



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2001 ASSEMBLY BILL 109**

September 13, 2001 - Offered by CHILDREN AND FAMILIES.

1 **AN ACT** *to create* 118.137 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.** 118.137 of the statutes is created to read:

4 **118.137 Surveys and questionnaires of pupils.** (1) INSTRUCTIONAL
5 MATERIALS AVAILABLE; CONSENT REQUIRED. (a) Each school board shall make available
6 for inspection by the parents and guardians of pupils enrolled in the school district
7 all instructional material, including teacher's manuals, films, tapes, and other
8 supplementary material, that will be used in connection with any written or recorded
9 survey or questionnaire of pupils.

10 (b) No official, employee, or agent of a school board may conduct any written
11 or recorded survey or questionnaire of pupils that may reveal information about any
12 of the following with respect to a pupil or the pupil's family without the consent of

1 the pupil, if the pupil is an adult or an emancipated minor, or without the consent
2 of the pupil's parent or guardian, if the pupil is an unemancipated minor, unless the
3 primary purpose of the survey or questionnaire is academic:

4 1. Political affiliations.

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

7 3. Sexual behavior or attitudes.

8 4. Illegal, antisocial, self-incriminating, or demeaning behavior.

9 5. Critical appraisals of individuals with whom the pupil has close family
10 relationships.

11 6. Legally recognized privileged or analogous relationships, including
12 relationships with lawyers, physicians, or members of the clergy.

13 7. Income, unless the information is required by law to determine eligibility for
14 participation in a program or for receiving financial assistance.

15 8. Religious beliefs or practices.

16 (c) An official, employee, or agent of a school board shall obtain consent under
17 par. (b) for each survey or questionnaire conducted. The official, employee, or agent
18 shall notify the pupil or the pupil's parent or guardian of the impending survey or
19 questionnaire at least 10 days before conducting the survey or questionnaire. The
20 notice shall include the purpose of the survey or questionnaire, information on how
21 to review a copy of the survey or questionnaire, and a request for consent. Consent
22 shall be considered to have been given under par. (b) if the pupil or the pupil's parent
23 or guardian fails to respond to the request before the date of the survey or
24 questionnaire.

1 (d) No official, employee, or agent of a school board may require a pupil to
2 participate in a survey or questionnaire that may reveal information about any of the
3 subjects specified in par. (b) if the pupil requests to discuss the content of the survey
4 or questionnaire with his or her parent or guardian before completing the survey or
5 questionnaire. The prohibition under this paragraph applies only the first time that
6 the pupil is requested to participate in the survey or questionnaire.

7 **(2) NOTICE.** Annually each school board shall notify the pupils enrolled in the
8 school district and their parents or guardians of the provisions of sub. (1).

9 **(3) PENALTY.** Any person who knowingly violates sub. (1) (b) shall forfeit not less
10 than \$25 nor more than \$300 for each violation. Each survey or questionnaire of each
11 pupil constitutes a separate violation.

12 **(4) ENFORCEMENT.** (a) Forfeitures under this section shall be enforced, upon
13 the verified complaint of any person, by the district attorney of any county where a
14 violation occurs. The court shall award any forfeiture recovered together with
15 reasonable costs to the county.

16 (b) In addition and supplementary to the penalty provided in sub. (3), the
17 district attorney may commence an action, separately or in conjunction with an
18 action brought under sub. (3), to obtain such other legal or equitable relief, including
19 mandamus, injunction, or declaratory judgment, as may be appropriate under the
20 circumstances.

21 (END)