

2009 DRAFTING REQUEST

Bill

Received: 04/21/2009

Received By: gmalaise

Wanted: Soon

Identical to LRB:

For: Jim Sullivan (608) 266-2512

By/Representing: Nicole Hudzinski

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: Sen.Sullivan@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Disclosure of juvenile circuit court automation program records

Instructions:

See attached--permit disclosure of juvenile records maintained on CCAP

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 05/07/2009	csicilia 05/08/2009		_____			State
/1			jfrantze 05/08/2009	_____	mbarman 05/08/2009		State
/2	gmalaise 07/02/2009	csicilia 07/08/2009	jfrantze 07/09/2009	_____	mbarman 07/09/2009		State
/3	gmalaise	csicilia	phenry	_____	cduerst		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	07/30/2009	08/04/2009	08/04/2009	_____	08/04/2009		
/4	gmalaise 09/17/2009	csicilia 09/22/2009	phenry 09/22/2009	_____	lparisi 09/22/2009	cduerst 10/27/2009	

FE Sent For:

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intro*

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PH 9/22

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1/4 yrs 9/22
09

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1/3 cjs 8/3/09
 [Handwritten signatures and initials: jh, ph, etc.]

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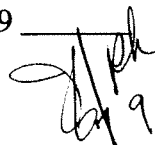
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FE Sent For:

1/2 cjs
7/8
07


7/8


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1/?	gmalaise	1/13 5/8 09	5/8	5/8			

FE Sent For:

<END>

Malaise, Gordon

From: Hudzinski, Nicole
Sent: Thursday, April 09, 2009 2:59 PM
To: Malaise, Gordon
Subject: juvenile court records
Attachments: CCAP Drafting Instructions Draft 4-6-09.doc

Gordon, last session you drafted AB 676 for Senator Sullivan and Representative Jeskewitz. While the bill passed both houses, it was vetoed by the Governor.

We would like to re-draft similar legislation this year. Please see the attached drafting instructions and let me know if you have questions.

Thanks,

Nicole Hudzinski

Office of Senator Sullivan

DEPARTMENT OF CHILDREN AND FAMILIES
Division of Safety and Permanence

Date: April 8, 2009

Re: Release of CCAP Information

Drafting Instructions

A. We would like to request the drafting of a bill that will allow the Director of State Courts Office (DSCO) to release information from court records maintained electronically in the Consolidated Court Automation Program (CCAP) to the Department. The specific information to be released will be agreed upon between the Department and DSCO and will be released only to authorized individuals via an electronic system receiving the information from CCAP. The data released into this electronic system must be statewide information and not limited to the county of the requesting agency. [That is, for example, if a person employed by Dane County to perform duties under s. 48.067 reviewed the information, that person should see court records and CCAP information from all counties in Wisconsin, not just Dane County.] (Note also that the keeper of the information in CCAP is technically the county clerk of courts. Therefore the language may need to refer to release of information from the county courts, not from DSCO.)

B. The persons who would be allowed to review the released information under this bill would be those individuals who perform services for the court, as identified in ss. 48.06, 48.067, 48.069, 938.06, 938.067, and 938.069, Stats. (which includes both juvenile justice and child welfare intake and dispositional workers). This provision would not affect access to records under s. 48.396, Stats., during normal working hours.

C. The legislation should include language to limit use or disclosure of the information, and a penalty for doing so. The language used in 2007 AB 676, Section 4, Page 5, lines 16-22 with changes to reflect who would be able to use the information as indicated in the above paragraph, would be adequate for this purpose.

D. Technical development of a two-way interface between CCAP and eWiSACWIS will be developed at the same time as the release of data from CCAP for purposes of this legislation. Therefore, if necessary, we will also propose legislation to allow the release of information from eWiSACWIS to CCAP for purposes of facilitating court proceedings.



JIM DOYLE
GOVERNOR
STATE OF WISCONSIN

April 7, 2008

TO THE HONORABLE MEMBERS OF THE ASSEMBLY:

I am vetoing Assembly Bill 676 in its entirety. The bill would allow or expand access to juvenile court record information for courts, prosecutors, law enforcement agencies, the Department of Health and Family Services, county child welfare departments and licensed child welfare agencies without those individuals or entities first having to obtain a court order.

The initial goal of AB 676 is a laudable one, and I support legislative reform in this very important area. I agree, for example, with the bill's proponents that certain juvenile court record files should be more readily accessible for child protective service social workers who would use juvenile court record information to help ensure that children are being placed in households that are as safe as possible. However, I am vetoing AB 676 because it is too broad and would undo significant protections concerning the confidentiality of sensitive information regarding children.

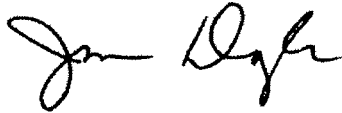
Specifically, this legislation makes juvenile records available to far too many people. AB 676 would allow anyone working for a law enforcement agency to obtain juvenile court records as long as the records were obtained for the purpose of investigating alleged criminal activity. The bill contains no restrictions on who in law enforcement would be authorized to access the records, or what type of thresholds must be met before otherwise confidential juvenile files could be unsealed. AB 676 similarly would allow any employee of the Department of Health and Family Services, a county social service agency, or a licensed child welfare agency, unrestricted access to sensitive information regarding children.

Furthermore, the bill does not define or limit what information in a juvenile court record should be made accessible to the government and child welfare agencies specified in the bill. Juvenile court records may often contain alcohol and drug assessments, psychological evaluations or other treatment records. This very sensitive information should be closely guarded. Allowing access to these types of juvenile records goes beyond the information needed to meet the initial intent of the legislation.

I have long supported the important work done by child protective service social workers who want to ensure that every placement option for a child is as safe as possible. However, AB 676 broadens access to juvenile records far beyond what is required to accomplish that goal and expands access to far too many individuals and entities without adequate protections. I strongly encourage the Legislature to introduce revised

legislation as soon as possible that addresses the access needs of child protective service social workers but also properly balances the need to protect from disclosure of sensitive information concerning children. I look forward to working with the Legislature to accomplish that end.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jim Doyle". The signature is fluid and cursive, with the first name "Jim" and last name "Doyle" clearly distinguishable.

JIM DOYLE
Governor



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2743/1
GMM.....
①
gjs

IN 5/7

Fri 5/8

JA -
K-10/2

Gen Cat

1 AN ACT...; relating to: access by individuals providing intake or dispositional
2 services to a juvenile court to juvenile court records contained in the
3 consolidated court automation program.

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 or their contents disclosed, except under certain statutory exceptions or by an order of the juvenile court.

be

nor
may

This bill permits the director of state courts and the Department of Children and Families (DCF) to enter into an agreement to permit individuals providing child welfare or juvenile justice intake or dispositional services to a juvenile court to have access to the records of any juvenile court in this state that are contained in the CCAP system. The agreement must specify the types of information from those records to which those individuals may have access and that the information must be transmitted from the CCAP system to the individual by way of the Statewide Automated Child Welfare Information System maintained by DCF. The bill requires any individual who obtains information as permitted under the bill to keep the information confidential and permits the individual to use and further disclose the information only for the purpose of providing child welfare or juvenile justice intake or dispositional services to a juvenile court.

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) or (6), or s. 48.375 (7) (e).

History: 1971 c. 278; 1977 c. 354 s. 47; 1977 c. 449; Stats. 1977 c. 48.396; 1979 c. 300; 1979 c. 333 s. 5; 1983 a. 74 s. 32; 1983 a. 487, 538; 1985 a. 311, 332; 1987 a. 27, 180, 403; 1989 a. 31, 107, 145; 1991 a. 39, 263; 1993 a. 98, 195, 228, 334, 479, 491; 1995 a. 27 ss. 2479 to 2480m, 9126 (19); 1995 a. 77, 173, 275, 352, 440, 448; 1997 a. 35, 80, 191, 205, 252, 292; 1999 a. 32, 89; 2003 a. 82; 2005 a. 344, 434; 2005 a. 443 s. 265; 2007 a. 20 s. 9121 (6) (a); 2007 a. 97.

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 means the statewide electronic circuit court case management system established
11 under s. 758.19 (4) and maintained by the director of state courts.

system

12 (b) The department and the director of state courts may enter into an
13 agreement to permit individuals providing services to a court under s. 48.06, 48.067,
14 48.069, 938.06, 938.067, or 938.069 to have access to the records of any court in this
15 state that are contained in the consolidated court automation program system. The
16 agreement shall specify the types of information contained in that system to which
17 those individuals may have access and that the information shall be transmitted
18 from that system to the individual by way of the statewide automated child welfare
19 information system maintained by the department under s. 48.47 (7g).

1 (c) Any individual who obtains information under par. (b) shall keep the
2 information confidential as required under ss. 48.78 and 938.78 and may use and
3 further disclose the information only for the purpose of providing services to a court
4 under s. 48.06, 48.067, 48.069, 938.06, 938.067, or 938.069 or as permitted under s.
5 48.78 or 938.78.

6 **SECTION 3.** 48.78 (2) (a) of the statutes is amended to read:

7 48.78 (2) (a) No agency may make available for inspection or disclose the
8 contents of any record kept or information received about an individual in its care
9 or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d) or (5m) (d),
10 48.396 (3) (b), 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.93, 48.981 (7), 938.51,
11 or 938.78 or by order of the court.

History: 1979 c. 34; 1981 c. 359; 1983 a. 471 s. 7; 1985 a. 296, 3202 (23); 1985 a. 176, 292, 332; 1987 a. 332; 1989 a. 31, 107, 336; 1991 a. 17, 39; 1993 a. 16, 92, 95, 218, 227, 377, 385, 395, 479, 491; 1995 a. 27 ss. 2610 to 2614p, 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283, 292; 2001 a. 38, 69, 104, 109; 2005 a. 25, 293, 344, 406, 434; 2007 a. 20 ss. 1364, 9121 (6) (a).

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

13 938.396 (2) COURT RECORDS; CONFIDENTIALITY. Records of the court assigned to
14 exercise jurisdiction under this chapter and ch. 48 and of municipal courts exercising
15 jurisdiction under s. 938.17 (2) shall be entered in books or deposited in files kept for
16 that purpose only. Those records shall not be open to inspection or their contents
17 disclosed except by order of the court assigned to exercise jurisdiction under this
18 chapter and ch. 48 or as permitted under sub. (2g) or (10) or s. 48.396 (3).

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; 2005 a. 344, 434; 2005 a. 443 s. 265; 2007 a. 20 ss. 3826 to 3827, 9121 (6) (a); 2007 s. 97.

19 **SECTION 5.** 938.78 (2) (a) of the statutes is amended to read:

20 938.78 (2) (a) No agency may make available for inspection or disclose the
21 contents of any record kept or information received about an individual who is or was

1 in its care or legal custody, except as provided under sub. (3) or s. 48.396 (3) (b),
2 938.371, 938.38 (5) (b) or (d) or (5m) (d), 938.51, or 938.57 (2m) or by order of the court.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283; 1999 a. 9; 2001 a. 38, 59, 109; 2003 a. 292, 321; 2005 a. 25, 277, 293, 344, 406, 434; 2007
a. 20 ss. 3834, 9121 (6) (a); 2007 a. 97.

3 (END)

Malaise, Gordon

From: Bachir, Julie S - DCF [Julie.Bachir@wisconsin.gov]
Sent: Friday, May 22, 2009 1:46 PM
To: Malaise, Gordon
Cc: Tuohy, John O - DCF; Durkin, Therese A - DCF; Collins, Kimmie L - DCF
Subject: Bill Draft LRB 2743/1: Meeting on Tuesday
Attachments: billdraft1comments2.doc

Gordon,

Attached are comments on the bill draft for your review.

The meeting is set for next week Tuesday, May 26 at 3pm here at the GEF1 building.

Enter GEF1 from the front entrance at 201 E. Washington Ave. There is a security desk there where you should check in; I will tell them to expect you. They will call me when you arrive and direct you to the elevators.

I will meet you at the elevators on the **2nd floor**.

Feel free to call if you have any questions.

Thank you for meeting with us,

Julie S. Bachir
Policy Advisor
Division of Safety and Permanence
Department of Children and Families
201 E. Washington Ave., E200
PO Box 8916
Madison, WI 53708-8916
Phone: 608-267-2073

DEPARTMENT OF CHILDREN AND FAMILIES
Division of Safety and Permanence

Date: May 22, 2009
To: Gordon Malaise, Legislative Reference Bureau
From: Julie Bachir, Division of Safety and Permanence
Re: Juvenile CCAP Information Legislation

Below are comments regarding bill draft LRB 2743/1:

- The analysis and statutory language refer to the permission for *individuals* to have *access* to records of the juvenile court. Although the language provides for the two agencies to enter into an agreement, the language also implies that individual users will be given direct access to the CCAP system. This implication should be removed (see below).
- There should be express language authorizing the transfer of electronic information from eWiSACWIS to CCAP for court use.
- The language regarding the agreement between DCF and DSCO should not reference the specific electronic systems (eWiSACWIS and CCAP) as far as where the information will be stored or how it will be transmitted. The exact technical method of how information will be transmitted and made available to child welfare workers has still not been established, so the statutory language should refer to allowing access to automated information rather than access to a specific system.
 - As an example, on page 2, starting with line 12, the language could reflect the following:
The department and the Director of State Courts Office may enter into an agreement to allow for the transfer of automated information records from the consolidated court automation program system, and from the statewide automated child welfare information system maintained by the department. The agreement shall specify the types of information which will be transferred electronically. (Delete lines 16-19 on Page 2.)
 - The language specifying which individuals will be allowed to obtain the information once it is transferred should not be part of the agreement between DCF and DSCO. This language should be moved to a separate section such as: Only individuals providing services to a court under s. 48.06, 48.067, 48.069, 938.06, 938.067, or 938.069 may have access to the electronic records transferred to the department under this section. [We should also discuss whether the department and county agencies should be referenced as they were in last year's bill.]
- The provision on limited disclosure is confusing (starting on page 3, line 1). The provision limits disclosure as provided in 48.78 and 938.78, but also allows disclosure for providing the referenced services to the court under chs. 48 and 938. It is unclear whether the dissemination of the information obtained under the bill would be properly limited with this language. This might be clarified through discussion and not necessarily require changes to the draft.
- The bill draft does not provide a penalty for further disclosure.
- On page 3, line 22, it appears the reference to 48.396(3)(b) should actually be to 48.396(3)(c).
- On page 2, line 12, should "director of state courts" be changed to "Director of State Courts Office" to indicate the agency rather than the individual?

2-way
exchange
CCAP to DCF
SACWIS to DSC

Dep'to director
may provide access
only for intake
& dispositional
purposes

delete x-ref's
to 48.78 &
938.78

No penalty

No - doesn't matter



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2743/1

GMM:cjs:ff

Shays

IN 712

2009 BILL

S 200

SA
12/28

Regen Cat

Insert 1-4

1 AN ACT to amend 48.396 (2) (a), 48.78 (2) (a), 938.396 (2) and 938.78 (2) (a); and
 2 to create 48.396 (3) of the statutes; relating to: access by individuals
 3 providing intake or dispositional services to a juvenile court to juvenile court
 4 records contained in the consolidated court automation program.

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.

~~This bill permits the director of state courts and the Department of Children and Families (DCF) to enter into an agreement to permit individuals providing child welfare or juvenile justice intake or dispositional services to a juvenile court to have access to the records of any juvenile court in this state that are contained in the CCAP system. The agreement must specify the types of information from those records to which those individuals may have access and that the information must be transmitted from the CCAP system to the individual by way of the Statewide Automated Child Welfare Information System maintained by DCF. The bill requires any individual who obtains information as permitted under the bill to keep the~~

BILL

Insert A

~~information confidential and permits the individual to use and further disclose the information only for the purpose of providing child welfare or juvenile justice intake or dispositional services to a juvenile court.~~

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:

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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) 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.

12 (b) The department and the director of state courts may enter into an
13 agreement to ~~permit individuals providing services to a court under s. 48.06, 48.067,~~

14 ~~48.069, 938.06, 938.067, or 938.069 to have access to the records of any court in this~~
15 ~~state that are contained in the consolidated court automation program system. The~~
16 ~~agreement shall specify the types of information contained in that system to which~~
17 ~~those individuals may have access and that the information shall be transmitted~~
18 ~~from that system to the individual by way of the statewide automated child welfare~~
19 ~~information system maintained by the department under s. 48.47 (7g).~~

Agency with types of information transferred by the department under the agreement

Insert 2-19

allow for the transfer of electronic records that are contained in the consolidated court automation program system to the department and for the transfer of electronic records that are contained in the statewide automated child welfare information system maintained by the department under s. 48.47 (7g) to the director of state courts. The agreement shall

BILL

The department and the director of state courts may allow access to any information transferred under par. (b)

SECTION 2

(c) Any individual who obtains information under par. (b) shall keep the information confidential as required under ss. 48.78 and 938.78 and may use and further disclose the information only for the purpose of providing services to a court under s. 48.06, 48.067, 48.069, 938.06, 938.067, or 938.069 ~~or 48.371, 48.38 (5) (b) or (d) or (5m) (d), 48.396 (3) (b), 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.93, 48.981 (7), 938.51, or 938.78 or by order of the court.~~

Any individual who is allowed access to that information shall keep the information confidential and may use and further disclose the information only for the purpose of providing those services.

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

SECTION 4. 938.396 (2) of the statutes is amended to read:
938.396 (2) COURT RECORDS; CONFIDENTIALITY. Records of the court assigned to exercise jurisdiction under this chapter and ch. 48 and of municipal courts exercising jurisdiction under s. 938.17 (2) shall be entered in books or deposited in files kept for that purpose only. Those records shall not be open to inspection or their contents disclosed except by order of the court assigned to exercise jurisdiction under this chapter and ch. 48 or as permitted under sub. (2g) or (10) or s. 48.396 (3).

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

(END)

Insert 3-5

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2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2743/2ins
GMM.....

(INSERT 1-4)

WA 9

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the exchange of electronic records contained in the consolidated court
automation program and in the statewide automated child welfare information
system between the director of state courts and the department of children and
families for the purpose of providing intake or dispositional services to a juvenile
court

(END OF INSERT)

(no P)

(INSERT 2-19)

6
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11

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

(END OF INSERT)

~~BA...~~

(INSERT A)

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 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. The bill permits DCF and the director of state courts to allow access to any information transferred under the agreement only for the purpose of providing child welfare or juvenile justice intake or dispositional services to a juvenile court and requires an individual who is allowed access to that information to keep the information confidential and to use and further disclose the information only for the purpose of providing those services.

(END OF INSERT)

Insert 3-5



Section #. 48.47 (7g) of the statutes is amended to read:

48.47 (7g) STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEM. Establish a statewide automated child welfare information system. Notwithstanding ss. 46.2895 (9), 48.396 (1) and (2) (a), 48.78 (2) (a), 48.981 (7), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 252.15, 253.07 (3) (c), 938.396 (1) (a) and (2), and 938.78 (2) (a), the department may enter the content of any record kept or information received by the department into the statewide automated child welfare information system, and a county department under s. 46.215, 46.22, or 46.23, the department, or any other organization that has entered into an information sharing and access agreement with the department or any of those county departments and that has been approved for access to the statewide automated child welfare information system by the department may have access to information that is maintained in that system, if necessary to enable the county department, department, or organization to perform its duties under this chapter, ch. 46, 51, 55, or 938, or 42 USC 670 to 679b ^{to} or to coordinate the delivery of services under this chapter, ch. 46, 51, 55, or 938, or 42 USC 670 to 679b. ^{strike "to"}

NOTE: Sub. (7g) is shown as affected by 2 acts of the 2007 Wisconsin legislature and as merged by the legislative reference bureau under s. 13.92 (2) (i). The word in brackets is unnecessary. Corrective legislation is pending.

History: 2007 a. 20 ss. 804, 805, 807 to 809, 823, 1268 to 1271; 2007 a. 96; s. 13.92 (2) (i).

The department may also transfer information that is maintained in the system to the director of state courts under s. 48.396 (3)(b) who may allow access to that information as provided in s. 48.396 (3)(c).

(end of int)

Malaise, Gordon

From: Bachir, Julie S - DCF [Julie.Bachir@wisconsin.gov]
Sent: Tuesday, July 28, 2009 2:10 PM
To: Malaise, Gordon
Cc: Durkin, Therese A - DCF; Mitchell, Mark S - DCF
Subject: Juvenile CCAP, LRB 2743/2: Two comments

Hi Gordon,

Below are some comments we had on the draft bill for Juvenile CCAP, LRB 2743/2. I don't know if you prefer phone or email, so feel free to give me a call or tell me a good time to call if you want to discuss this in person.

Comments on CCAP DraftLRB-2743/2:

- Section 2, 48.396(3)(c), p.3, lines 6-11:

As written, under this section it appears that both DCF and DSCO can have the information only to provide services to the court under the referenced sections. However, DCF may use the information to provide services under those sections that are not directly services to the court, and DSCO will use the information for efficiency purposes. Therefore we suggest something to the effect of:

The agreement under par. (b) may allow access by the department to any information transferred under par. (b) only for the purpose of providing services under s. 48.06, 48.067, 48.069, 938.06, 938.067, or 938.069. and by the Director of State Courts Office only for the purpose of increasing the efficient operation of the court for cases/proceedings under this chapter and chapter 938. Any individual who is allowed access to that information shall keep the information confidential and may use and further disclose the information only for the purposes described in this paragraph.

- We notice that throughout the legislation, various confidentiality and disclosure clauses reference 48.396(3)(c) [see 48.78, 48.47(7g) and 938.78], but the 938.396(2).confidentiality and disclosure provision references 48.396(3). Also see s. 48.396(2)(a) confidentiality and disclosure provisions. Should these references be more consistent?

Thank you,

Julie S. Bachir
Policy Advisor
Division of Safety and Permanence
Department of Children and Families
Phone: 608-267-2073



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2743/2

GMM:cjs:jf

Stays

3
RWR

IN 7/30

2009 BILL

Soon

SA ✓

Reg Cat

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 ~~for the~~
6 ~~purpose of providing intake or dispositional services to a juvenile court.~~

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

BILL

Insert A

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.

~~The bill permits DCF and the director of state courts to allow access to any information transferred under the agreement only for the purpose of providing child welfare or juvenile justice intake or dispositional services to a juvenile court and requires an individual who is allowed access to that information to keep the information confidential and to use and further disclose the information only for the purpose of providing those services.~~

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

transferred under the agreement

(any)

purposes permitted under the agreement

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) or (6), or s. 48.375 (7) (e). (b) and (c)!

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.

12 (b) The department and the director of state courts may enter into an
13 agreement to allow for the transfer of electronic records that are contained in the

BILL

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

Insert 3-8

6 ~~(e) The department and the director of state courts may allow access to any~~
7 ~~information transferred under par. (b) only for the purpose of providing services to~~
8 ~~a court under s. 48.06, 48.067, 48.069, 938.06, 938.067, or 938.069.~~ Any individual

9 who is allowed access to ^{any} ~~that~~ ^{transferred under par. (b)} information shall keep the information confidential and
10 may use and further disclose the information only for the purpose of providing those
11 ~~services.~~ ^{Purposes described in subds. 48.47(7g) 1. and 2.}

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

12
13 48.47 (7g) STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEM. Establish
14 a statewide automated child welfare information system. Notwithstanding ss.
15 46.2895 (9), 48.396 (1) and (2) (a), 48.78 (2) (a), 48.981 (7), 49.45 (4), 49.83, 51.30,
16 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 252.15, 253.07 (3) (c), 938.396 (1) (a) and
17 (2), and 938.78 (2) (a), the department may enter the content of any record kept or
18 information received by the department into the statewide automated child welfare
19 information system, and a county department under s. 46.215, 46.22, or 46.23, the
20 department, or any other organization that has entered into an information sharing
21 and access agreement with the department or any of those county departments and
22 that has been approved for access to the statewide automated child welfare
23 information system by the department may have access to information that is
24 maintained in that system, if necessary to enable the county department,
25 department, or organization to perform its duties under this chapter, ch. 46, 51, 55,

BILL

1 or 938, or 42 USC 670 to 679b to or to coordinate the delivery of services under this
 2 chapter, ch. 46, 51, 55, or 938, or 42 USC 670 to 679b. The department may also
 3 transfer information that is maintained in the system to the director of state courts
 4 under s. 48.396 (3) (b), who may allow access to that information as provided in s.

5 48.396 (3) (c) ~~(2)~~ (2) (b) and (c) 2 1. and

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

7 48.78 (2) (a) No agency may make available for inspection or disclose the
 8 contents of any record kept or information received about an individual in its care
 9 or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d) or (5m) (d),
 10 48.396 (3) (c), 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.93, 48.981 (7), 938.51,
 11 or 938.78 or by order of the court.

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

13 938.396 (2) COURT RECORDS; CONFIDENTIALITY. Records of the court assigned to
 14 exercise jurisdiction under this chapter and ch. 48 and of municipal courts exercising
 15 jurisdiction under s. 938.17 (2) shall be entered in books or deposited in files kept for
 16 that purpose only. Those records shall not be open to inspection or their contents
 17 disclosed except by order of the court assigned to exercise jurisdiction under this
 18 chapter and ch. 48 or as permitted under sub. (2g) or (10) or s. 48.396 (3)

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

20 938.78 (2) (a) No agency may make available for inspection or disclose the
 21 contents of any record kept or information received about an individual who is or was
 22 in its care or legal custody, except as provided under sub. (3) or s. 48.396 (3) (c),
 23 938.371, 938.38 (5) (b) or (d) or (5m) (d), 938.51, or 938.57 (2m) or by order of the court.

24 (END)

Inset A

1)

no 1)

In addition, the agreement must permit 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

of a proceeding under the Children's Code or the

Juvenile Justice Code. Finally, the bill

(end of inset)

1.

under par. (b)

④ (c) The agreement shall permit the department to allow access to any information transferred to the department under the agreement only for providing services under the agreement only for the purpose of providing services under 48.06, 48.067, 48.069, 938.06, 938.067, or 938.069. s. 48.06, 48.067, 48.069, 938.06, 938.067, or 938.069.

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

④ 3.

(end of insert)

Malaise, Gordon

From: Durkin, Therese A - DCF [Therese.Durkin@wisconsin.gov]
Sent: Thursday, September 17, 2009 1:02 PM
To: Malaise, Gordon
Cc: Russell, Angela R - DCF
Subject: RE: LRB09-2743/3

Yes, if you could add back the fines from 676 (p. 5, lins 16-22) that would be great! Thanks, Therese

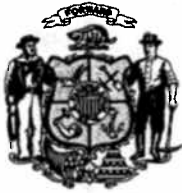
From: Malaise, Gordon [mailto:Gordon.Malaise@legis.wisconsin.gov]
Sent: Thursday, September 17, 2009 12:04 PM
To: Durkin, Therese A - DCF
Subject: LRB09-2743/3

<<09-2743/3>>

Therese:

Here is the /3. Should I go ahead and draft a /4 to reinstate the language from 2007 AB 676?

Gordon



State of Wisconsin
2009 - 2010 LEGISLATURE

IN 9/17
2009

LRB-2743/8
GMM:cjs:ph (19)
Stays
RMR

2009 BILL

SA ✓

and providing a penalty ✓

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.

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 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

BILL

DCF, the director of state courts, and any

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 ~~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.

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

and provides for a forfeiture of not more than \$5,000 for any person who intentionally discloses information in violation of the 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.

12 (b) The department and the director of state courts may enter into an
13 agreement to allow for the transfer of electronic records that are contained in the

BILL

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

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

The department, the director of state courts, and any

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

13 3. Any individual who is allowed access to any information transferred under
14 par. (b) shall keep the information confidential and may use and further disclose the
15 information only for the purposes described in subds. 1. and 2.

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

16
17 **48.47 (7g) STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEM.** Establish
18 a statewide automated child welfare information system. Notwithstanding ss.
19 46.2895 (9), 48.396 (1) and (2) (a), 48.78 (2) (a), 48.981 (7), 49.45 (4), 49.83, 51.30,
20 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 252.15, 253.07 (3) (c), 938.396 (1) (a) and
21 (2), and 938.78 (2) (a), the department may enter the content of any record kept or
22 information received by the department into the statewide automated child welfare
23 information system, and a county department under s. 46.215, 46.22, or 46.23, the
24 department, or any other organization that has entered into an information sharing
25 and access agreement with the department or any of those county departments and

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

BILL

1 that has been approved for access to the statewide automated child welfare
2 information system by the department may have access to information that is
3 maintained in that system, if necessary to enable the county department,
4 department, or organization to perform its duties under this chapter, ch. 46, 51, 55,
5 or 938, or 42 USC 670 to 679b ~~to~~ or to coordinate the delivery of services under this
6 chapter, ch. 46, 51, 55, or 938, or 42 USC 670 to 679b. The department may also
7 transfer information that is maintained in the system to the director of state courts
8 under s. 48.396 (3) (b), who may allow access to that information as provided in s.
9 48.396 (3) (c) 2.

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

11 48.78 (2) (a) No agency may make available for inspection or disclose the
12 contents of any record kept or information received about an individual in its care
13 or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d) or (5m) (d),
14 48.396 (3) (b) and (c) 1. and 2., 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.93,
15 48.981 (7), 938.51, or 938.78 or by order of the court.

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

17 938.396 (2) COURT RECORDS; CONFIDENTIALITY. Records of the court assigned to
18 exercise jurisdiction under this chapter and ch. 48 and of municipal courts exercising
19 jurisdiction under s. 938.17 (2) shall be entered in books or deposited in files kept for
20 that purpose only. Those records shall not be open to inspection or their contents
21 disclosed except by order of the court assigned to exercise jurisdiction under this
22 chapter and ch. 48 or as permitted under sub. (2g) or (10) or s. 48.396 (3) (b) and (c)
23 1.

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

Duerst, Christina

From: Gage, Andrea
Sent: Tuesday, October 27, 2009 11:26 AM
To: LRB.Legal
Subject: Bill jacket request

Could you send me a jacket for LRB 2743/4? I am in Room 15 South.

Thanks,
Andrea

Andrea Gage
Communications Director
Office of State Senator Jim Sullivan
608-266-2512 work
414-213-3717 cell
andrea.gage@legis.wi.gov
SenatorSullivan.com