

2011 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB173)

Received: 02/06/2012

Received By: gmalaise

Wanted: 02/07/2012

Companion to LRB:

For: Alberta Darling (608) 266-5830

By/Representing: Andrew Evenson

May Contact:

Drafter: gmalaise

Subject: Children - juvenile justice
Children - miscellaneous

Addl. Drafters:

Extra Copies: Anne Sappenfield, LC
Christian Moran--Rep. Richar

Submit via email: YES

Requester's email: Sen.Darling@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Disclosure of electronic juvenile court records

Instructions:

See attached--redraft s0296, but fold in a2203. Also, 1) do not allow disclosure of sensitive mpersonal information to anyone; 2) require director of state courts to "make information available," e.g., on a website, rather than "transfer"; and 3) permit law enforcement to use information to investigate civil law violations, e.g., truancy.

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 02/06/2012	jdye 02/07/2012		_____			
/1			jfrantze 02/07/2012	_____	sbasford 02/07/2012	sbasford 02/07/2012	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	gmalaise 02/10/2012	jdyer 02/10/2012	phenry 02/10/2012	_____	sbasford 02/10/2012	sbasford 02/10/2012	

FE Sent For:

<END>

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/?	gmalaise 02/06/2012	jdyer 02/07/2012	<i>Miss [unclear] / ph</i>				
/1		<i>2/2/10 jld</i>	jfrantze 02/07/2012		sbasford 02/07/2012	sbasford 02/07/2012	

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1/?

gmalaise

1/2/7 jld

2/7

JP

FE Sent For:

<END>

Meeting 2/3

Christian
Anne
Andrew

Draft new sub

- hold in a 2203

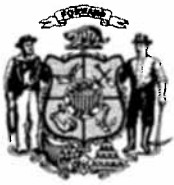
- do not permit disclosure of sensitive personal
info to anyone

- require state courts to "make available" not
transfer or to determine method of making available

e.g. secure website

- permit law enforcement to use for investigation

& civil violation, e.g. truancy



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBS00001
GMM:jld:rs

503121

IN 216
Wanted 2/7

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stays

SENATE SUBSTITUTE AMENDMENT
TO 2011 SENATE BILL 173

TODAY

~~January 19, 2012 - Offered by Senator DARLINO~~

Regenerate

X

1 AN ACT *to renumber and amend* 48.396 (3) (c) 1.; *to amend* 48.396 (1), 48.396

2 (2) (a), 48.396 (3) (b), 48.396 (3) (c) 2., 48.396 (3) (c) 3., 48.396 (3) (d), 48.47 (7g),

3 48.78 (2) (a), 48.78 (2) (h), 938.396 (1) (a), 938.396 (2), 938.396 (2g) (c), 938.396

4 (2g) (d), 938.78 (2) (a) and 938.78 (2) (h); and *to create* 48.396 (2) (e), 48.396 (3)

5 (c) 1g., 48.396 (3) (c) 1m. and 938.396 (2m) of the statutes; **relating to:** the

6 disclosure of electronic juvenile court records to other juvenile courts,

7 municipal courts, courts of criminal jurisdiction, district attorneys and other

8 defense attorneys, guardians ad litem, prosecutors and law enforcement agencies and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the director of state courts has established an automated information system, known as the Consolidated Court Automation Programs (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 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

or an attorney or guardian ad litem for a parent or child who is a party to a proceeding in a juvenile court or municipal court (attorney or GAL)

exceptions or by an order of the juvenile court. Currently, those exceptions include an exception that requires a juvenile court to disclose its records relating to a proceeding under the Children's Code (generally, a child in need of protection services or a termination of parental rights proceeding) or the Juvenile Justice Code (generally, a delinquency, civil law or ordinance violation, or a juvenile in need of protection or services proceeding) on the request of any other juvenile court, a municipal court, or a district attorney, corporation counsel, or city, village, or town attorney (prosecutor) to review juvenile court records for the purpose of any proceeding in that court. In addition, current law requires the juvenile court to disclose its records relating to a proceeding under the Juvenile Justice Code on the request of a court of criminal jurisdiction or a district attorney to review those records for the purpose of setting bail or impeaching a witness or on the request of a law enforcement agency to review those records for the purpose of investigating alleged criminal gang activity.

This substitute amendment requires the juvenile court to make information relating to proceedings under the Children's Code or the Juvenile Justice Code that is contained in the electronic records of the juvenile court to any other juvenile court, a municipal court, a court of criminal jurisdiction, or a prosecutor of a case in any of those courts. The substitute amendment also permits the juvenile court to transfer information relating to proceedings under the Juvenile Justice Code that is contained in the electronic records of the juvenile court to a law enforcement agency.

A person to whom information is transferred under the substitute amendment must keep that information confidential and may use or allow access to that information only as follows:

1. In the case of a juvenile court, municipal court, or court of criminal jurisdiction or an individual who is allowed access to that information by such a court, only for the purpose of conducting or preparing for a proceeding in that court.
2. In the case of a prosecutor or an individual who is allowed access to that information by a prosecutor, only for the purpose of performing the prosecutor's official duties relating to a proceeding in a juvenile court, municipal court, or court of criminal jurisdiction.
3. In the case of a law enforcement agency or an individual who is allowed access to that information by a law enforcement agency, only for the purpose of investigating any alleged criminal activity or any activity that may result in a court exercising jurisdiction under the Children's Code or the Juvenile Justice Code.

The substitute amendment permits the director of state courts to use CCAP to facilitate the transfer of electronic records under the substitute amendment, and provides for a forfeiture of not more than \$5,000 for any person who intentionally discloses information in violation of the substitute amendment.

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

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

determine the method by which information is made available under the substitute amendment, which method may include the use of

The substitute amendment, however, does not prohibit disclosure of any information relating to the physical or mental health of an individual, except with juvenile court, or as otherwise permitted by law.

an attorney, a GAL, attorney, or GAL, its delinquency or civil law or ordinance violation

requires available make

make available

of the prosecutor, attorney, or made available

requires

under the Children's Code or the Juvenile Justice Code

1

1 48.396 (1) Law enforcement officers' records of children shall be kept separate
2 from records of adults. Law enforcement officers' records of the adult expectant
3 mothers of unborn children shall be kept separate from records of other adults. Law
4 enforcement officers' records of children and the adult expectant mothers of unborn
5 children shall not be open to inspection or their contents disclosed except under sub.
6 (1b), (1d), (5), or (6) or s. 48.293 or 938.396 (2m) (c) 1p. or by order of the court. This
7 subsection does not apply to the representatives of newspapers or other reporters of
8 news who wish to obtain information for the purpose of reporting news without
9 revealing the identity of the child or adult expectant mother involved, to the
10 confidential exchange of information between the police and officials of the public or
11 private school attended by the child or other law enforcement or social welfare
12 agencies, or to children 10 years of age or older who are subject to the jurisdiction of
13 the court of criminal jurisdiction. A public school official who obtains information
14 under this subsection shall keep the information confidential as required under s.
15 118.125, and a private school official who obtains information under this subsection
16 shall keep the information confidential in the same manner as is required of a public
17 school official under s. 118.125. This subsection does not apply to the confidential
18 exchange of information between the police and officials of the tribal school attended
19 by the child if the police determine that enforceable protections are provided by a
20 tribal school policy or tribal law that requires tribal school officials to keep the
21 information confidential in a manner at least as stringent as is required of a public
22 school official under s. 118.125. A law enforcement agency that obtains information
23 under this subsection shall keep the information confidential as required under this
24 subsection and s. 938.396 (1) (a). A social welfare agency that obtains information

1 under this subsection shall keep the information confidential as required under ss.
2 48.78 and 938.78.

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

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

11 SECTION 3. 48.396 (2) (e) of the statutes is created to read:

12 48.396 (2) (e) Upon request of a court of criminal jurisdiction to review court
13 records for the purpose of conducting or preparing for a proceeding in that court or
14 upon request of a district attorney to review court records for the purpose of
15 performing his or her official duties in a proceeding in a court of criminal jurisdiction,
16 the court assigned to exercise jurisdiction under this chapter and ch. 938 shall open
17 for inspection by authorized representatives of the requester the records of the court
18 relating to any child who has been the subject of a proceeding under this chapter.

19 renumbered 48.396 (3)(b) 1. and SECTION 4. 48.396 (3) (b) of the statutes is amended to read: shall make

20 1. 48.396 (3) (b) The court may ~~shall~~ transfer to the department information

21 relating to proceedings under this chapter that is contained in the electronic records

22 of the court to any other court assigned to exercise jurisdiction under this chapter and

23 ch. 938, a municipal court exercising jurisdiction under s. 938.17 (2), a court of

24 criminal jurisdiction, a person representing the interests of the public under s. 48.09

25 or 938.09, a district attorney prosecuting a criminal case, or the department,

Insert 4-9 ✓

Fix component

shall make

Strike

available SCORE

score

score

Person to whom the information is transferred

1 regardless of whether ~~that other court, municipal court, or person~~ the department
2 is a party to or is otherwise involved in the proceedings in which the electronic
3 records containing that information were created, and the. The director of state
4 courts may use the circuit court automated information systems established under
5 s. 758.19 (4) ~~to facilitate the transfer of electronic records under this paragraph.~~

6 (bm) The department may transfer to the court information contained in the
7 electronic records of the department that are maintained in the statewide automated
8 child welfare information system under s. 48.47 (7g). The director of state courts may
9 use the circuit court automated information systems established under s. 758.19 (4)
10 to facilitate the transfer of those electronic records between from the department to
11 the court and the department. The director of state courts and the department shall
12 specify what types of information may be transferred from the department to the
13 court under this paragraph and ~~allow~~ ^{made available by the} court to the department under par. (b). ①

Insert
5-13

14 SECTION 5. 48.396 (3) (c) 1. of the statutes is renumbered 48.396 (3) (c) 1r. and
15 amended to read: made available ✓
16 48.396 (3) (c) 1r. The department may allow access to shall keep any
17 information transferred to the department under par. (b) confidential and may use
18 or allow access to that information only for the purpose of providing services under
19 s. 48.06, 48.067, 48.069, 938.06, 938.067 ~~938.067~~, or 938.069. The department may
20 allow that access regardless of whether the person who is allowed that access is a
21 party to or is otherwise involved in the proceedings in which the electronic records
22 containing that information were created.

23 SECTION 6. 48.396 (3) (c) 1g. of the statutes is created to read:
24 48.396 (3) (c) 1g. A court assigned to exercise jurisdiction under this chapter
25 and ch. 938, a municipal court exercising jurisdiction under s. 938.17 (2), or a court

made available

1 of criminal jurisdiction shall keep any information ~~transferred~~ to that court under
 2 par. (b) confidential and may use or allow access to that information only for the
 3 purpose of conducting or preparing for a proceeding in that court. That court may
 4 allow that access regardless of whether the person who is allowed that access is a
 5 party to or is otherwise involved in the proceedings in which the electronic records
 6 containing that information were created.

SECTION 7. 48.396 (3) (c) 1m. of the statutes is created to read:

8 48.396 (3) (c) 1m. A person representing the interests of the public under s.
 9 48.09 or 938.09 ^{Insert 6-9 ✓} or a district attorney prosecuting a criminal case shall keep any
 10 information ~~transferred~~ ^{made available} to that person under par. (b) confidential and may use or
 11 allow access to that information only for the purpose of performing his or her official
 12 duties relating to a proceeding in a court assigned to exercise jurisdiction under this
 13 chapter and ch. 938 ^{or a court of criminal jurisdiction ✓} or a municipal court. That person may allow that access
 14 regardless of whether the person who is allowed that access is a party to or is
 15 otherwise involved in the proceedings in which the electronic records containing that
 16 information were created.

SECTION 8. 48.396 (3) (c) 2. of the statutes is amended to read:

18 48.396 (3) (c) 2. The court or the director of state courts may allow access to any
 19 information transferred to the court under par. (b) (bm) only to the extent that the
 20 information may be disclosed under this chapter or ch. 938.

SECTION 9. 48.396 (3) (c) 3. of the statutes is amended to read:

22 48.396 (3) (c) 3. ~~The department, a court, the director of state courts, and any~~
 23 An individual who is allowed under subd. 1g., 1m., 1r., or 2. to have access to any
 24 information transferred under par. (b) ^{1. ✓} or (bm) shall keep the information
 25 confidential and may use and further disclose the information only for the purpose

or made available ✓

1 purposes described in subd. ~~4~~ 1g., 1m., or 1r. or to the extent permitted under subd.
2 2.

3 **SECTION 10.** 48.396 (3) (d) of the statutes is amended to read:

4 48.396 (3) (d) Any person who intentionally uses or discloses information in
5 violation of par. (c) may be required to forfeit not more than \$5,000.

6 **SECTION 11.** 48.47 (7g) of the statutes is amended to read:

7 48.47 (7g) STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEM. Establish
8 a statewide automated child welfare information system. Notwithstanding ss.
9 46.2895 (9), 48.396 (1) and (2) (a), 48.78 (2) (a), 48.981 (7), 49.45 (4), 49.83, 51.30,
10 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 252.15, 253.07 (3) (c), 938.396 (1) (a) and
11 (2), and 938.78 (2) (a), the department may enter the content of any record kept or
12 information received by the department into the statewide automated child welfare
13 information system, and a county department under s. 46.215, 46.22, or 46.23, the
14 department, or any other organization that has entered into an information sharing
15 and access agreement with the department or any of those county departments and
16 that has been approved for access to the statewide automated child welfare
17 information system by the department may have access to information that is
18 maintained in that system, if necessary to enable the county department,
19 department, or organization to perform its duties under this chapter, ch. 46, 51, 55,
20 or 938, or 42 USC 670 to 679b or to coordinate the delivery of services under this
21 chapter, ch. 46, 51, 55, or 938, or 42 USC 670 to 679b. The department may also
22 transfer information that is maintained in the system to a court under s. 48.396 (3)
23 (b) (bm), and the court and the director of state courts may allow access to that
24 information as provided in s. 48.396 (3) (c) 2.

25 **SECTION 12.** 48.78 (2) (a) of the statutes is amended to read:

1 48.78 (2) (a) No agency may make available for inspection or disclose the
2 contents of any record kept or information received about an individual who is or was
3 in its care or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d) or
4 (5m) (d), 48.396 (3) ~~(b)~~ (bm) or (c) ~~1.~~ 1r., 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m),
5 48.93, 48.981 (7), 938.396 (2m) (c) 1r., 938.51, or 938.78 or by order of the court.

6 **SECTION 13.** 48.78 (2) (h) of the statutes is amended to read:

7 48.78 (2) (h) Paragraph (a) does not prohibit the department, a county
8 department, or a licensed child welfare agency from entering the content of any
9 record kept or information received by the department, county department, or
10 licensed child welfare agency into the statewide automated child welfare
11 information system established under s. 48.47 (7g) or the department from
12 transferring any information maintained in that system to the court under s. 48.396
13 (3) ~~(b)~~ (bm). If the department transfers that information to the court, the court and
14 the director of state courts may allow access to that information as provided in s.
15 48.396 (3) (c) 2.

16 **SECTION 14.** 938.396 (1) (a) of the statutes is amended to read:

17 938.396 (1) (a) *Confidentiality.* Law enforcement agency records of juveniles
18 shall be kept separate from records of adults. Law enforcement agency records of
19 juveniles may not be open to inspection or their contents disclosed except under par.
20 (b) or (c), sub. (1j), (2m) (c) 1p., or (10), or s. 938.293 or by order of the court.

21 **SECTION 15.** 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

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

4 SECTION 16. 938.396 (2g) (c) of the statutes is amended to read:

5 938.396 (2g) (c) *Law enforcement agencies.* Upon request of a law enforcement
6 agency to review court records for the purpose of investigating ~~a crime that might~~
7 ~~constitute criminal gang activity, as defined in s. 941.38 (1) (b), the court shall open~~
8 ~~for inspection by authorized representatives of the law enforcement agency the~~
9 ~~records of the court relating to any juvenile who has been found to have committed~~
10 ~~a delinquent act at the request of or for the benefit of a criminal gang, as defined in~~
11 ~~s. 939.22 (9), that would have been a felony under chs. 939 to 948 or 961 if committed~~
12 ~~by an adult alleged criminal activity or activity that may result in a court exercising~~

13 jurisdiction under ^{s. 938.12, 938.125, or 938.13 (12)} ~~this chapter or ch. 48~~, the court assigned to exercise jurisdiction
14 under this chapter and ch. 48 shall open for inspection by authorized representatives
15 of the requester the records of the court relating to any juvenile who has been the
16 subject of a proceeding under this chapter. ^{Plain} ~~This paragraph does not authorize~~

17 ~~disclosure of any information relating to the physical or mental health of an~~
18 ~~individual, including information contained in a patient health care record, as~~
19 ~~defined in s. 146.81 (4), a treatment record, as defined in s. 51.30 (1) (b), a report~~
20 ~~resulting from an examination or assessment under s. 938.295, a court report under~~
21 ~~s. 938.33, or a permanency plan under s. 938.38, except with the informed consent~~
22 ~~of a person authorized to consent to that disclosure, by order of the court, or as~~
23 ~~otherwise permitted by law.~~

24 SECTION 17. 938.396 (2g) (d) of the statutes is amended to read:

1 938.396 (2g) (d) ~~Bail; impeachment; firearm possession~~ Criminal and civil
 2 proceedings. Upon request of a court of criminal jurisdiction ~~or a district attorney~~
 3 ~~to review court records for the purpose of setting bail under ch. 969, impeaching a~~
 4 ~~witness under s. 906.09, or investigating and determining whether a person has~~
 5 ~~possessed a firearm in violation of s. 941.29 (2) or body armor in violation of s. 941.291~~
 6 ~~(2) to review court records for the purpose of conducting or preparing for a proceeding~~
 7 ~~in that court, upon request of a district attorney to review court records for the~~
 8 ~~purpose of performing his or her official duties in a proceeding in a court of criminal~~
 9 jurisdiction, or upon request of a court of civil jurisdiction or the attorney for a party
 10 to a proceeding in that court to review court records for the purpose of impeaching
 11 a witness under s. 906.09, the court assigned to exercise jurisdiction under this
 12 chapter and ch. 48 shall open for inspection by authorized representatives of the
 13 requester the records of the court relating to any juvenile who has been the subject
 14 of a proceeding under this chapter.

15 SECTION 18. 938.396 (2m) of the statutes is created to read:

16 938.396 (2m) ELECTRONIC COURT RECORDS. (a) In this subsection, "court" means
 17 the court assigned to exercise jurisdiction under this chapter and ch. 48.

18 (b) ^{1.} The court shall ^{make} ~~transfer~~ information relating to a proceeding under this
 19 chapter that is contained in the electronic records of the court ^{available} ~~to~~ any other court
 20 assigned to exercise jurisdiction under this chapter and ch. 48, a municipal court
 21 exercising jurisdiction under s. 938.17 (2), a court of criminal jurisdiction, a person
 22 representing the interests of the public under s. 48.09 or 938.09, ^{Insert 10-27} ~~a~~ district attorney
 23 prosecuting a criminal case, a law enforcement agency, or the department, regardless
 24 of whether ~~that other court, municipal court, person, district attorney, or law~~
 25 ~~enforcement agency or the department~~ is a party to or is otherwise involved in the

the person to whom the information is disclosed ✓

2011 - 2012 Legislature

- 11 -

shall determine the method by which that information is made available under this subdivision, which method may include use of

1 proceedings in which the electronic records containing that information were created. The director of state courts ~~may use~~ the circuit court automated information systems established under s. 758.19 (4) ~~to facilitate the transfer of electronic records~~

~~Add this paragraph.~~

2
3
4
5 (c) 1g. A court assigned to exercise jurisdiction under this chapter and ch. 48,
6 a municipal court exercising jurisdiction under s. 938.17 (2), or a court of criminal
7 jurisdiction shall keep any information ~~transferred~~ ^{made available} to that court under ^{1.} par. (b)
8 confidential and may use or allow access to that information only for the purpose of
9 conducting or preparing for a proceeding in that court. That court may allow that
10 access regardless of whether the person who is allowed that access is a party to or
11 is otherwise involved in the proceedings in which the electronic records containing
12 that information were created. ^{Insert 11-13}

13 1m. A person representing the interests of the public under s. 48.09 or 938.09
14 or a district attorney prosecuting a criminal case shall keep any information
15 ~~transferred~~ ^{made available} to that person ~~of district attorney~~ ^{1.} under par. (b) confidential and may use
16 or allow access to that information only for the purpose of performing his or her
17 official duties relating to a proceeding in a court assigned to exercise jurisdiction
18 under this chapter and ch. 48, a municipal court, or a court of criminal jurisdiction.
19 That person ~~of district attorney~~ may allow that access regardless of whether the
20 person who is allowed that access is a party to or is otherwise involved in the
21 proceedings in which the electronic records containing that information were
22 created. ^{made available}

23 1p. A law enforcement agency shall keep any information ~~transferred~~ ^{made available} to the law
24 enforcement agency under par. (b) ^{1.} confidential and may use or allow access to that
25 information only for the purpose of investigating alleged criminal activity or activity

Insert
11-4

1 that may result in a court exercising jurisdiction under this chapter or ch. 48. A law
2 enforcement agency may allow that access regardless of whether the person who is
3 allowed that access is a party to or is otherwise involved in the proceedings in which
4 the electronic records containing that information were created. *Made available* ✓

5 1r. The department shall keep any information ~~transferred~~ to the department
6 under par. (b) ¹confidential and may use or allow access to that information only for
7 the purpose of providing services under s. 48.06, 48.067, 48.069, 938.06, 938.067, or
8 938.069. The department may allow that access regardless of whether the person
9 who is allowed that access is a party to or is otherwise involved in the proceedings
10 in which the electronic records containing that information were created.

11 2. An individual who is allowed under subd. 1g., 1m., 1p., or 1r. to have access
12 to any information ¹~~transferred~~ *Made available* under par. (b) shall keep the information confidential
13 and may use and further disclose the information only for the purpose described in
14 subd. 1g., 1m., 1p., or 1r.

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

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

18 938.78 (2) (a) No agency may make available for inspection or disclose the
19 contents of any record kept or information received about an individual who is or was
20 in its care or legal custody, except as provided under sub. (3) or s. 48.396 (3) ~~(b)~~ (bm)
21 or (c) ~~1r.~~, 938.371, 938.38 (5) (b) or (d) or (5m) (d), 938.396 (2m) (c) 1r., 938.51, or
22 938.57 (2m) or by order of the court.

23 SECTION 20. 938.78 (2) (h) of the statutes is amended to read:

24 938.78 (2) (h) Paragraph (a) does not prohibit the department of children and
25 families, a county department, or a licensed child welfare agency from entering the

1 content of any record kept or information received by that department, county
2 department, or licensed child welfare agency into the statewide automated child
3 welfare information system established under s. 48.47 (7g) or the department of
4 children and families from transferring any information maintained in that system
5 to the court under s. 48.396 (3) ~~(b)~~ (bm). If the department of children and families
6 transfers that information to the court, the court and the director of state courts may
7 allow access to that information as provided in s. 48.396 (3) (c) 2.

8 (END)



LPS
inserts
out of
ORDER

SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2011 SENATE BILL 173

1 At the locations indicated, amend the substitute amendment as follows:

2 ~~1.~~ Page 1, line 8: after "prosecutors," insert "defense attorneys, guardians ad
3 litem,".

Insert
4-9

4 ~~2.~~ Page 4, line 25: after "~~938.09.~~" insert "an attorney or guardian ad litem for
5 a parent or child who is a party to a proceeding in a court assigned to exercise
6 jurisdiction under this chapter or ch. 938 or a municipal court."

7 ~~3.~~ Page 5, line 1: delete that line and substitute "regardless of whether the
8 department person to whom the information is transferred".

Insert
6-9

9 ~~4.~~ Page 6, line 9: after "938.09" insert "an attorney or guardian ad litem for
10 a parent or child who is a party to a proceeding in a court assigned to exercise
11 jurisdiction under this chapter or ch. 938 or a municipal court."

1 ~~5.~~ Page 6, line 13: delete "or a municipal court." and substitute ", a municipal
2 court, or a court of criminal jurisdiction."

3 ~~6.~~ Page 9, line 13: delete "this chapter or ch. 48" and substitute "s. 938.12 or
4 938.13 (12)".

5 ~~7.~~ Page 9, line 18: after "individual" insert "or that deals with any other
6 sensitive personal matter of the juvenile or the juvenile's family".

7 ~~8.~~ Page 9, line 19: after "(b)," insert "the record of a proceeding under s.
8 48.135".

Insert
9
10-22

~~9.~~ Page 10, line 22: after "938.09" insert "an attorney or guardian ad litem for
10 a parent or child who is a party to a proceeding in a court assigned to exercise
11 jurisdiction under this chapter or ch. 48 or a municipal court."

12 ~~10.~~ Page 10, line 24: delete lines 24 and 25 and substitute "of whether the
13 person to whom the information is transferred is a party to or is otherwise involved
14 in the".

15 ~~11.~~ Page 11, line 4: after "paragraph." insert "This paragraph does not
16 authorize the court to transfer to a law enforcement agency any information that
17 may not be disclosed under sub. (2g) (c)."

Insert
18
11-13

~~12.~~ Page 11, line 13: after "938.09" insert "an attorney or guardian ad litem
19 for a parent or child who is a party to a proceeding in a court assigned to exercise
20 jurisdiction under this chapter or ch. 48 or a municipal court."

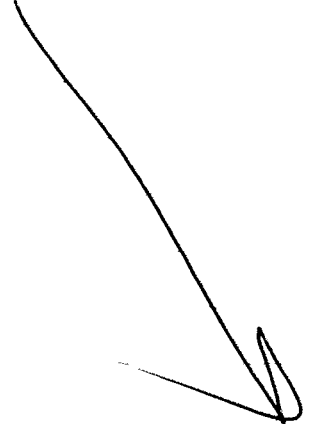
21 ~~13.~~ Page 11, line 15: delete "or district attorney".

22 ~~14.~~ Page 11, line 19: delete "or district attorney".

Insert S-13

SEC CR; 48.396 (3) (b) 2. ^x

48.396 ^(B) (3) (b) 2. Subdivision 1. (NO \$)



9
Insert 5-13
cont

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

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

5 938.396 (2g) (c) *Law enforcement agencies.* Upon request of a law enforcement
6 agency to review court records for the purpose of investigating a crime that might
7 constitute criminal gang activity, as defined in s. 941.38 (1) (b), the court shall open
8 for inspection by authorized representatives of the law enforcement agency the
9 records of the court relating to any juvenile who has been found to have committed
10 a delinquent act at the request of or for the benefit of a criminal gang, as defined in
11 s. 939.22 (9), that would have been a felony under chs. 939 to 948 or 961 if committed
12 by an adult alleged criminal activity or activity that may result in a court exercising
13 jurisdiction under this chapter or ch. 48, the court assigned to exercise jurisdiction
14 under this chapter and ch. 48 shall open for inspection by authorized representatives
15 of the requester the records of the court relating to any juvenile who has been the
16 subject of a proceeding under this chapter. This paragraph ^{NO #} does not authorize

17 disclosure of any information relating to the physical or mental health of an
18 or that deals with any other sensitive personal matter of an individual
19 individual, including information contained in a patient health care record, as
20 defined in s. 146.81 (4), a treatment record, as defined in s. 51.30 (1) (b), a report
21 resulting from an examination or assessment under s. 938.295, a court report under
22 s. 938.33, or a permanency plan under s. 938.38, except with the informed consent
23 of a person authorized to consent to that disclosure, by order of the court, or as
24 otherwise permitted by law. (end of ins 5-13)

~~SECTION 17. 938.396 (2g) (d) of the statutes is amended to read:~~

(cont)

plain
NO
scoring

plain
no
underscr

Inser 11-4

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

SECTION 16. 938.396 (2g) (c) of the statutes is amended to read:

938.396 (2g) (c) *Law enforcement agencies.* Upon request of a law enforcement agency to review court records for the purpose of investigating a crime that might constitute criminal gang activity, as defined in s. 941.38 (1) (b), the court shall open for inspection by authorized representatives of the law enforcement agency the records of the court relating to any juvenile who has been 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 alleged criminal activity or activity that may result in a court exercising jurisdiction under this chapter or ch. 48, the court assigned to exercise jurisdiction under this chapter and ch. 48 shall open for inspection by authorized representatives of the requester the records of the court relating to any juvenile who has been the

subject of a proceeding under this chapter. This paragraph does not authorize disclosure of any information relating to the physical or mental health of an individual, including information contained in a patient health care record, as defined in s. 146.81 (4), a treatment record, as defined in s. 51.30 (1) (b), a report resulting from an examination or assessment under s. 938.295, a court report under s. 938.33, or a permanency plan under s. 938.38, except with the informed consent of a person authorized to consent to that disclosure, by order of the court, or as otherwise permitted by law.

SECTION 17. 938.396 (2g) (d) of the statutes is amended to read:

plain
no
underline

(end ins 11-4)

(end ins 1)

2/9/12

Christian
Andrew
Anne

- ① & CCAP & Director of State Crs. - go back to prior draft language, i.e., permit DSC to use CCAP to make info. available, do not require DSC to determine method
- ② Delete "938.125," , i.e., permission for law enforcement to use ^{juvenile court} ~~state~~ records to investigate truancy & other civil law violations



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBs0312/ (2)
GMM:jld:jf

IN 2110
Today

**SENATE SUBSTITUTE AMENDMENT ,
TO 2011 SENATE BILL 173**

✓

Regen

1 **AN ACT to renumber and amend** 48.396 (3) (b) and 48.396 (3) (c) 1.; **to amend**
2 48.396 (1), 48.396 (2) (a), 48.396 (3) (c) 2., 48.396 (3) (c) 3., 48.396 (3) (d), 48.47
3 (7g), 48.78 (2) (a), 48.78 (2) (h), 938.396 (1) (a), 938.396 (2), 938.396 (2g) (c),
4 938.396 (2g) (d), 938.78 (2) (a) and 938.78 (2) (h); and **to create** 48.396 (2) (e),
5 48.396 (3) (b) 2., 48.396 (3) (c) 1g., 48.396 (3) (c) 1m. and 938.396 (2m) of the
6 statutes; **relating to:** the disclosure of electronic juvenile court records to other
7 juvenile courts, municipal courts, courts of criminal jurisdiction, district
8 attorneys and other prosecutors, defense attorneys, guardians ad litem, and
9 law enforcement agencies and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the director of state courts has established an automated information system, known as the Consolidated Court Automation Programs (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 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. Currently, those exceptions include an exception that requires a juvenile court to disclose its records relating to a proceeding under the Children's Code (generally, a child in need of protection services or a termination of parental rights proceeding) or the Juvenile Justice Code (generally, a delinquency, civil law or ordinance violation, or a juvenile in need of protection or services proceeding) on the request of any other juvenile court, a municipal court, or a district attorney, corporation counsel, or city, village, or town attorney (prosecutor) to review juvenile court records for the purpose of any proceeding in that court. In addition, current law requires the juvenile court to disclose its records relating to a proceeding under the Juvenile Justice Code on the request of a court of criminal jurisdiction or a district attorney to review those records for the purpose of setting bail or impeaching a witness or on the request of a law enforcement agency to review those records for the purpose of investigating alleged criminal gang activity.

This substitute amendment requires the juvenile court to make information relating to proceedings under the Children's Code or the Juvenile Justice Code that is contained in the electronic records of the juvenile court available to any other juvenile court, a municipal court, a court of criminal jurisdiction, a prosecutor of a case in any of those courts, or an attorney or guardian ad litem for a parent or child who is a party to a proceeding in a juvenile court or municipal court (attorney or GAL). The substitute amendment also requires the juvenile court to make information relating to proceedings under the Juvenile Justice Code that is contained in the electronic records of the juvenile court available to a law enforcement agency. The substitute amendment, however, does not authorize disclosure of any information relating to the physical or mental health of an individual or that deals with any other sensitive personal matter of an individual, except with informed consent, by order of the juvenile court, or as otherwise permitted by law. A person to whom information is made available under the substitute amendment must keep that information confidential and may use or allow access to that information only as follows:

1. In the case of a juvenile court, municipal court, or court of criminal jurisdiction or an individual who is allowed access to that information by such a court, only for the purpose of conducting or preparing for a proceeding in that court.
2. In the case of a prosecutor, an attorney, or GAL, or an individual who is allowed access to that information by a prosecutor, attorney, or GAL, only for the purpose of performing the official duties of the prosecutor, attorney, or GAL relating to a proceeding in a juvenile court, municipal court, or court of criminal jurisdiction.
3. In the case of a law enforcement agency or an individual who is allowed access to that information by a law enforcement agency, only for the purpose of investigating any alleged criminal activity or any activity that may result in a court exercising its delinquency or civil law or ordinance violation jurisdiction.

~~The substitute amendment requires the director of state courts to determine the method by which information is made available under the substitute~~

Finally, the

permits ✓

as provided in the substitute amendment
- 3

~~to make information available~~ ^{contained in} the electronic records of the juvenile court available

~~amendment, which method may include the use of CCAP~~ and provides for a forfeiture of not more than \$5,000 for any person who intentionally discloses information in violation of the substitute amendment.

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

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

2 48.396 (1) Law enforcement officers' records of children shall be kept separate

3 from records of adults. Law enforcement officers' records of the adult expectant

4 mothers of unborn children shall be kept separate from records of other adults. Law

5 enforcement officers' records of children and the adult expectant mothers of unborn

6 children shall not be open to inspection or their contents disclosed except under sub.

7 (1b), (1d), (5), or (6) or s. 48.293 or 938.396 (2m) (c) 1p. or by order of the court. This

8 subsection does not apply to the representatives of newspapers or other reporters of

9 news who wish to obtain information for the purpose of reporting news without

10 revealing the identity of the child or adult expectant mother involved, to the

11 confidential exchange of information between the police and officials of the public or

12 private school attended by the child or other law enforcement or social welfare

13 agencies, or to children 10 years of age or older who are subject to the jurisdiction of

14 the court of criminal jurisdiction. A public school official who obtains information

15 under this subsection shall keep the information confidential as required under s.

16 118.125, and a private school official who obtains information under this subsection

17 shall keep the information confidential in the same manner as is required of a public

18 school official under s. 118.125. This subsection does not apply to the confidential

19 exchange of information between the police and officials of the tribal school attended

20 by the child if the police determine that enforceable protections are provided by a

1 tribal school policy or tribal law that requires tribal school officials to keep the
2 information confidential in a manner at least as stringent as is required of a public
3 school official under s. 118.125. A law enforcement agency that obtains information
4 under this subsection shall keep the information confidential as required under this
5 subsection and s. 938.396 (1) (a). A social welfare agency that obtains information
6 under this subsection shall keep the information confidential as required under ss.
7 48.78 and 938.78.

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

9 48.396 (2) (a) Records of the court assigned to exercise jurisdiction under this
10 chapter and ch. 938 and of courts exercising jurisdiction under s. 48.16 shall be
11 entered in books or deposited in files kept for that purpose only. ~~They~~ Those records
12 shall not be open to inspection or their contents disclosed except by order of the court
13 assigned to exercise jurisdiction under this chapter and ch. 938 or as required or
14 permitted under this subsection, sub. (3) (b) or (c) ~~1. 1g., 1m., or 1r.~~ or (6), or s. 48.375
15 (7) (e).

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

17 48.396 (2) (e) Upon request of a court of criminal jurisdiction to review court
18 records for the purpose of conducting or preparing for a proceeding in that court or
19 upon request of a district attorney to review court records for the purpose of
20 performing his or her official duties in a proceeding in a court of criminal jurisdiction,
21 the court assigned to exercise jurisdiction under this chapter and ch. 938 shall open
22 for inspection by authorized representatives of the requester the records of the court
23 relating to any child who has been the subject of a proceeding under this chapter.

24 **SECTION 4.** 48.396 (3) (b) of the statutes is renumbered 48.396 (3) (b) 1. and
25 amended to read:

1 48.396 (3) (b) 1. The court may ~~transfer to the department~~ shall make
2 information relating to proceedings under this chapter that is contained in the
3 electronic records of the court available to any other court assigned to exercise
4 jurisdiction under this chapter and ch. 938, a municipal court exercising jurisdiction
5 under s. 938.17 (2), a court of criminal jurisdiction, a person representing the
6 interests of the public under s. 48.09 or 938.09, an attorney or guardian ad litem for
7 a parent or child who is a party to a proceeding in a court assigned to exercise
8 jurisdiction under this chapter or ch. 938 or a municipal court, a district attorney
9 prosecuting a criminal case, or the department, regardless of whether the
10 department person to whom the information is transferred is a party to or is
11 otherwise involved in the proceedings in which the electronic records containing that
12 information were created, ~~and the. The director of state courts shall determine the~~
13 ~~method by which that information is made available under this subdivision, which~~
14 ~~method may include use of the circuit court automated information systems~~
15 established under s. 758.19 (4). ^{may use} to make information ^{contained in} ~~from~~ the electronic
16 records of the court available as provided ^{in this}
17 (bm) The department may transfer to the court information contained in the ^{subdivision}
18 electronic records of the department that are maintained in the statewide automated
19 child welfare information system under s. 48.47 (7g). The director of state courts may
20 use the circuit court automated information systems established under s. 758.19 (4)
21 to facilitate the transfer of those electronic records between from the department to
22 the court ~~and the department~~. The director of state courts and the department shall
23 specify what types of information may be transferred from the department to the
24 court under this paragraph and made available by the court to the department under
25 par. (b) 1.

SECTION 5. 48.396 (3) (b) 2. of the statutes is created to read:

1 48.396 (3) (b) 2. Subdivision 1. does not authorize disclosure of any information
2 relating to the physical or mental health of an individual or that deals with any other
3 sensitive personal matter of an individual, including information contained in a
4 patient health care record, as defined in s. 146.81 (4), a treatment record, as defined
5 in s. 51.30 (1) (b), the record of a proceeding under s. 48.135, a report resulting from
6 an examination or assessment under s. 938.295, a court report under s. 938.33, or a
7 permanency plan under s. 938.38, except with the informed consent of a person
8 authorized to consent to that disclosure, by order of the court, or as otherwise
9 permitted by law.

10 **SECTION 6.** 48.396 (3) (c) 1. of the statutes is renumbered 48.396 (3) (c) 1r. and
11 amended to read:

12 48.396 (3) (c) 1r. The department ~~may allow access to~~ shall keep any
13 information ~~transferred~~ made available to the department under par. (b) 1.
14 confidential and may use or allow access to that information only for the purpose of
15 providing services under s. 48.06, 48.067, 48.069, 938.06, ~~938.067~~ 938.067, or
16 938.069. The department may allow that access regardless of whether the person
17 who is allowed that access is a party to or is otherwise involved in the proceedings
18 in which the electronic records containing that information were created.

19 **SECTION 7.** 48.396 (3) (c) 1g. of the statutes is created to read:

20 48.396 (3) (c) 1g. A court assigned to exercise jurisdiction under this chapter
21 and ch. 938, a municipal court exercising jurisdiction under s. 938.17 (2), or a court
22 of criminal jurisdiction shall keep any information made available to that court
23 under par. (b) 1. confidential and may use or allow access to that information only
24 for the purpose of conducting or preparing for a proceeding in that court. That court
25 may allow that access regardless of whether the person who is allowed that access

1 is a party to or is otherwise involved in the proceedings in which the electronic
2 records containing that information were created.

3 **SECTION 8.** 48.396 (3) (c) 1m. of the statutes is created to read:

4 48.396 (3) (c) 1m. A person representing the interests of the public under s.
5 48.09 or 938.09, an attorney or guardian ad litem for a parent or child who is a party
6 to a proceeding in a court assigned to exercise jurisdiction under this chapter or ch.
7 938 or a municipal court, or a district attorney prosecuting a criminal case shall keep
8 any information made available to that person under par. (b) 1. confidential and may
9 use or allow access to that information only for the purpose of performing his or her
10 official duties relating to a proceeding in a court assigned to exercise jurisdiction
11 under this chapter and ch. 938, a municipal court, or a court of criminal jurisdiction.
12 That person may allow that access regardless of whether the person who is allowed
13 that access is a party to or is otherwise involved in the proceedings in which the
14 electronic records containing that information were created.

15 **SECTION 9.** 48.396 (3) (c) 2. of the statutes is amended to read:

16 48.396 (3) (c) 2. The court or the director of state courts may allow access to any
17 information transferred to the court under par. (b) (bm) only to the extent that the
18 information may be disclosed under this chapter or ch. 938.

19 **SECTION 10.** 48.396 (3) (c) 3. of the statutes is amended to read:

20 48.396 (3) (c) 3. ~~The department, a court, the director of state courts, and any~~
21 An individual who is allowed under subd. 1g., 1m., 1r., or 2. to have access to any
22 information transferred or made available under par. (b) 1. or (bm) shall keep the
23 information confidential and may use and further disclose the information only for
24 the ~~purpose~~ purposes described in subd. ~~1. 1g., 1m., or 1r.~~ or to the extent permitted
25 under subd. 2.

1 **SECTION 11.** 48.396 (3) (d) of the statutes is amended to read:

2 48.396 (3) (d) Any person who intentionally uses or discloses information in
3 violation of par. (c) may be required to forfeit not more than \$5,000.

4 **SECTION 12.** 48.47 (7g) of the statutes is amended to read:

5 48.47 (7g) STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEM. Establish
6 a statewide automated child welfare information system. Notwithstanding ss.
7 46.2895 (9), 48.396 (1) and (2) (a), 48.78 (2) (a), 48.981 (7), 49.45 (4), 49.83, 51.30,
8 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 252.15, 253.07 (3) (c), 938.396 (1) (a) and
9 (2), and 938.78 (2) (a), the department may enter the content of any record kept or
10 information received by the department into the statewide automated child welfare
11 information system, and a county department under s. 46.215, 46.22, or 46.23, the
12 department, or any other organization that has entered into an information sharing
13 and access agreement with the department or any of those county departments and
14 that has been approved for access to the statewide automated child welfare
15 information system by the department may have access to information that is
16 maintained in that system, if necessary to enable the county department,
17 department, or organization to perform its duties under this chapter, ch. 46, 51, 55,
18 or 938, or 42 USC 670 to 679b or to coordinate the delivery of services under this
19 chapter, ch. 46, 51, 55, or 938, or 42 USC 670 to 679b. The department may also
20 transfer information that is maintained in the system to a court under s. 48.396 (3)
21 ~~(b)~~ (bm), and the court and the director of state courts may allow access to that
22 information as provided in s. 48.396 (3) (c) 2.

23 **SECTION 13.** 48.78 (2) (a) of the statutes is amended to read:

24 48.78 (2) (a) No agency may make available for inspection or disclose the
25 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 s. 48.371, 48.38 (5) (b) or (d) or
2 (5m) (d), 48.396 (3) ~~(b)~~ (bm) or (c) ~~1.~~ 1r., 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m),
3 48.93, 48.981 (7), 938.396 (2m) (c) 1r., 938.51, or 938.78 or by order of the court.

4 **SECTION 14.** 48.78 (2) (h) of the statutes is amended to read:

5 48.78 (2) (h) Paragraph (a) does not prohibit the department, a county
6 department, or a licensed child welfare agency from entering the content of any
7 record kept or information received by the department, county department, or
8 licensed child welfare agency into the statewide automated child welfare
9 information system established under s. 48.47 (7g) or the department from
10 transferring any information maintained in that system to the court under s. 48.396
11 (3) ~~(b)~~ (bm). If the department transfers that information to the court, the court and
12 the director of state courts may allow access to that information as provided in s.
13 48.396 (3) (c) 2.

14 **SECTION 15.** 938.396 (1) (a) of the statutes is amended to read:

15 938.396 (1) (a) *Confidentiality.* Law enforcement agency records of juveniles
16 shall be kept separate from records of adults. Law enforcement agency records of
17 juveniles may not be open to inspection or their contents disclosed except under par.
18 (b) or (c), sub. (1j), (2m) (c) 1p., or (10), or s. 938.293 or by order of the court.

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

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

1 chapter and ch. 48 or as required or permitted under sub. (2g), (2m) (b) or (c), or (10)
2 or s. 48.396 (3) (b) or (c) 1.

3 **SECTION 17.** 938.396 (2g) (c) of the statutes is amended to read:

4 938.396 (2g) (c) *Law enforcement agencies.* Upon request of a law enforcement
5 agency to review court records for the purpose of investigating ~~a crime that might~~
6 ~~constitute criminal gang activity, as defined in s. 941.38 (1) (b), the court shall open~~
7 ~~for inspection by authorized representatives of the law enforcement agency the~~
8 ~~records of the court relating to any juvenile who has been found to have committed~~
9 ~~a delinquent act at the request of or for the benefit of a criminal gang, as defined in~~
10 ~~s. 939.22 (9), that would have been a felony under chs. 939 to 948 or 961 if committed~~
11 ~~by an adult alleged criminal activity or activity that may result in a court exercising~~
12 jurisdiction under s. 938.12, 938.13 or 938.14 or 938.13 (12), the court assigned to exercise
13 jurisdiction under this chapter and ch. 48 shall open for inspection by authorized
14 representatives of the requester the records of the court relating to any juvenile who
15 has been the subject of a proceeding under this chapter.

16 **SECTION 18.** 938.396 (2g) (d) of the statutes is amended to read:

17 938.396 (2g) (d) *Bail; impeachment; firearm possession* Criminal and civil
18 proceedings. Upon request of a court of criminal jurisdiction ~~or a district attorney~~
19 ~~to review court records for the purpose of setting bail under ch. 969, impeaching a~~
20 ~~witness under s. 906.09, or investigating and determining whether a person has~~
21 ~~possessed a firearm in violation of s. 941.29 (2) or body armor in violation of s. 941.291~~
22 ~~(2) to review court records for the purpose of conducting or preparing for a proceeding~~
23 in that court, upon request of a district attorney to review court records for the
24 purpose of performing his or her official duties in a proceeding in a court of criminal
25 jurisdiction, or upon request of a court of civil jurisdiction or the attorney for a party

1 to a proceeding in that court to review court records for the purpose of impeaching
2 a witness under s. 906.09, the court assigned to exercise jurisdiction under this
3 chapter and ch. 48 shall open for inspection by authorized representatives of the
4 requester the records of the court relating to any juvenile who has been the subject
5 of a proceeding under this chapter.

6 SECTION 19. 938.396 (2m) of the statutes is created to read:

7 938.396 (2m) ELECTRONIC COURT RECORDS. (a) In this subsection, "court" means
8 the court assigned to exercise jurisdiction under this chapter and ch. 48.

9 (b) 1. The court shall make information relating to a proceeding under this
10 chapter that is contained in the electronic records of the court available to any other
11 court assigned to exercise jurisdiction under this chapter and ch. 48, a municipal
12 court exercising jurisdiction under s. 938.17 (2), a court of criminal jurisdiction, a
13 person representing the interests of the public under s. 48.09 or 938.09, an attorney
14 or guardian ad litem for a parent or child who is a party to a proceeding in a court
15 assigned to exercise jurisdiction under this chapter or ch. 48 or a municipal court, a
16 district attorney prosecuting a criminal case, a law enforcement agency, or the
17 department, regardless of whether the person to whom the information is disclosed
18 is a party to or is otherwise involved in the proceedings in which the electronic
19 records containing that information were created. The director of state courts shall
20 ~~determine the method by which that information is made available under this~~
21 ~~subdivision, which method may include use of~~ the circuit court automated
22 information systems established under s. 758.19 (4).

23 2. Subdivision 1. does not authorize disclosure of any information relating to
24 the physical or mental health of an individual or that deals with any other sensitive
25 personal matter of an individual, including information contained in a patient health

✓ ~~NO \$~~ to make information contained in the electronic records of the court available as provided in this subdivision

1 care record, as defined in s. 146.81 (4), a treatment record, as defined in s. 51.30 (1)
2 (b), the record of a proceeding under s. 48.135, a report resulting from an examination
3 or assessment under s. 938.295, a court report under s. 938.33, or a permanency plan
4 under s. 938.38, except with the informed consent of a person authorized to consent
5 to that disclosure, by order of the court, or as otherwise permitted by law.

6 (c) 1g. A court assigned to exercise jurisdiction under this chapter and ch. 48,
7 a municipal court exercising jurisdiction under s. 938.17 (2), or a court of criminal
8 jurisdiction shall keep any information made available to that court under par. (b)
9 1. confidential and may use or allow access to that information only for the purpose
10 of conducting or preparing for a proceeding in that court. That court may allow that
11 access regardless of whether the person who is allowed that access is a party to or
12 is otherwise involved in the proceedings in which the electronic records containing
13 that information were created.

14 1m. A person representing the interests of the public under s. 48.09 or 938.09,
15 an attorney or guardian ad litem for a parent or child who is a party to a proceeding
16 in a court assigned to exercise jurisdiction under this chapter or ch. 48 or a municipal
17 court, or a district attorney prosecuting a criminal case shall keep any information
18 made available to that person under par. (b) 1. confidential and may use or allow
19 access to that information only for the purpose of performing his or her official duties
20 relating to a proceeding in a court assigned to exercise jurisdiction under this chapter
21 and ch. 48, a municipal court, or a court of criminal jurisdiction. That person may
22 allow that access regardless of whether the person who is allowed that access is a
23 party to or is otherwise involved in the proceedings in which the electronic records
24 containing that information were created.

1 1p. A law enforcement agency shall keep any information made available to the
2 law enforcement agency under par. (b) 1. confidential and may use or allow access
3 to that information only for the purpose of investigating alleged criminal activity or
4 activity that may result in a court exercising jurisdiction under this chapter or ch.
5 48. A law enforcement agency may allow that access regardless of whether the
6 person who is allowed that access is a party to or is otherwise involved in the
7 proceedings in which the electronic records containing that information were
8 created.

9 1r. The department shall keep any information made available to the
10 department under par. (b) 1. confidential and may use or allow access to that
11 information only for the purpose of providing services under s. 48.06, 48.067, 48.069,
12 938.06, 938.067, or 938.069. The department may allow that access regardless of
13 whether the person who is allowed that access is a party to or is otherwise involved
14 in the proceedings in which the electronic records containing that information were
15 created.

16 2. An individual who is allowed under subd. 1g., 1m., 1p., or 1r. to have access
17 to any information made available under par. (b) 1. shall keep the information
18 confidential and may use and further disclose the information only for the purpose
19 described in subd. 1g., 1m., 1p., or 1r.

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

22 **SECTION 20.** 938.78 (2) (a) of the statutes is amended to read:

23 938.78 (2) (a) No agency may make available for inspection or disclose the
24 contents of any record kept or information received about an individual who is or was
25 in its care or legal custody, except as provided under sub. (3) or s. 48.396 (3) ~~(b)~~ (bm)

1 or (c) ~~1.~~ 1r., 938.371, 938.38 (5) (b) or (d) or (5m) (d), 938.396 (2m) (c) 1r., 938.51, or
2 938.57 (2m) or by order of the court.

3 **SECTION 21.** 938.78 (2) (h) of the statutes is amended to read:

4 938.78 (2) (h) Paragraph (a) does not prohibit the department of children and
5 families, a county department, or a licensed child welfare agency from entering the
6 content of any record kept or information received by that department, county
7 department, or licensed child welfare agency into the statewide automated child
8 welfare information system established under s. 48.47 (7g) or the department of
9 children and families from transferring any information maintained in that system
10 to the court under s. 48.396 (3) ~~(b)~~ (bm). If the department of children and families
11 transfers that information to the court, the court and the director of state courts may
12 allow access to that information as provided in s. 48.396 (3) (c) 2.

13

(END)