



**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1995 ASSEMBLY BILL 693**

March 28, 1996 – Offered by Representatives GROTHMAN, WOOD and ZIEGELBAUER.

1     **AN ACT to create** 118.135 of the statutes; **relating to:** surveys and  
2           questionnaires of pupils and providing a penalty.

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

3           **SECTION 1.** 118.135 of the statutes is created to read:

4           **118.135 Surveys and questionnaires of pupils. (1)** INSTRUCTIONAL  
5           MATERIALS AVAILABLE. Each school board shall make available for inspection by the  
6           parents and guardians of pupils enrolled in the school district all instructional  
7           material, including teacher's manuals, films, tapes and other supplementary  
8           material, that will be used in connection with any survey or questionnaire of pupils.

9           **(2) NOTIFICATION REQUIRED.** (a) Before an official, employe or agent of a school  
10          board conducts any survey or questionnaire of pupils that may reveal information  
11          about any of the following, the official, employe or agent shall notify the pupil, if the  
12          pupil is an adult or an emancipated minor, or the pupil's parent or guardian, if the  
13          pupil is an unemancipated minor:

14           1. The political affiliations of the pupil's parents.

1           2. Mental or psychological problems that may embarrass the pupil or the pupil's  
2 family.

3           3. The sexual behavior or attitudes of the pupil or the pupil's family.

4           4. Illegal, antisocial, self-incriminating or demeaning behavior of the pupil or  
5 the pupil's family.

6           5. Critical appraisals of individuals with whom the pupil has close family  
7 relationships.

8           6. Legally recognized privileged or analogous relationships that the pupil or a  
9 member of the pupil's family may have, including relationships with lawyers,  
10 physicians or members of the clergy.

11           7. The income of the pupil or the pupil's family, unless the information is  
12 required by law to determine eligibility for participation in a program or for receiving  
13 financial assistance.

14           8. The religious beliefs or practices of the pupil or the pupil's family.

15           (b) No official, employe or agent of a school board may include a pupil in any  
16 survey or questionnaire conducted under par. (a) if the pupil, if he or she is an adult  
17 or emancipated minor, or the pupil's parent or guardian, if the pupil is an  
18 unemancipated minor, objects to the inclusion of the pupil in the survey or  
19 questionnaire.

20           (c) An official, employe or agent of a school board shall notify the pupil or the  
21 pupil's parent under par. (a) regarding each survey or questionnaire conducted. The  
22 notice shall explicitly describe, in writing, the specific survey or questionnaire to  
23 which the notice applies and the procedure for filing an objection to the pupil's  
24 inclusion in the survey or questionnaire under par. (b). The notice shall include a  
25 form for the purpose of filing an objection.

1           **(3) EXCEPTIONS.** Subsection (2) does not apply to any of the following:

2           (a) Any communication between an official, employe or agent of a school board  
3 and an individual pupil, or notes or records of any such communication, if the  
4 communication is initiated by the pupil or the communication is initiated by an  
5 official, employe or agent of the school board who has reason to believe that the pupil  
6 has been abused or neglected, as defined in s. 48.981 (1) (a) and (d), or threatened  
7 with abuse or neglect.

8           (b) An emergency situation requiring the immediate intervention of an official,  
9 employe or agent of a school board.

10           (c) An examination intended to measure academic performance, except to the  
11 extent that questions included in the examination require a pupil to reveal  
12 information about any topic listed in sub. (2) (a).

13           **(4) NOTICE.** Annually each school board shall notify the pupils enrolled in the  
14 school district and their parents or guardians of the provisions of subs. (1) to (3).

15           **(5) PENALTY.** Any person who knowingly violates sub. (2) (a) or (b) shall forfeit  
16 not less than \$25 nor more than \$300 for each violation.

17           **(6) ENFORCEMENT.** (a) Forfeitures under this section shall be enforced by action  
18 on behalf of the state by the attorney general or, upon the verified complaint of any  
19 person, by the district attorney of any county where a violation occurs. In actions  
20 brought by the attorney general, the court shall award any forfeiture recovered  
21 together with reasonable costs to the state; and in actions brought by the district  
22 attorney, the court shall award any forfeiture recovered together with reasonable  
23 costs to the county.

24           (b) In addition and supplementary to the remedy provided in sub. (5), the  
25 attorney general or the district attorney may commence an action, separately or in

1 conjunction with an action brought under sub. (5), to obtain such other legal or  
2 equitable relief, including but not limited to mandamus, injunction or declaratory  
3 judgment, as may be appropriate under the circumstances.

4 (c) If the district attorney refuses or otherwise fails to commence an action to  
5 enforce this section within 20 days after receiving a verified complaint, the person  
6 making such complaint may bring an action under pars. (a) and (b) on his or her  
7 relation in the name, and on behalf, of the state. In such actions, the court may award  
8 actual and necessary costs of prosecution, including reasonable attorney fees to the  
9 relator if he or she prevails, but any forfeiture recovered shall be paid to the state.

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**(END)**