

2009 DRAFTING REQUEST

Bill

Received: 10/07/2009

Received By: gmalaise

Wanted: Soon

Identical to LRB:

For: Daniel Knodl (608) 266-3796

By/Representing: B.J. Dernbach

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Children - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Knodl@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Exchange of electronic records of juveniles between courts and Department of Children and Families

Instructions:

Draft companion to -2743/4

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 10/07/2009	csicilia 10/07/2009		_____			State
/1			jfrantze 10/07/2009	_____	cduerst 10/07/2009	cduerst 10/07/2009	

FE Sent For:

*at
intro*

<END>

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FE Sent For:

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State of Wisconsin
2009 - 2010 LEGISLATURE

IN 1017

FROM
-36321
LRB-274374
GMM:cjs:ph
Stacy

2009 BILL

Soon

(Concession - No change)

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SA ✓

1 AN ACT *to amend* 48.396 (2) (a), 48.47 (7g), 48.78 (2) (a), 938.396 (2) and 938.78
2 (2) (a); and *to create* 48.396 (3) of the statutes; **relating to:** the exchange of
3 electronic records contained in the Consolidated Court Automation Program
4 and in the Statewide Automated Child Welfare Information System between
5 the director of state courts and the Department of Children and Families and
6 providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the director of state courts has established a consolidated electronic system, know as the Consolidated Court Automation Program (CCAP), that contains information about cases filed in the circuit courts in this state, including cases filed in the courts assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile courts). Records of the juvenile court, however, are confidential and may not be opened to inspection, nor may their contents be disclosed, except under certain statutory exceptions or by an order of the juvenile court.

Also, under current law, the Department of Children and Families (DCF) has established a Statewide Automated Child Welfare Information System (SACWIS) that contains information about child welfare cases entered into that system by DCF, county departments of human services or social services (county departments), and licensed child welfare agencies. Current law permits DCF, a county department, or

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any other agency that has entered into an information sharing and access agreement with DCF or a county department and that has been approved for access to SACWIS by DCF to have access to information maintained in SACWIS, if necessary for the performance of its duties under state or federal law.

This bill permits the director of state courts and DCF to enter into an agreement to allow for the transfer of electronic records that are contained in the CCAP system to DCF and for the transfer of electronic records that are contained in SACWIS to the director of state courts. The agreement must specify what types of information may be transferred under the agreement. In addition, the agreement must permit: 1) DCF to allow access to any information transferred to DCF under the agreement only for the purpose of providing child welfare or juvenile justice intake or dispositional services; and 2) the director of state courts to allow access to any information transferred to the director of state courts only for the purposes of a proceeding under the Children's Code or the Juvenile Justice Code. Finally, the bill requires DCF, the director of state courts, and any individual who is allowed access to any information transferred under the agreement to keep the information confidential and to use and further disclose the information only for the purposes permitted under the agreement and provides for a forfeiture of not more than \$5,000 for any person who intentionally discloses information in violation of the bill.

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

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

1 **SECTION 1.** 48.396 (2) (a) of the statutes is amended to read:

2 48.396 (2) (a) Records of the court assigned to exercise jurisdiction under this
3 chapter and ch. 938 and of courts exercising jurisdiction under s. 48.16 shall be
4 entered in books or deposited in files kept for that purpose only. They shall not be
5 open to inspection or their contents disclosed except by order of the court assigned
6 to exercise jurisdiction under this chapter and ch. 938 or as permitted under this
7 section subsection. sub. (3) (b) and (c) 1. or (6). or s. 48.375 (7) (e).

8 **SECTION 2.** 48.396 (3) of the statutes is created to read:

9 48.396 (3) (a) In this subsection, “consolidated court automation program
10 system” means the statewide electronic circuit court case management system
11 established under s. 758.19 (4) and maintained by the director of state courts.

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1 (b) The department and the director of state courts may enter into an
2 agreement to allow for the transfer of electronic records that are contained in the
3 consolidated court automation program system to the department and for the
4 transfer of electronic records that are contained in the statewide automated child
5 welfare information system maintained by the department under s. 48.47 (7g) to the
6 director of state courts. The agreement shall specify what types of information may
7 be transferred under the agreement.

8 (c) 1. The agreement under par. (b) shall permit the department to allow access
9 to any information transferred to the department under the agreement only for the
10 purpose of providing services under s. 48.06, 48.067, 48.069, 938.06, 938.067, or
11 938.069.

12 2. The agreement under par. (b) shall permit the director of state courts to allow
13 access to any information transferred to the director of state courts only for the
14 purposes of a proceeding under this chapter or ch. 938.

15 3. The department, the director of state courts, and any individual who is
16 allowed access to any information transferred under par. (b) shall keep the
17 information confidential and may use and further disclose the information only for
18 the purposes described in subds. 1. and 2.

19 (d) Any person who intentionally discloses information in violation of par. (c)
20 may be required to forfeit not more than \$5,000.

21 **SECTION 3.** 48.47 (7g) of the statutes is amended to read:

22 **48.47 (7g) STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEM.** Establish
23 a statewide automated child welfare information system. Notwithstanding ss.
24 46.2895 (9), 48.396 (1) and (2) (a), 48.78 (2) (a), 48.981 (7), 49.45 (4), 49.83, 51.30,
25 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 252.15, 253.07 (3) (c), 938.396 (1) (a) and

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1 (2), and 938.78 (2) (a), the department may enter the content of any record kept or
2 information received by the department into the statewide automated child welfare
3 information system, and a county department under s. 46.215, 46.22, or 46.23, the
4 department, or any other organization that has entered into an information sharing
5 and access agreement with the department or any of those county departments and
6 that has been approved for access to the statewide automated child welfare
7 information system by the department may have access to information that is
8 maintained in that system, if necessary to enable the county department,
9 department, or organization to perform its duties under this chapter, ch. 46, 51, 55,
10 or 938, or 42 USC 670 to 679b to or to coordinate the delivery of services under this
11 chapter, ch. 46, 51, 55, or 938, or 42 USC 670 to 679b. The department may also
12 transfer information that is maintained in the system to the director of state courts
13 under s. 48.396 (3) (b), who may allow access to that information as provided in s.
14 48.396 (3) (c) 2.

15 **SECTION 4.** 48.78 (2) (a) of the statutes is amended to read:

16 48.78 (2) (a) No agency may make available for inspection or disclose the
17 contents of any record kept or information received about an individual in its care
18 or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d) or (5m) (d),
19 48.396 (3) (b) and (c) 1. and 2., 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.93,
20 48.981 (7), 938.51, or 938.78 or by order of the court.

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

22 938.396 (2) COURT RECORDS; CONFIDENTIALITY. Records of the court assigned to
23 exercise jurisdiction under this chapter and ch. 48 and of municipal courts exercising
24 jurisdiction under s. 938.17 (2) shall be entered in books or deposited in files kept for
25 that purpose only. Those records shall not be open to inspection or their contents

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1 disclosed except by order of the court assigned to exercise jurisdiction under this
2 chapter and ch. 48 or as permitted under sub. (2g) or (10) or s. 48.396 (3) (b) and (c)
3 1.

4 **SECTION 6.** 938.78 (2) (a) of the statutes is amended to read:

5 938.78 (2) (a) No agency may make available for inspection or disclose the
6 contents of any record kept or information received about an individual who is or was
7 in its care or legal custody, except as provided under sub. (3) or s. 48.396 (3) (b) and
8 (c) 1. and 2., 938.371, 938.38 (5) (b) or (d) or (5m) (d), 938.51, or 938.57 (2m) or by order
9 of the court.

10

(END)

Duerst, Christina

From: Dernbach, BJ

Sent: Wednesday, October 07, 2009 3:12 PM

To: LRB.Legal

Subject: Draft Review: LRB 09-3632/1 Topic: Exchange of electronic records of juveniles between courts and Department of Children and Families

Please Jacket LRB 09-3632/1 for the ASSEMBLY.

10/7/2009