

# State of Wisconsin



2009 Senate Bill 375

Date of enactment: **May 13, 2010**  
Date of publication\*: **May 26, 2010**

## 2009 WISCONSIN ACT 338

AN ACT *to amend* 48.396 (2) (a), 48.47 (7g), 48.78 (2) (a), 48.78 (2) (h), 938.396 (2), 938.78 (2) (a) and 938.78 (2) (h); and *to create* 48.396 (3) of the statutes; **relating to:** the exchange of electronic records between the juvenile courts and the Department of Children and Families and providing a penalty.

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

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

48.396 (2) (a) Records of the court assigned to exercise jurisdiction under this chapter and ch. 938 and of courts exercising jurisdiction under s. 48.16 shall be entered in books or deposited in files kept for that purpose only. They 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. 938 or as permitted under this ~~section~~ subsection, sub. (3) (b) or (c) 1. or (6), or s. 48.375 (7) (e).

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

48.396 (3) (a) In this subsection, "court" means the court assigned to exercise jurisdiction under this chapter and ch. 938.

(b) The court may transfer to the department information contained in the electronic records of the court, regardless of whether the department is a party to the proceedings in which the electronic records containing that information were created, and the department may transfer to the court information contained in the electronic records of the department that are maintained in the state-

wide automated child welfare information system under s. 48.47 (7g). The director of state courts may use the circuit court automated information systems established under s. 758.19 (4) to facilitate the transfer of those electronic records between the court and the department. The director of state courts and the department shall specify what types of information may be transferred under this paragraph.

(c) 1. The department may allow access to any information transferred to the department 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. The department may allow that access regardless of whether the person who is allowed that access is a party to the proceedings in which the electronic records containing that information were created.

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

3. The department, a court, the director of state courts, and any individual who is allowed access to any information transferred under par. (b) shall keep the information confidential and may use and further disclose the information only for the purpose described in subd. 1. or to the extent permitted under subd. 2.

\* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

**SECTION 3.** 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. The department may also transfer information that is maintained in the system to a court under s. 48.396 (3) (b), and the court and the director of state courts may allow access to that information as provided in s. 48.396 (3) (c) 2.

**SECTION 4.** 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) (b) or (c) 1., 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 5.** 48.78 (2) (h) of the statutes is amended to read:

48.78 (2) (h) Paragraph (a) does not prohibit the department, a county department, or a licensed child welfare agency from entering the content of any record kept

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

**SECTION 6.** 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) (b) or (c) 1.

**SECTION 7.** 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) (b) or (c) 1., 938.371, 938.38 (5) (b) or (d) or (5m) (d), 938.51, or 938.57 (2m) or by order of the court.

**SECTION 8.** 938.78 (2) (h) of the statutes is amended to read:

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