

# State of Wisconsin



2007 Assembly Bill 676

Date of enactment:  
Date of publication\*:

## 2007 WISCONSIN ACT

AN ACT *to repeal* 938.396 (2g) (c); *to amend* 48.396 (1), 48.396 (2) (a), 48.396 (2) (g), 938.396 (1) (a), 938.396 (2), 938.396 (2g) (d) and 938.396 (2g) (gm); and *to create* 48.396 (2m) and 938.396 (2m) of the statutes; **relating to:** disclosure of juvenile court records to other courts, law enforcement agencies, district attorneys and other prosecutors, and agencies providing services to a juvenile court and providing a penalty.

*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:

48.396 (1) Law enforcement officers' records of children shall be kept separate from records of adults. Law enforcement officers' records of the adult expectant mothers of unborn children shall be kept separate from records of other adults. Law enforcement officers' records of children and the adult expectant mothers of unborn children shall not be open to inspection or their contents disclosed except under sub. (1b), (1d), (2m) (b) 3., (5), or (6) or s. 48.293 or by order of the court. This subsection does not apply to the representatives of newspapers or other reporters of news who wish to obtain information for the purpose of reporting news without revealing the identity of the child or adult expectant mother involved, to the confidential exchange of information between the police and officials of the school attended by the child or other law enforcement or social welfare agencies, or to children 10 years of age or older who are subject to the jurisdiction of the court of criminal jurisdiction. A public school official who obtains information under this subsection shall keep the information confidential as required under s. 118.125 and a private

school official who obtains information under this subsection shall keep the information confidential in the same manner as is required of a public school official under s. 118.125. A law enforcement agency that obtains information under this subsection shall keep the information confidential as required under this subsection and s. 938.396 (1) (a). A social welfare agency that obtains information under this subsection shall keep the information confidential as required under ss. 48.78 and 938.78.

**SECTION 2.** 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~~ 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. 938 or as permitted under ~~this section~~ subsection, sub. (2m), or (6), or s. 48.375 (7) (e).

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

48.396 (2) (g) Upon request of the attorney or guardian ad litem for a party to a proceeding in any court assigned to exercise jurisdiction under this chapter and ch. 938; or in any municipal court exercising jurisdiction

\* Section 991.11, WISCONSIN STATUTES 2005-06 : 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].

under s. 938.17 (2), ~~or a district attorney, corporation counsel, or city, village, or town attorney to review court records for the purpose of any proceeding in that court or upon request of the attorney or guardian ad litem for a party to a proceeding in that court~~ to review court records for the purpose of that proceeding, the court shall open for inspection by any authorized representative of the requester the records of the court relating to any child who has been the subject of a proceeding under this chapter.

**SECTION 4.** 48.396 (2m) of the statutes is created to read:

48.396 (2m) (a) Notwithstanding sub. (2) (a), records of a court assigned to exercise jurisdiction under this chapter and ch. 938 shall be open for inspection by any other court assigned to exercise jurisdiction under this chapter and ch. 938, a municipal court exercising jurisdiction under s. 938.17 (2), a court of criminal jurisdiction, a person representing the interests of the public under s. 48.09 or 938.09, a district attorney, a law enforcement agency, the department, a county department, or a licensed child welfare agency providing services to a court under s. 48.06, 48.07, 938.06, or 938.07.

(b) 1. A court assigned to exercise jurisdiction under this chapter and ch. 938 or a municipal court exercising jurisdiction under s. 938.17 (2) that obtains information under par. (a) shall keep the information confidential as required under sub. (2) (a) and s. 938.396 (2) and may use and further disclose the information only for the purpose of conducting or preparing for a proceeding in that court or as permitted under sub. (2) (a) or s. 938.396 (2). A court of criminal jurisdiction that obtains information under par. (a) may use and further disclose the information only for the purposes of conducting or preparing for a proceeding in that court.

2. A person representing the interests of the public under s. 48.09 or 938.09 or a district attorney that obtains information under par. (a) shall keep the information confidential and may use and further disclose the information only as necessary for the person or district attorney to perform his or her official duties relating to a proceeding in a court assigned to exercise jurisdiction under this chapter and ch. 938, a municipal court exercising jurisdiction under s. 938.17 (2), or a court of criminal jurisdiction.

3. A law enforcement agency that obtains information under par. (a) shall keep the information confidential as required under sub. (1) and s. 938.396 (1) (a) and may use and further disclose the information only for the purpose of investigating any alleged criminal activity or any activity that may result in a court exercising jurisdiction under this chapter or ch. 938 or as permitted under sub. (1) or s. 938.396 (1) (a).

4. The department, a county department, or a licensed child welfare agency that obtains information under par. (a) 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, 48.07, 938.06, or 938.07 or as permitted under s. 48.78 or 938.78.

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

**SECTION 5.** 938.396 (1) (a) of the statutes is amended to read:

938.396 (1) (a) *Confidentiality.* Law enforcement agency records of juveniles shall be kept separate from records of adults. Law enforcement agency records of juveniles may not be open to inspection or their contents disclosed except under, par. (b) or (c), sub. (1j), (2m) (b) 3., or (10),<sub>2</sub> or s. 938.293 or by order of the court.

**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), (2m), or (10).

**SECTION 7.** 938.396 (2g) (c) of the statutes is repealed.

**SECTION 8.** 938.396 (2g) (d) of the statutes is amended to read:

938.396 (2g) (d) *Bail; impeachment; firearm possession Impeachment.* Upon request of a court of criminal jurisdiction ~~or a district attorney to review court records for the purpose of setting bail under ch. 969, impeaching a witness under s. 906.09, or investigating and determining whether a person has possessed a firearm in violation of s. 941.29 (2) or body armor in violation of s. 941.291 (2) or upon request of a court of civil jurisdiction or the attorney for a party to a proceeding in that court~~ to review court records for the purpose of impeaching a witness under s. 906.09, 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.

**SECTION 9.** 938.396 (2g) (gm) of the statutes is amended to read:

938.396 (2g) (gm) *Other Parties to a proceeding in other courts.* Upon request of the attorney or guardian ad litem for a party to a proceeding in any court assigned to exercise jurisdiction under this chapter and ch. 48, or in any municipal court exercising jurisdiction under s. 938.17 (2), ~~or a district attorney, corporation counsel, or city, village, or town attorney to review court records for the purpose of any proceeding in that court or upon request of the attorney or guardian ad litem for a party to~~

a proceeding in that court to review court records for the purpose of that proceeding, the court assigned to exercise jurisdiction under this chapter and ch. 48 or the municipal court exercising jurisdiction under s. 938.17 (2) shall open for inspection by any authorized representative of the requester its records relating to any juvenile who has been the subject of a proceeding under this chapter.

**SECTION 10.** 938.396 (2m) of the statutes is created to read:

938.396 (2m) CONFIDENTIALITY OF COURT RECORDS; OTHER EXCEPTIONS. (a) Notwithstanding sub. (2), records of a court assigned to exercise jurisdiction under this chapter and ch. 48 shall be open for inspection by any other court assigned to exercise jurisdiction under this chapter and ch. 48 a municipal court exercising jurisdiction under s. 938.17 (2), a court of criminal jurisdiction, a person representing the interests of the public under s. 48.09 or 938.09, a district attorney, a law enforcement agency, the department of health and family services, a county department, or a licensed child welfare agency providing services to a court under s. 48.06, 48.07, 938.06, or 938.07.

(b) 1. A court assigned to exercise jurisdiction under this chapter and ch. 48 or a municipal court exercising jurisdiction under s. 938.17 (2) that obtains information under par. (a) shall keep the information confidential as required under sub. (2) and s. 48.396 (2) (a) and may use and further disclose the information only for the purpose of conducting or preparing for a proceeding in that court or as permitted under sub. (2) or s. 48.396 (2) (a). A court of criminal jurisdiction that obtains information under par. (a) may use and further disclose the information only

for the purposes of conducting or preparing for a proceeding in that court.

2. A person representing the interests of the public under s. 48.09 or 938.09 or a district attorney that obtains information under par. (a) shall keep the information confidential and may use and further disclose the information only as necessary for the person or district attorney to perform his or her official duties relating to a proceeding in a court assigned to exercise jurisdiction under this chapter and ch. 48, a municipal court exercising jurisdiction under s. 938.17 (2), or a court of criminal jurisdiction.

3. A law enforcement agency that obtains information under par. (a) shall keep the information confidential as required under sub. (1) (a) and s. 48.396 (1) and may use and further disclose the information only for the purpose of investigating any alleged criminal activity or any activity that may result in a court exercising jurisdiction under this chapter or ch. 48 or as permitted under sub. (1) (a) or s. 48.396 (1).

4. The department of health and family services, a county department, or a licensed child welfare agency that obtains information under par. (a) 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, 48.07, 938.06, or 938.07 or as permitted under s. 48.78 or 938.78.

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

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