

2005 DRAFTING REQUEST

Assembly Amendment (AA-AB648)

Received: **09/15/2005**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Sheryl Albers (608) 266-8531**

By/Representing: **Don Dyke**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - law enforcement**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Albers@legis.state.wi.us**

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us
cathlene.hanaman@legis.state.wi.us
don.dyke@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Interviewee's access to recorded statement

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

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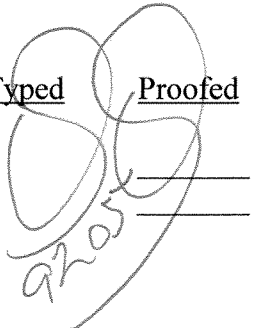
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State of Wisconsin
2005 - 2006 LEGISLATURE

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ASSEMBLY AMENDMENT ,
TO 2005 ASSEMBLY BILL 648

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bill history

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 14, line 13: after that line insert:

3 “(4) (a) If, during the investigation of an act that would be a crime if committed

4 by an adult, a law enforcement agency made an audio or audio and visual recording

5 of a custodial interrogation of a juvenile and neither criminal proceedings nor

6 proceedings under this chapter have been commenced with respect to that juvenile

7 in connection with that investigation, the law enforcement agency that made the

8 recording shall, upon request, provide the juvenile, if 14 years of age or over, the

9 juvenile’s parent, guardian, or legal custodian, or an attorney representing any of

10 them a reasonable opportunity to review an unadulterated copy of the recording

11 within a reasonable time after the request. If the request is made by the juvenile or

12 his or her parent, guardian, or legal custodian and the requester is not represented

13 by an attorney, the law enforcement agency shall make the copy of the recording

1 available to the requester at the agency's offices or at the office of the district
2 attorney. If the request is made by the juvenile or his or her parent, guardian, or legal
3 custodian and the requester is represented by an attorney, or if the request is made
4 by an attorney representing any of those individuals, the law enforcement agency
5 shall provide a copy of the recording to the attorney. The attorney may not copy the
6 recording or make the recording available to the public without the agency's written
7 consent.

8 (b) Paragraph (a) does not apply to a recording of an interrogation if an attorney
9 representing the juvenile being interrogated was present during the entire
10 interrogation.”

11 **2.** Page 15, line 20: after that line insert:

12 “**SECTION 28m.** 938.396 (1) of the statutes is amended to read:

13 938.396 (1) Law enforcement officers' records of juveniles shall be kept
14 separate from records of adults. Law enforcement officers' records of juveniles shall
15 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),
16 (1m), (1r), (1t), (1x) or (5) or s. 938.195 (4) (a) or 938.293 or by order of the court. This
17 subsection does not apply to representatives of the news media who wish to obtain
18 information for the purpose of reporting news without revealing the identity of the
19 juvenile involved, to the confidential exchange of information between the police and
20 officials of the school attended by the juvenile or other law enforcement or social
21 welfare agencies or to juveniles 10 years of age or older who are subject to the
22 jurisdiction of the court of criminal jurisdiction. A public school official who obtains
23 information under this subsection shall keep the information confidential as
24 required under s. 118.125 and a private school official who obtains information under

1 this subsection shall keep the information confidential in the same manner as is
2 required of a public school official under s. 118.125. A law enforcement agency that
3 obtains information under this subsection shall keep the information confidential as
4 required under this subsection and s. 48.396 (1). A social welfare agency that obtains
5 information under this subsection shall keep the information confidential as
6 required under ss. 48.78 and 938.78.”

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; 2003 a. 82, 292.

7 **3.** Page 17, line 15: after that line insert:

8 “(4) (a) If, during the investigation of a crime, a law enforcement agency made
9 an audio or audio and visual recording of a custodial interrogation of a person who
10 is 17 years of age or older and criminal charges have not been filed against that
11 person in connection with that investigation, the law enforcement agency that made
12 the recording shall, upon request, provide the person or his or her attorney a
13 reasonable opportunity to review an unadulterated copy of the recording within a
14 reasonable time after the request. If the request is made by the person who was
15 interrogated and he or she is not represented by an attorney, the law enforcement
16 agency shall make the copy of the recording available to the requester at the agency’s
17 offices or at the office of the district attorney. If the request is made by the person
18 who was interrogated and he or she is represented by an attorney, or if the request
19 is made by an attorney representing the person who was interrogated, the law
20 enforcement agency shall provide a copy of the recording to the attorney. The
21 attorney may not copy the recording or make the recording available to the public
22 without the agency’s written consent.

1 (b) Paragraph (a) does not apply to a recording of an interrogation if an attorney
2 representing the person being interrogated was present during the entire
3 interrogation.”.

4 (END) ✓