

1       **AN ACT** *to repeal* 118.127 (1) of the statutes and 118.128; *to amend* 118.125 (2),  
 2           118.125 (2) (d) and 118.125 (2) (n); and *to create* 950.08 (2w) of the statutes;  
 3       **relating to:** pupil 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 School Safety.

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

5           118.125 (2) **CONFIDENTIALITY AND DISCLOSURE OF PUPIL RECORDS.** All pupil records  
 6       maintained by a public school shall be confidential, except as provided in pars. (a) to (p) and  
 7       sub. (2m). The school board shall adopt ~~regulations~~ policies to maintain the confidentiality  
 8       of such records and may adopt policies to promote the disclosure of pupil records and  
 9       information permitted by law for purposes of school safety.

**NOTE:** The proposed language retains current law that requires school boards to adopt regulations to maintain the confidentiality of pupil records and also permits (but does not require) school boards to adopt regulations designed to promote the disclosure of pupil records and information permitted by law for school safety. The draft also replaced the term “regulations” with the more appropriate term “policies” to conform to current school board practices and terminology.

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

11           118.125 (2) (d) Pupil records shall be made available to persons employed by the school  
 12       district which the pupil attends who are required by the department under s. 115.28 (7) to hold  
 13       a license and other school district officials who have been determined by the school board to  
 14       have legitimate educational interests, including safety interests, in the pupil records, and  
 15       police school liaison officers who are individually designated by the school board and

1 assigned to the school district. Law enforcement officers' records obtained under s. 938.396  
2 (1) (c) 3. shall be made available as provided in s. 118.127 (2). A school board member or  
3 an employee of a school district may not be held personally liable for any damages caused by  
4 the nondisclosure of any information specified in this paragraph unless the member or  
5 employee acted with actual malice in failing to disclose the information. A school district may  
6 not be held liable for any damages caused by the nondisclosure of any information specified  
7 in this paragraph unless the school district or its agent acted with gross negligence or with  
8 reckless, wanton, or intentional misconduct in failing to disclose the information.

**NOTE:** This SECTION amends the statutes to require that pupil records be made available to police school liaison officers individually designated by the school board and assigned to the school district on the same basis as other school employees or officials.

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

10 118.125 (2) (n) For ~~the any purpose of providing services to a pupil before adjudication.~~  
11 a concerning the juvenile justice system and the system's ability to effectively serve a pupil,  
12 prior to the filing or adjudication of any petition;

13 (1) ~~A school board may disclose pupil records to a law enforcement agency, district~~  
14 ~~attorney, city attorney, corporation counsel, agency, as defined in s. 938.78 (1), intake worker~~  
15 ~~under s. 48.067 or 938.067, court of record, municipal court, private school, or another school~~  
16 ~~board if disclosure is pursuant to an interagency agreement and the person to whom the records~~  
17 ~~are disclosed certifies in writing that the records will not be disclosed to any other person~~  
18 ~~except as permitted under this subsection~~ otherwise authorized by law;

19 (2) A school board shall disclose pertinent pupil records to an investigating law  
20 enforcement agency or district attorney if the person to whom the records are disclosed  
21 certifies in writing that the records are for juvenile justice purposes, relate to an ongoing

- 1 investigation or pending delinquency petition, and will not be disclosed to any other person  
2 except as otherwise authorized by law.

**NOTE:** SECTION 3 deals with the release of pupil records by school districts for juvenile justice purposes. The SECTION amends current law to require school boards to disclose pupil records that are pertinent to an investigation law enforcement agency or district attorney if that person certifies in writing that the records are for a juvenile justice purpose, relate to an ongoing investigation or pending delinquency petition, and will not be disclosed to any other person except as otherwise authorized by law.

- 3 **SECTION 4.** 118.127 (1) of the statutes is repealed.

**NOTE:** This provision repeals s. 118.127 (1), stats., that currently requires a school district administrator or private school administrator who receives information regarding a law enforcement action notify any pupil named in the information and the parent or guardian of any minor pupil named in the information of that information.

The repeal is designed to encourage law enforcement agencies to share information with schools in situations where they might otherwise withhold information out of concern that notification could undermine an investigation. The repeal of the section does not preclude a school district from notifying students and parents when it is deemed appropriate.

- 4 **SECTION 5.** 118.128 of the statutes is repealed.

**NOTE:** Section 118.125 (2) (d), stats., currently requires all pupil records to be made available to teachers and other designated school officials who have legitimate educational interests, including safety interests. However, s. 118.128 implies that school districts may not share information that a student is a physical risk to others with teachers and law enforcement units within schools, unless the school district has “reasonable cause” to believe, based only on past acts, that the student presents a risk of physically harming others. Section 118.128 also limits the use and disclosure of such information.

Repeal of the s. 118.128, stats., leaves the school district with the discretion to disseminate to the school district employees all information the school district believes relates to the harm a pupil may present to others. When information is shared, school personnel can better assess risk and the educational needs of both the student presenting a risk of harm to others and other children. With s. 118.128 repealed, school

districts may want to adopt policies that encourage the reporting of information relating to harm posed by a pupil to others. This would be permitted by statutory language contained in SECTION 1 of this draft.

1           **SECTION 6.** 950.08 (2w) of the statutes is created to read:

2           950.08 (2w) INFORMATION TO BE PROVIDED BY DISTRICT ATTORNEYS TO SCHOOL DISTRICTS  
3           IN CRIMINAL CASES. If a criminal complaint is issued under s. 968.02 or if a petition for waiver  
4           is granted pursuant to s. 938.18, and the district attorney reasonably believes the person  
5           charged is a pupil enrolled in a school district, a private school, or a charter school established  
6           pursuant to 118.40 (2r), the district attorney shall make a reasonable attempt to notify the  
7           school district, private school governing board or charter school governing board in which the  
8           pupil is enrolled of the charges pending against the pupil. The district attorney shall also notify  
9           the school district, private school governing board or charter school governing board in which  
10          the pupil is enrolled of the final disposition of the charges.

**NOTE:** SECTION 6 requires that a district attorney issuing criminal charges against a pupil make a reasonable attempt to the pupil's school that criminal charges have been filed and the final disposition of the charges. A similar requirement currently applies in juvenile cases, see s. 938.396 (2g) (m), stats., but no notification is currently required where a juvenile attends (2r) charter school or where the pupil is charged as an adult or is waived into adult court. This provision would require the district attorney to notify the school district, private school, or (2r) charter school whenever a pupil is criminally charged as an adult and the district attorney reasonably believes the person charged is an enrolled pupil.