 46.23~~ intake worker under s. 48.067 or 938.067, court of record, ~~or~~
9 municipal court, if disclosure is pursuant to an ^{interagency} intergovernmental agreement and the
10 person to whom the records are disclosed certifies in writing that the records will not
11 be disclosed to any other person except as permitted under this subsection.

12 **SECTION 10.** 118.125 (2) (p) of the statutes is created to read:

13 118.125 (2) (p) A school board may disclose pupil records to appropriate parties
14 in connection with an emergency if knowledge of the information is necessary to
15 protect the health or safety of any individual.

16 **SECTION 11.** 118.125 (7) of the statutes is created to read:

17 118.125 (7) DISCLOSURE OF LAW ENFORCEMENT UNIT RECORDS. A school board shall
18 treat law enforcement unit records of juveniles in the same manner as a law
19 enforcement agency is required to treat law enforcement officers' records of juveniles
20 under s. 938.396 (1) to (1x) and (5).

21 **SECTION 12.** 938.396 (1m) (ar) of the statutes is amended to read:

22 938.396 (1m) (ar) A law enforcement agency, on its own initiative or on the
23 request of the school district administrator of a public school district, the
24 administrator of a private school, or the designee of the school district administrator
25 or the private school administrator, may, subject to official agency policy, provide to

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1 the school district administrator, private school administrator, or designee any
2 information in its records relating to an act for which a juvenile enrolled in the school
3 district or private school was taken into custody under s. 938.19 based on a law
4 enforcement officer's belief that the juvenile was committing or had committed an
5 ~~act that is a violation specified in s. 938.34 (4h) (a)~~ a violation of any state or federal
6 criminal law. The information shall be used by the school district or private school
7 as provided in s. 118.127 (2).

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

9 938.396 (1p) A law enforcement agency may enter into an interagency
10 agreement with a school board, a private school, a social welfare agency, or another
11 law enforcement agency providing for the routine disclosure of information under
12 subs. (1) and (1m) to the school board, private school, social welfare agency, or other
13 law enforcement agency.

14 **SECTION 14.** 938.78 (2) (b) 1m. of the statutes is created to read:

15 938.78 (2) (b) 1m. An agency may enter into an interagency agreement with
16 a school board, a private school, a law enforcement agency, or another social welfare
17 agency providing for the routine disclosure of information under subd. 1. to the school
18 board, private school, law enforcement agency, or other social welfare agency.

19 **SECTION 15. Initial applicability.**

20 (1) NOTIFICATION TO SCHOOL WHEN PUPIL IS TAKEN INTO CUSTODY FOR CRIMINAL
21 VIOLATION. The treatment of section 938.396 (1m) (ar) of the statutes first applies to
22 the taking into custody of a juvenile on the effective date of this subsection.

23 (END)