

DLS:jal

10/25/2004

1 **AN ACT** *to repeal* 48.396 (2) (f), 938.396 (1m) (d) and 938.396 (6); *to renumber*
2 938.396 (1b), 938.396 (1d), 938.396 (1r), 938.396 (1t), 938.396 (1x), 938.396 (2)
3 (ag), 938.396 (2) (am), 938.396 (2) (c), 938.396 (2) (d), 938.396 (2) (dm), 938.396
4 (2) (dr), 938.396 (2) (e), 938.396 (2) (fm), 938.396 (2) (g), 938.396 (2) (gm),
5 938.396 (2) (h), 938.396 (2) (i), 938.396 (5) (a) 1. to 5., 938.396 (5) (c) (intro.), 1
6 and 2. and 938.396 (5) (d) and (e); *to renumber and amend* 938.396 (1), 938.396
7 (1g), 938.396 (1m) (a), 938.396 (1m) (am), 938.396 (1m) (ar), 938.396 (1m) (b),
8 938.396 (1m) (c), 938.396 (1p), 938.396 (2) (a), 938.396 (2) (b), 938.396 (2) (em),
9 938.396 (2) (f), 938.396 (2) (j), 938.396 (2m) (a), 938.396 (2m) (b), 938.396 (5) (a)
10 (intro.), 938.396 (5) (b), 938.396 (5) (bm), 938.396 (5) (c) 3., 938.396 (7) (a),
11 938.396 (7) (am), 938.396 (7) (ar), 938.396 (7) (b), 938.396 (7) (bm), 938.396 (7)
12 (c), 938.396 (8) and 938.396 (9); *to amend* 48.236 (4) (a), 48.396 (1), 48.78 (2) (b),
13 49.35 (1) (b), 118.125 (1) (a), 118.125 (2) (cg), 118.125 (2) (d), 118.125 (2) (e),
14 118.125 (2) (L), 118.125 (3), 118.125 (5) (b), 118.125 (7), 118.127 (1), 118.127 (2),
15 165.55 (15), 175.35 (1) (ag), 301.032 (1) (b), 938.346 (1) (a), 938.346 (1) (b),
16 938.355 (4m) (b) and 938.78 (2) (b) 1.; and *to create* 938.396 (1) (title), 938.396 (1)
17 (b) 5., 938.396 (1) (c) (intro.), 938.396 (1j) (title), 938.396 (2g) (intro.), 938.396 (2g)
18 (ag) (title), 938.396 (2g) (am) (title), 938.396 (2g) (c) (title), 938.396 (2g) (d) (title),
19 938.396 (2g) (dm) (title), 938.396 (2g) (dr) (title), 938.396 (2g) (e) (title), 938.396
20 (2g) (fm) (title), 938.396 (2g) (g) (title), 938.396 (2g) (gm) (title), 938.396 (2g) (h)
21 (title), 938.396 (2g) (i) (title), 938.396 (2g) (m) (title), 938.396 (3) (title) and
22 938.396 (4) (title) of the statutes; **relating to:** the confidentiality of juvenile records.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on recodification of ch. 938, the Juvenile Justice Code. The draft reorganizes the provisions of the Juvenile Justice Code relating to the confidentiality of juvenile law enforcement, juvenile court, and municipal court records. Those provisions are found in s. 938.396 in subchapter VII of the Juvenile Justice Code. The draft also include cross-reference changes, within and outside of ch. 938, necessitated by the reorganization of s. 938.396 in this draft.

SECTION 1. 48.236 (4) (a) of the statutes is amended to read:

48.236 (4) (a) Inspect any reports and records relating to the child who is the subject of the proceeding, the child's family, and any other person residing in the same home as the child that are relevant to the subject matter of the proceeding, including records discoverable under s. 48.293, examination reports under s. 48.295 (2), law enforcement reports and records under ss. 48.396 (1) and 938.396 (1) (a), court records under ss. 48.396 (2) (a) and 938.396 (2) (a), social welfare agency records under ss. 48.78 (2) (a) and 938.78 (2) (a), abuse and neglect reports and records under s. 48.981 (7) (a) 11r., and pupil records under s. 118.125 (2) (L). The order shall also require the custodian of any report or record specified in this paragraph to permit the court-appointed special advocate to inspect the report or record on presentation by the court-appointed special advocate of a copy of the order. A court-appointed special advocate that obtains access to a report or record described in this paragraph shall keep the information contained in the report or record confidential and may disclose that information only to the court. If a court-appointed special advocate discloses any information to the court under this paragraph, the court-appointed special advocate shall also disclose that information to all parties to the proceeding. If a court-appointed special advocate discloses information in violation of the confidentiality requirement specified in this

1 paragraph, the court-appointed special advocate is liable to any person damaged as a result
2 of that disclosure for such damages as may be proved and, notwithstanding s. 814.04 (1), for
3 such costs and reasonable actual attorney fees as may be incurred by the person damaged.

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

5 48.396 (1) Law enforcement officers' records of children shall be kept separate from
6 records of adults. Law enforcement officers' records of the adult expectant mothers of unborn
7 children shall be kept separate from records of other adults. Law enforcement officers'
8 records of children and the adult expectant mothers of unborn children shall not be open to
9 inspection or their contents disclosed except under sub. (1b), (1d)₂ or (5) or s. 48.293 or by
10 order of the court. This subsection does not apply to the representatives of newspapers or other
11 reporters of news who wish to obtain information for the purpose of reporting news without
12 revealing the identity of the child or adult expectant mother involved, to the confidential
13 exchange of information between the police and officials of the school attended by the child
14 or other law enforcement or social welfare agencies₂ or to children 10 years of age or older
15 who are subject to the jurisdiction of the court of criminal jurisdiction. A public school official
16 who obtains information under this subsection shall keep the information confidential as
17 required under s. 118.125 and a private school official who obtains information under this
18 subsection shall keep the information confidential in the same manner as is required of a public
19 school official under s. 118.125. A law enforcement agency that obtains information under
20 this subsection shall keep the information confidential as required under this subsection and
21 s. 938.396 (1) (a). A social welfare agency that obtains information under this subsection shall
22 keep the information confidential as required under ss. 48.78 and 938.78.

23 **SECTION 3.** 48.396 (2) (f) of the statutes is repealed.

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

1 48.78 (2) (b) Paragraph (a) does not apply to the confidential exchange of information
2 between an agency and another social welfare agency, a law enforcement agency, a public
3 school, or a private school regarding an individual in the care or legal custody of the agency.
4 A social welfare agency that obtains information under this paragraph shall keep the
5 information confidential as required under this section and s. 938.78. A law enforcement
6 agency that obtains information under this paragraph shall keep the information confidential
7 as required under ss. 48.396 (1) and 938.396 (1) (a). A public school that obtains information
8 under this paragraph shall keep the information confidential as required under s. 118.125, and
9 a private school that obtains information under this paragraph shall keep the information
10 confidential in the same manner as is required of a public school under s. 118.125.

11 **SECTION 5.** 49.35 (1) (b) of the statutes is amended to read:

12 49.35 (1) (b) All records of the department and all county records relating to programs
13 under this subchapter and aid under s. 49.18, 1971 stats., s. 49.20, 1971 stats., and s. 49.61,
14 1971 stats., as affected by chapter 90, laws of 1973, shall be open to inspection at all reasonable
15 hours by authorized representatives of the federal government. Notwithstanding ~~s. ss.~~ 48.396
16 (2) and 938.396 (2), all county records relating to the administration of the services and public
17 assistance specified in this paragraph shall be open to inspection at all reasonable hours by
18 authorized representatives of the department.

19 **SECTION 6.** 118.125 (1) (a) of the statutes is amended to read:

20 118.125 (1) (a) “Behavioral records” means those pupil records which include
21 psychological tests, personality evaluations, records of conversations, any written statement
22 relating specifically to an individual pupil’s behavior, tests relating specifically to
23 achievement or measurement of ability, the pupil’s physical health records other than his or
24 her immunization records or any lead screening records required under s. 254.162, law

1 enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) ~~or (1m)~~ (b) 2. or (c)
2 3., and any other pupil records that are not progress records.

3 **SECTION 7.** 118.125 (2) (cg) of the statutes is amended to read:

4 118.125 (2) (cg) The school district clerk or his or her designee shall provide a law
5 enforcement agency with a copy of a pupil's attendance record if the law enforcement agency
6 certifies in writing that the pupil is under investigation for truancy or for allegedly committing
7 a criminal or delinquent act and that the law enforcement agency will not further disclose the
8 pupil's attendance record except as permitted under s. 938.396 (1) ~~to (1x)~~ (a). A school district
9 clerk or designee who discloses a copy of a pupil's attendance record to a law enforcement
10 agency for purposes of a truancy investigation shall notify the pupil's parent or guardian of
11 that disclosure as soon as practicable after that disclosure.

12 **SECTION 8.** 118.125 (2) (d) of the statutes is amended to read:

13 118.125 (2) (d) Pupil records shall be made available to persons employed by the school
14 district which the pupil attends who are required by the department under s. 115.28 (7) to hold
15 a license and other school district officials who have been determined by the school board to
16 have legitimate educational interests, including safety interests, in the pupil records. Law
17 enforcement officers' records obtained under s. 938.396 ~~(1m)~~ (1)(c) 3. shall be made available
18 as provided in s. 118.127 (2). A school board member or an employee of a school district may
19 not be held personally liable for any damages caused by the nondisclosure of any information
20 specified in this paragraph unless the member or employee acted with actual malice in failing
21 to disclose the information. A school district may not be held liable for any damages caused
22 by the nondisclosure of any information specified in this paragraph unless the school district
23 or its agent acted with gross negligence or with reckless, wanton, or intentional misconduct
24 in failing to disclose the information.

1 **SECTION 9.** 118.125 (2) (e) of the statutes is amended to read:

2 118.125 (2) (e) Upon the written permission of an adult pupil, or the parent or guardian
3 of a minor pupil, the school shall make available to the person named in the permission the
4 pupil's progress records or such portions of the pupil's behavioral records as determined by
5 the person authorizing the release. Law enforcement officers' records obtained under s.
6 48.396 (1) or 938.396 (1) ~~or (1m) (b) 2. or (c) 3.~~ may not be made available under this
7 paragraph unless specifically identified by the adult pupil or by the parent or guardian of a
8 minor pupil in the written permission.

9 **SECTION 10.** 118.125 (2) (L) of the statutes is amended to read:

10 118.125 (2) (L) A school board shall disclose the pupil records of a pupil in compliance
11 with a court order under s. 48.236 (4) (a), 48.345 (12) (b), 938.34 (7d) (b), 938.396 ~~(1m) (c)~~
12 ~~or (1) (d)~~, or 938.78 (2) (b) 2. after making a reasonable effort to notify the pupil's parent or
13 legal guardian.

14 **SECTION 11.** 118.125 (3) of the statutes is amended to read:

15 118.125 (3) MAINTENANCE OF RECORDS. Each school board shall adopt rules in writing
16 specifying the content of pupil records and the time during which pupil records shall be
17 maintained. No behavioral records may be maintained for more than one year after the pupil
18 ceases to be enrolled in the school, unless the pupil specifies in writing that his or her
19 behavioral records may be maintained for a longer period. A pupil's progress records shall
20 be maintained for at least 5 years after the pupil ceases to be enrolled in the school. A school
21 board may maintain the records on microfilm, on an optical disk, or in electronic format if
22 authorized under s. 19.21 (4) (c), or in such other form as the school board deems appropriate.
23 A school board shall maintain law enforcement officers' records obtained under s. 48.396 (1)
24 or 938.396 (1) ~~or (1m) (b) 2. or (c) 3.~~ separately from a pupil's other pupil records. Rules

1 adopted under this subsection shall be published by the school board as a class 1 notice under
2 ch. 985.

3 **SECTION 12.** 118.125 (5) (b) of the statutes is amended to read:

4 118.125 **(5)** (b) Law enforcement officers' records obtained under s. 48.396 (1) or
5 938.396 (1) ~~or (1m);~~ (b) 2. or (c) 3. and records of the court assigned to exercise jurisdiction
6 under chs. 48 and 938 ~~obtained under s. 938.396 (7) (a), (am), (ar), (b), or (bm), and records~~
7 or of a municipal court obtained under s. 938.396 (7) (ar) (2g) (m) may not be used by a school
8 district as the sole basis for expelling or suspending a pupil or as the sole basis for taking any
9 other disciplinary action, including action under the school district's athletic code, against a
10 pupil.

11 **SECTION 13.** 118.125 (7) of the statutes is amended to read:

12 118.125 **(7)** DISCLOSURE OF LAW ENFORCEMENT UNIT RECORDS. A school board shall treat
13 law enforcement unit records of juveniles in the same manner as a law enforcement agency
14 is required to treat law enforcement officers' records of juveniles under s. 938.396 (1) ~~to (1x)~~
15 ~~and (5) (a).~~

16 **SECTION 14.** 118.127 (1) of the statutes is amended to read:

17 118.127 **(1)** Upon receipt of information from a law enforcement agency under s.
18 48.396 (1) or 938.396 (1) ~~or (1m)~~ (b) 2. or (c) 3., the school district administrator or private
19 school administrator who receives the information shall notify any pupil named in the
20 information, and the parent or guardian of any minor pupil named in the information, of the
21 information.

22 **SECTION 15.** 118.127 (2) of the statutes is amended to read:

23 118.127 **(2)** A school district or private school may disclose information from law
24 enforcement officers' records obtained under s. 938.396 ~~(1m)~~ (1) (c) 3. only to persons

1 employed by the school district who are required by the department under s. 115.28 (7) to hold
2 a license, to persons employed by the private school as teachers, and to other school district
3 or private school officials who have been determined by the school board or governing body
4 of the private school to have legitimate educational interests, including safety interests, in that
5 information. In addition, if that information relates to a pupil of the school district or private
6 school, the school district or private school may also disclose that information to those
7 employees of the school district or private school who have been designated by the school
8 board or governing body of the private school to receive that information for the purpose of
9 providing treatment programs for pupils enrolled in the school district or private school. A
10 school district may not use law enforcement officers' records obtained under s. 938.396 (4m)
11 (1) (c) 3. as the sole basis for expelling or suspending a pupil or as the sole basis for taking
12 any other disciplinary action, including action under the school district's athletic code, against
13 a pupil.

14 **SECTION 16.** 165.55 (15) of the statutes is amended to read:

15 165.55 (15) The state fire marshal, any deputy fire marshal, any fire chief, or his or her
16 designee may obtain information relating to a juvenile from a law enforcement agency, a court
17 assigned to exercise jurisdiction under chs. 48 and 938 or an agency, as defined in s. 938.78
18 (1), as provided in ss. 938.396 ~~(1x)~~ and ~~(2)~~ (1) (c) 8. and (2g) (j) and 938.78 (2) (b) 1. and may
19 obtain information relating to a pupil from a public school as provided in ss. 118.125 (2) (ch)
20 and (L) and 938.396 ~~(4m)~~ (1) (d).

21 **SECTION 17.** 175.35 (1) (ag) of the statutes is amended to read:

22 175.35 (1) (ag) "Criminal history record" includes information reported to the
23 department under s. 938.396 ~~(8)~~ (2g) (n) that indicates a person was adjudicated delinquent
24 for an act that if committed by an adult in this state would be a felony.

1 **SECTION 18.** 301.032 (1) (b) of the statutes is amended to read:

2 301.032 **(1)** (b) All records of the department and all county records relating to juvenile
3 delinquency-related services shall be open to inspection at all reasonable hours by authorized
4 representatives of the federal government. Notwithstanding ~~s. ss. 48.396 (2) and~~ 938.396 (2),
5 all county records relating to the administration of such services shall be open to inspection
6 at all reasonable hours by authorized representatives of the department.

7 **SECTION 19.** 938.346 (1) (a) of the statutes is amended to read:

8 938.346 **(1)** (a) The procedures under s. 938.396 ~~(1r) and (6)~~ (1) (c) 5. and 6. for
9 obtaining the identity of the juvenile and the juvenile's parents.

10 **SECTION 20.** 938.346 (1) (b) of the statutes is amended to read:

11 938.346 **(1)** (b) The procedure under s. 938.396 ~~(1r)~~ (1) (c) 5. for obtaining the
12 juvenile's police records.

13 **SECTION 21.** 938.355 (4m) (b) of the statutes is amended to read:

14 938.355 **(4m)** (b) The court shall expunge the court's record of a juvenile's adjudication
15 if it was the juvenile's first adjudication based on a violation of s. 942.08 (2) (b), (c), or (d),
16 and if the court determines that the juvenile has satisfactorily complied with the conditions
17 of his or her dispositional order. Notwithstanding s. 938.396 (2) ~~(a)~~, the court shall notify the
18 department promptly of any expungement under this paragraph.

19 **SECTION 22.** 938.396 (1) (title) of the statutes is created to read:

20 938.396 **(1)** (title) LAW ENFORCEMENT RECORDS.

21 **SECTION 23.** 938.396 (1) of the statutes is renumbered 938.396 (1) (a) and amended to
22 read:

23 938.396 **(1)** (a) Confidentiality. Law enforcement officers' agency records of juveniles
24 shall be kept separate from records of adults. Law enforcement officers' agency records of

1 juveniles ~~shall~~ may not be open to inspection or their contents disclosed except under ~~sub. (1b),~~
2 ~~(1d), (1g), (1m), (1r), (1t), (1x) or (5) par. (b) or (c), sub. (1j),~~ or s. 938.293 or by order of the
3 court. This subsection

4 (b) Applicability. Paragraph (a) does not apply to any of the following:

5 1. The disclosure of information to representatives of the news media who wish to
6 obtain information for the purpose of reporting news without revealing. A representative of
7 the news media who obtains information under this subdivision may not reveal the identity
8 of the juvenile involved, ~~to the~~.

9 2. The confidential exchange of information between the police a law enforcement
10 agency and officials of the school attended by the juvenile or other law enforcement or social
11 welfare agencies or to juveniles 10 years of age or older who are subject to the jurisdiction of
12 the court of criminal jurisdiction. A public school official who obtains information under this
13 subsection subdivision shall keep the information confidential as required under s. 118.125,
14 and a private school official who obtains information under this subsection subdivision shall
15 keep the information confidential in the same manner as is required of a public school official
16 under s. 118.125.

17 3. The confidential exchange of information between a law enforcement agency and
18 another law enforcement agency. A law enforcement agency that obtains information under
19 this subsection subdivision shall keep the information confidential as required under this
20 subsection par. (a) and s. 48.396 (1).

21 4. The confidential exchange of information between a law enforcement agency and
22 a social welfare agency. A social welfare agency that obtains information under this
23 subsection subdivision shall keep the information confidential as required under ss. 48.78 and
24 938.78.

1 **SECTION 24.** 938.396 (1) (b) 5. of the statutes is created to read:

2 938.396 (1) (b) 5. The disclosure of information relating to a juvenile 10 years of age
3 or over who is subject to the jurisdiction of a court of criminal jurisdiction.

4 **SECTION 25.** 938.396 (1) (c) (intro.) of the statutes is created to read:

5 938.396 (1) (c) *Exceptions.* (intro.) Notwithstanding par. (a), law enforcement agency
6 records of juveniles may be disclosed as follows:

7 **SECTION 26.** 938.396 (1b) of the statutes is renumbered 938.396 (1) (c) 1.

8 **SECTION 27.** 938.396 (1d) of the statutes is renumbered 938.396 (1) (c) 2.

9 **SECTION 28.** 938.396 (1g) of the statutes is renumbered 938.396 (1) (c) 6. and amended
10 to read:

11 938.396 (1) (c) 6. If requested by the victim–witness coordinator, a law enforcement
12 agency shall disclose to the victim–witness coordinator any information in its records relating
13 to the enforcement of rights under the constitution, this chapter, and s. 950.04 or the provision
14 of services under s. 950.06 (1m), including the name and address of the juvenile and the
15 juvenile’s parents. The victim–witness coordinator may use the information only for the
16 purpose of enforcing those rights and providing those services and may make that information
17 available only as necessary to ensure that victims and witnesses of crimes, as defined in s.
18 950.02 (1m), receive the rights and services to which they are entitled under the constitution,
19 this chapter, and ch. 950. The victim–witness coordinator may also use the information to
20 disclose the name and address of the juvenile and the juvenile’s parents to the victim of the
21 juvenile’s act.

22 **SECTION 29.** 938.396 (1j) (title) of the statutes is created to read:

23 938.396 (1j) (title) LAW ENFORCEMENT RECORDS, COURT-ORDERED DISCLOSURE.

1 **SECTION 30.** 938.396 (1m) (a) of the statutes is renumbered 938.396 (1) (c) 3. (intro.)
2 and amended to read:

3 938.396 (1) (c) 3. (intro.) A law enforcement agency, on its own initiative or on the
4 request of the school district administrator of a public school district, the administrator of a
5 private school, or the designee of the school district administrator or the private school
6 administrator, may, subject to official agency policy, provide to the school district
7 administrator, private school administrator, or designee, for use as provided in s. 118.127 (2),
8 any information in its records relating to the any of the following:

9 a. The use, possession, or distribution of alcohol or a controlled substance or controlled
10 substance analog by a juvenile enrolled in the public school district or private school. The
11 ~~information shall be used by the school district or private school as provided under s. 118.127~~
12 ~~(2).~~

13 **SECTION 31.** 938.396 (1m) (am) of the statutes is renumbered 938.396 (1) (c) 3. b. and
14 amended to read:

15 938.396 (1) (c) 3. b. ~~A law enforcement agency, on its own initiative or on the request~~
16 ~~of the school district administrator of a public school district, the administrator of a private~~
17 ~~school or the designee of the school district administrator or the private school administrator,~~
18 ~~may, subject to official agency policy, provide to the school district administrator, private~~
19 ~~school administrator or designee any information in its records relating to the~~ The illegal
20 possession by a juvenile of a dangerous weapon, as defined in s. 939.22 (10). ~~The information~~
21 ~~shall be used by the school district or private school as provided in s. 118.127 (2).~~

22 **SECTION 32.** 938.396 (1m) (ar) of the statutes is renumbered 938.396 (1) (c) 3. c. and
23 amended to read:

1 938.396 (1) (c) 3. c. ~~A law enforcement agency, on its own initiative or on the request~~
2 ~~of the school district administrator of a public school district, the administrator of a private~~
3 ~~school, or the designee of the school district administrator or the private school administrator,~~
4 ~~may, subject to official agency policy, provide to the school district administrator, private~~
5 ~~school administrator, or designee any information in its records relating to an An act for which~~
6 ~~a juvenile enrolled in the school district or private school was taken into custody under s.~~
7 ~~938.19 based on a law enforcement officer's belief that the juvenile was committing or had~~
8 ~~committed a violation of any state or federal criminal law. The information shall be used by~~
9 ~~the school district or private school as provided in s. 118.127 (2).~~

10 **SECTION 33.** 938.396 (1m) (b) of the statutes is renumbered 938.396 (1) (c) 3. d. and
11 amended to read:

12 938.396 (1) (c) 3. d. ~~A law enforcement agency, on its own initiative or on the request~~
13 ~~of the school district administrator of a public school district, the administrator of a private~~
14 ~~school or the designee of the school district administrator or the private school administrator,~~
15 ~~may, subject to official agency policy, provide to the school district administrator, private~~
16 ~~school administrator or designee any information in its records relating to the An act for which~~
17 ~~a juvenile enrolled in the public school district or private school was adjudged delinquent. The~~
18 ~~information shall be used by the school district or private school as provided in s. 118.127 (2).~~

19 **SECTION 34.** 938.396 (1m) (c) of the statutes is renumbered 938.396 (1) (d) and
20 amended to read:

21 938.396 (1) (d) Law enforcement access to school records. On petition of a law
22 enforcement agency to review pupil records, as defined in s. 118.125 (1) (d), other than pupil
23 records that may be disclosed without a court order under s. 118.125 (2) or (2m), for the
24 purpose of ~~investigating~~ pursuing an investigation of any alleged delinquent or criminal

1 activity or on petition of a fire investigator under s. 165.55 (15) to review those pupil records
2 for the purpose of pursuing an investigation under s. 165.55 (15), the court may order the
3 school board of the school district, or the governing body of the private school, in which a
4 juvenile is enrolled to disclose to the law enforcement agency or fire investigator the pupil
5 records of that juvenile as necessary for the law enforcement agency or fire investigator to
6 pursue its the investigation. The law enforcement agency or fire investigator may use the pupil
7 records only for the purpose of its the investigation and may make the pupil records available
8 only to employees of the law enforcement agency or fire investigator who are working on the
9 investigation.

10 **SECTION 35.** 938.396 (1m) (d) of the statutes is repealed.

11 **SECTION 36.** 938.396 (1p) of the statutes is renumbered 938.396 (1) (c) 4. and amended
12 to read:

13 938.396 (1) (c) 4. A law enforcement agency may enter into an interagency agreement
14 with a school board, a private school, a social welfare agency, or another law enforcement
15 agency providing for the routine disclosure of information under subs. (1) ~~and (1m)~~ (b) 2. and
16 (c) 3. to the school board, private school, social welfare agency, or other law enforcement
17 agency.

18 **SECTION 37.** 938.396 (1r) of the statutes is renumbered 938.396 (1) (c) 5.

19 **SECTION 38.** 938.396 (1t) of the statutes is renumbered 938.396 (1) (c) 7.

20 **SECTION 39.** 938.396 (1x) of the statutes is renumbered 938.396 (1) (c) 8.

21 **SECTION 40.** 938.396 (2) (a) of the statutes is renumbered 938.396 (2) and amended to
22 read:

23 938.396 (2) COURT RECORDS; CONFIDENTIALITY. Records of the court assigned to exercise
24 jurisdiction under this chapter and ch. 48 and of municipal courts exercising jurisdiction under

1 s. 938.17 (2) shall be entered in books or deposited in files kept for that purpose only. Those
2 records shall not be open to inspection or their contents disclosed except by order of the court
3 assigned to exercise jurisdiction under this chapter and ch. 48 or as permitted under ~~this section~~
4 sub. (2g).

5 **SECTION 41.** 938.396 (2) (ag) of the statutes is renumbered 938.396 (2g) (ag).

6 **SECTION 42.** 938.396 (2) (am) of the statutes is renumbered 938.396 (2g) (am).

7 **SECTION 43.** 938.396 (2) (b) of the statutes is renumbered 938.396 (2g) (b) and amended
8 to read:

9 938.396 (2g) (b) Federal program monitoring. Upon request of the department of
10 health and family services, the department of corrections, or a federal agency to review court
11 records for the purpose of monitoring and conducting periodic evaluations of activities as
12 required by and implemented under 45 CFR 1355, 1356, and 1357, the court shall open those
13 records for inspection by authorized representatives of ~~the~~ that department or federal agency.

14 **SECTION 44.** 938.396 (2) (c) of the statutes is renumbered 938.396 (2g) (c).

15 **SECTION 45.** 938.396 (2) (d) of the statutes is renumbered 938.396 (2g) (d).

16 **SECTION 46.** 938.396 (2) (dm) of the statutes is renumbered 938.396 (2g) (dm).

17 **SECTION 47.** 938.396 (2) (dr) of the statutes is renumbered 938.396 (2g) (dr).

18 **SECTION 48.** 938.396 (2) (e) of the statutes is renumbered 938.396 (2g) (e).

19 **SECTION 49.** 938.396 (2) (em) of the statutes is renumbered 938.396 (2g) (em) and
20 amended to read:

21 938.396 (2g) (em) Sex offender registration. Upon request of the department to review
22 court records for the purpose of obtaining information concerning a ~~child~~ juvenile who is
23 required to register under s. 301.45, the court shall open for inspection by authorized
24 representatives of the department the records of the court relating to any ~~child~~ juvenile who

1 has been adjudicated delinquent or found in need of protection or services or not responsible
2 by reason of mental disease or defect for an offense specified in s. 301.45 (1g) (a). The
3 department may disclose information that it obtains under this paragraph as provided under
4 s. 301.46.

5 **SECTION 50.** 938.396 (2) (f) of the statutes is renumbered 938.396 (2g) (f) and amended
6 to read:

7 938.396 (2g) (f) Victim–witness coordinator. Upon request of the victim–witness
8 coordinator to review court records for the purpose of enforcing rights under the constitution,
9 this chapter, and s. 950.04 and providing services under s. 950.06 (1m), the court shall open
10 for inspection by the victim–witness coordinator the records of the court relating to the
11 enforcement of those rights or the provision of those services, including the name and address
12 of the juvenile and the juvenile’s parents. The victim–witness coordinator may use any
13 information obtained under this paragraph only for the purpose of enforcing those rights and
14 providing those services and may make that information available only as necessary to ensure
15 that victims and witnesses of crimes, as defined in s. 950.02 (1m), receive the rights and
16 services to which they are entitled under the constitution, this chapter and ch. 950. The
17 victim–witness coordinator may also use that information to disclose the name and address
18 of the juvenile and the juvenile’s parents to the victim of the juvenile’s act.

19 **SECTION 51.** 938.396 (2) (fm) of the statutes is renumbered 938.396 (2g) (fm).

20 **SECTION 52.** 938.396 (2) (g) of the statutes is renumbered 938.396 (2g) (g).

21 **SECTION 53.** 938.396 (2) (gm) of the statutes is renumbered 938.396 (2g) (gm).

22 **SECTION 54.** 938.396 (2) (h) of the statutes is renumbered 938.396 (2g) (h).

23 **SECTION 55.** 938.396 (2) (i) of the statutes is renumbered 938.396 (2g) (i).

1 **SECTION 56.** 938.396 (2) (j) of the statutes is renumbered 938.396 (2g) (j) and amended
2 to read:

3 938.396 (2g) (j) *Fire investigator.* Upon request of a fire investigator under s. 165.55
4 (15) to review court records for the purpose of pursuing an investigation under s. 165.55, the
5 court shall open for inspection by authorized representatives of the requester the records of
6 the court relating to any juvenile who has been adjudicated delinquent or found to be in need
7 of protection or services under s. 938.13 (12) or (14) for a violation of s. 940.08, 940.24,
8 941.10, 941.11, 943.01, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, or 943.06 or for
9 an attempt to commit any of those violations.

10 **SECTION 57.** 938.396 (2g) (intro.) of the statutes is created to read:

11 938.396 (2g) CONFIDENTIALITY OF COURT RECORDS; EXCEPTIONS. (intro.)
12 Notwithstanding sub. (2), records of the court assigned to exercise jurisdiction under this
13 chapter and ch. 48 and of courts exercising jurisdiction under s. 938.17 (2) may be disclosed
14 as follows:

15 **SECTION 58.** 938.396 (2g) (ag) (title) of the statutes is created to read:

16 938.396 (2g) (ag) (title) *Request of parent or juvenile.*

17 **SECTION 59.** 938.396 (2g) (am) (title) of the statutes is created to read:

18 938.396 (2g) (am) (title) *Permission of parent or juvenile.*

19 **SECTION 60.** 938.396 (2g) (c) (title) of the statutes is created to read:

20 938.396 (2g) (c) (title) *Law enforcement agencies.*

21 **SECTION 61.** 938.396 (2g) (d) (title) of the statutes is created to read:

22 938.396 (2g) (d) (title) *Bail; impeachment; firearm possession.*

23 **SECTION 62.** 938.396 (2g) (dm) (title) of the statutes is created to read:

24 938.396 (2g) (dm) (title) *Delinquency or criminal defense.*

1 **SECTION 63.** 938.396 (2g) (dr) (title) of the statutes is created to read:

2 938.396 (2g) (dr) (title) *Presentence investigation.*

3 **SECTION 64.** 938.396 (2g) (e) (title) of the statutes is created to read:

4 938.396 (2g) (e) (title) *Sexually violent person commitment.*

5 **SECTION 65.** 938.396 (2g) (fm) (title) of the statutes is created to read:

6 938.396 (2g) (fm) (title) *Victim's insurer.*

7 **SECTION 66.** 938.396 (2g) (g) (title) of the statutes is created to read:

8 938.396 (2g) (g) (title) *Paternity of juvenile.*

9 **SECTION 67.** 938.396 (2g) (gm) (title) of the statutes is created to read:

10 938.396 (2g) (gm) (title) *Other courts.*

11 **SECTION 68.** 938.396 (2g) (h) (title) of the statutes is created to read:

12 938.396 (2g) (h) (title) *Custody of juvenile.*

13 **SECTION 69.** 938.396 (2g) (i) (title) of the statutes is created to read:

14 938.396 (2g) (i) (title) *Probate court.*

15 **SECTION 70.** 938.396 (2g) (m) (title) of the statutes is created to read:

16 938.396 (2g) (m) (title) *Notification of juvenile's school.*

17 **SECTION 71.** 938.396 (2m) (a) of the statutes is renumbered 938.396 (2g) (k) and
18 amended to read:

19 938.396 (2g) (k) *Serious juvenile offenders.* ~~Notwithstanding sub. (2), upon request,~~
20 a- Upon request of any person, the court shall open for inspection by the requester the records
21 of the court, other than reports under s. 938.295 or 938.33 or other records that deal with
22 sensitive personal information of the juvenile and the juvenile's family, relating to a juvenile
23 who has been alleged to be delinquent for committing a violation specified in s. 938.34 (4h)
24 (a). The requester may further disclose the information to anyone.

1 **SECTION 72.** 938.396 (2m) (b) of the statutes is renumbered 938.396 (2g) (L) and
2 amended to read:

3 938.396 (2g) (L) Repeat offenders. ~~Notwithstanding sub. (2), upon request, a Upon~~
4 request of any person, the court shall open for inspection by the requester the records of the
5 court, other than reports under s. 938.295 or 938.33 or other records that deal with sensitive
6 personal information of the juvenile and the juvenile's family, relating to a juvenile who has
7 been alleged to be delinquent for committing a violation that would be a felony if committed
8 by an adult if the juvenile has been adjudicated delinquent at any time preceding the present
9 proceeding and that previous adjudication remains of record and unreversed. The requester
10 may further disclose the information to anyone.

11 **SECTION 73.** 938.396 (3) (title) of the statutes is created to read:

12 938.396 (3) (title) MOTOR VEHICLE VIOLATION RECORDS.

13 **SECTION 74.** 938.396 (4) (title) of the statutes is created to read:

14 938.396 (4) (title) OPERATING PRIVILEGE RECORDS.

15 **SECTION 75.** 938.396 (5) (a) (intro.) of the statutes is renumbered 938.396 (1j) (a)
16 (intro.) and amended to read:

17 938.396 (1j) (a) (intro.) Any person who is denied access to a record under sub. (1), ~~(1b),~~
18 ~~(1d), (1g), (1m), (1r) or (1t)~~ may petition the court to order the disclosure of the records
19 ~~governed by the applicable subsection~~ record. The petition shall be in writing and shall
20 describe as specifically as possible all of the following:

21 **SECTION 76.** 938.396 (5) (a) 1. to 5. of the statutes are renumbered 938.396 (1j) (a) 1.
22 to 5.

23 **SECTION 77.** 938.396 (5) (b) of the statutes is renumbered 938.396 (1j) (b) and amended
24 to read:

1 938.396 (1j) (b) If the petitioner is seeking access to a record under sub. (1), (1b), (1d),
2 (1g), (1m) (c) or (d), (1r), or (1t) Subject to par. (bm), the court, on receipt of a petition, shall
3 notify the juvenile, the juvenile's counsel, the juvenile's parents, and appropriate law
4 enforcement agencies in writing of the petition. If any person notified objects to the
5 disclosure, the court may hold a hearing to take evidence relating to the petitioner's need for
6 the disclosure.

7 **SECTION 78.** 938.396 (5) (bm) of the statutes is renumbered 938.396 (1j) (bm) and
8 amended to read:

9 938.396 (1j) (bm) If the petitioner is seeking access to a record under sub. ~~(1m) (a),~~
10 ~~(am), (ar), or (b)~~ (1) (c) 3., the court shall, without notice or hearing, make the inspection and
11 determinations specified in par. (c) and, if the court determines that disclosure is warranted,
12 shall order disclosure under par. (d). The petitioner shall provide a copy of the disclosure order
13 to the law enforcement agency that denied access to the record, the juvenile, the juvenile's
14 counsel, and the juvenile's parents. Any of those persons may obtain a hearing on the court's
15 determinations by filing a motion to set aside the disclosure order within 10 days after receipt
16 of the order. If no motion is filed within those 10 days or if, after hearing, the court determines
17 that no good cause has been shown for setting aside the order, the law enforcement agency
18 shall disclose the juvenile's record as ordered.

19 **SECTION 79.** 938.396 (5) (c) (intro.), 1 and 2. of the statutes are renumbered 938.396
20 (1j) (c) (intro.), 1. and 2.

21 **SECTION 80.** 938.396 (5) (c) 3. of the statutes is renumbered 938.396 (1j) (c) 3. and
22 amended to read:

23 938.396 (1j) (c) 3. If the petitioner is a person who was denied access to a record under
24 sub. ~~(1m) (a), (am), (ar), or (b)~~ (1) (c) 3., the petitioner's legitimate educational interests,

1 including safety interests, in the information against society's interest in protecting its
2 confidentiality.

3 **SECTION 81.** 938.396 (5) (d) and (e) of the statutes are renumbered 938.396 (1j) (d) and
4 (e).

5 **SECTION 82.** 938.396 (6) of the statutes is repealed.

6 **SECTION 83.** 938.396 (7) (a) of the statutes is renumbered 938.396 (2g) (m) 1. and
7 amended to read:

8 938.396 (2g) (m) 1. ~~Notwithstanding sub. (2) (a), if~~ If a petition under s. 938.12 or
9 938.13 (12) is filed alleging that a juvenile has committed a delinquent act that would be a
10 felony if committed by an adult, the court clerk shall notify the school board of the school
11 district, or the governing body of the private school, in which the juvenile is enrolled or the
12 designee of the school board or governing body of the fact that the petition has been filed and
13 the nature of the delinquent act alleged in the petition. ~~Notwithstanding sub. (2) (a), if~~ If later
14 the proceeding on the petition is closed, dismissed, or otherwise terminated without a finding
15 that the juvenile has committed a delinquent act, the court clerk shall notify the school board
16 of the school district, or the governing body of the private school, in which the juvenile is
17 enrolled or the school board's designee of the school board or governing body that the
18 proceeding has been terminated without a finding that the juvenile has committed a delinquent
19 act.

20 **SECTION 84.** 938.396 (7) (am) of the statutes is renumbered 938.396 (2g) (m) 2. and
21 amended to read:

22 938.396 (2g) (m) 2. ~~Notwithstanding sub. (2) (a) and subject to par. (b)~~ Subject to subd.
23 4., if a juvenile is adjudged delinquent, within 5 days after the date on which the dispositional
24 order is entered, the court clerk shall notify the school board of the school district, or the

1 governing body of the private school, in which the juvenile is enrolled or the designee of the
2 school board or governing body of the fact that the juvenile has been adjudicated delinquent,
3 the nature of the violation committed by the juvenile, and the disposition imposed on the
4 juvenile under s. 938.34 as a result of the violation.

5 **SECTION 85.** 938.396 (7) (ar) of the statutes is renumbered 938.396 (2g) (m) 3. and
6 amended to read:

7 938.396 (2g) (m) 3. ~~Notwithstanding sub. (2) (a), if~~ If school attendance is a condition
8 of a dispositional order under s. 938.342 (1d) or (1g) or 938.355 (2) (b) 7., within 5 days after
9 the date on which the dispositional order is entered, the clerk of the court assigned to exercise
10 jurisdiction under this chapter and ch. 48 or the clerk of the municipal court exercising
11 jurisdiction under s. 938.17 (2) shall notify the school board of the school district, or the
12 governing body of the private school, in which the juvenile is enrolled or the designee of the
13 school board or governing body of the fact that the juvenile's school attendance is a condition
14 of a dispositional order.

15 **SECTION 86.** 938.396 (7) (b) of the statutes is renumbered 938.396 (2g) (m) 4. and
16 amended to read:

17 938.396 (2g) (m) 4. If a juvenile is found to have committed a delinquent act at the
18 request of or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have
19 been a felony under chs. 939 to 948 or 961 if committed by an adult and is adjudged delinquent
20 on that basis, within 5 days after the date on which the dispositional order is entered the court
21 clerk shall notify the school board of the school district, or the governing body of the private
22 school, in which the juvenile is enrolled or the designee of the school board or governing body
23 of the fact that the juvenile has been adjudicated delinquent on that basis, the nature of the

1 violation committed by the juvenile, and the disposition imposed on the juvenile under s.
2 938.34 as a result of that violation.

3 **SECTION 87.** 938.396 (7) (bm) of the statutes is renumbered 938.396 (2g) (m) 5. and
4 amended to read:

5 938.396 (2g) (m) 5. ~~Notwithstanding sub. (2) (a), in~~ In addition to the disclosure made
6 under ~~par. (am) or (b) subd. 2. or 4.,~~ if a juvenile is adjudicated delinquent and as a result of
7 the dispositional order is enrolled in a different school district or private school from the school
8 district or private school in which the juvenile is enrolled at the time of the dispositional order,
9 the court clerk, within 5 days after the date on which the dispositional order is entered, shall
10 provide the school board of the juvenile's new school district, the governing body of the
11 juvenile's new private school, or the designee of the school board or governing body with the
12 information specified in ~~par. (am) or (b) subd. 2. or 4.,~~ whichever is applicable, and, in
13 addition, shall notify that school board, governing body, or designee of whether the juvenile
14 has been adjudicated delinquent previously by that court, the nature of any previous violations
15 committed by the juvenile, and the dispositions imposed on the juvenile under s. 938.34 as a
16 result of those previous violations.

17 **SECTION 88.** 938.396 (7) (c) of the statutes is renumbered 938.396 (2g) (m) 6. and
18 amended to read:

19 938.396 (2g) (m) 6. ~~No~~ Except as required under subds. 1. to 5. or by order of the court,
20 no information from the juvenile's court records, ~~other than information disclosed under par.~~
21 ~~(a), (am), (ar), (b), or (bm),~~ may be disclosed to the school board of the school district, or the
22 governing body of the private school, in which the juvenile is enrolled or the designee of the
23 school board or governing body ~~except by order of the court.~~ Any information from a
24 juvenile's court records provided ~~under this subsection~~ to the school board of the school

1 district, or the governing body of the private school, in which the juvenile is enrolled or the
2 designee of the school board or governing body shall be disclosed by the school board,
3 governing body, or designee to employees of the school district or private school who work
4 directly with the juvenile or who have been determined by the school board, governing body,
5 or designee to have legitimate educational interests, including safety interests, in the
6 information. A school district or private school employee to whom that information is
7 disclosed ~~under this paragraph~~ may not further disclose the information. A school board may
8 not use any information ~~provided under this subsection~~ from a juvenile's court records as the
9 sole basis for expelling or suspending a juvenile or as the sole basis for taking any other
10 disciplinary action, including action under the school district's athletic code, against the
11 juvenile. A member of a school board or of the governing body of a private school or an
12 employee of a school district or private school may not be held personally liable for any
13 damages caused by the nondisclosure of any information specified in this ~~paragraph~~
14 subdivision unless the member or employee acted with actual malice in failing to disclose the
15 information. A school district or private school may not be held liable for any damages caused
16 by the nondisclosure of any information specified in this ~~paragraph~~ subdivision unless the
17 school district, private school, or its agent acted with gross negligence or with reckless,
18 wanton, or intentional misconduct in failing to disclose the information.

19 **SECTION 89.** 938.396 (8) of the statutes is renumbered 938.396 (2g) (n) and amended
20 to read:

21 938.396 (2g) (n) Firearms restriction record search. ~~Notwithstanding sub. (2), if~~ If a
22 juvenile is adjudged delinquent for an act that would be a felony if committed by an adult, the
23 court clerk shall notify the department of justice of that fact. No other information from the
24 juvenile's court records may be disclosed to the department of justice except by order of the

1 court. The department of justice may disclose any information provided under this subsection
2 only as part of a firearms restrictions record search under s. 175.35 (2g) (c).

3 **SECTION 90.** 938.396 (9) of the statutes is renumbered 938.396 (2g) (o) and amended
4 to read:

5 938.396 (2g) (o) Criminal history record search. ~~Notwithstanding sub. (2) (a), if~~ If a
6 juvenile is adjudged delinquent for committing a serious crime, as defined in s. 48.685 (1) (c),
7 the court clerk shall notify the department of justice of that fact. No other information from
8 the juvenile's court records may be disclosed to the department of justice except by order of
9 the court. The department of justice may disclose any information provided under this
10 subsection only as part of a criminal history record search under s. 48.685 (2) (am) 1. or (b)
11 1. a.

12 **SECTION 91.** 938.78 (2) (b) 1. of the statutes is amended to read:

13 938.78 (2) (b) 1. Paragraph (a) does not apply to the confidential exchange of
14 information between an agency and another social welfare agency, a law enforcement agency,
15 the victim-witness coordinator, a fire investigator under s. 165.55 (15), a public school district
16 or a private school regarding an individual in the care or legal custody of the agency. A social
17 welfare agency that obtains information under this paragraph shall keep the information
18 confidential as required under this section and s. 48.78. A law enforcement agency that
19 obtains information under this paragraph shall keep the information confidential as required
20 under ss. 48.396 (1) and 938.396 (1) (a). A public school that obtains information under this
21 paragraph shall keep the information confidential as required under s. 118.125 and a private
22 school that obtains information under this paragraph shall keep the information confidential
23 in the same manner as is required of a public school under s. 118.125.

24 (END)