



**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 2001 ASSEMBLY BILL 621**

January 8, 2002 – Offered by COMMITTEE ON PERSONAL PRIVACY.

1 **AN ACT** *to renumber* 36.11 (35) (title) and 230.13 (3); *to renumber and amend*
2 36.11 (35) and 48.396 (2) (g); *to amend* 40.07 (1) (intro.) and (3), 48.236 (4) (a),
3 48.396 (1), 48.396 (5) (a) (intro.), 48.78 (2) (b), 146.81 (1) (fm), 146.81 (4), 230.13
4 (1) (intro.), 233.13 (intro.), 301.029 (2) (a), 938.396 (1), 938.396 (2) (c), 938.396
5 (2) (gm), 938.396 (5) (a) (intro.) and 938.78 (2) (b) 1.; and *to create* 13.0991,
6 19.32 (1bg), (1de), (1dm), (2g) and (4), 19.345, 19.356, 19.36 (10) and (11), 22.21,
7 36.32 (1), 36.38, 38.12 (12), 39.49, 48.396 (1h), 48.396 (1j), 48.396 (1k), 48.396
8 (2) (c), 48.396 (2) (gr), 100.52 (1) (bg) and (br), 100.52 (4) (a) 4., 118.39, 146.82
9 (2) (bm), 146.84 (1) (d), 146.84 (5), 175.22, 230.08 (4) (b) 5., 230.13 (3) (b),
10 938.396 (1h), 938.396 (1j), 938.396 (1k), 938.396 (2) (gr) and 979.028 of the
11 statutes; **relating to:** the use of a person's social security number in his or her
12 student identification number at private institutions of higher education;
13 department of corrections contracts involving prisoner access to an individual's

1 date of birth; confidentiality of patient health care records; access to public
2 records; access to autopsy records; preparation of privacy impact statements for
3 bills that would impact personal privacy; written policies on entering locker
4 rooms being used by athletic teams representing certain schools or by
5 professional athletic teams; prohibiting certain telephone solicitations;
6 appointment of certain officers in the department of electronic government; and
7 disclosure of the records of a law enforcement agency or of a juvenile or
8 municipal court to other law enforcement agencies, to other juvenile or
9 municipal courts, to juvenile court intake workers, to dispositional staff of the
10 department of health and family services, the department of corrections, a
11 county department of human services or social services, or a child welfare
12 agency, and to district attorneys, corporation counsels, and other
13 representatives of the public interest.

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

14 **SECTION 1.** 13.0991 of the statutes is created to read:

15 **13.0991 Privacy impact statements. (1)** In this section:

16 (a) "Authority" means a body created under ch. 231, 232, 233, 234, or 235.

17 (b) "Impact upon personal privacy" means that a bill would do one or more of
18 the following:

19 1. Provide for the creation of additional personally identifiable information
20 that is not readily available to the public at the time the bill is introduced.

21 2. Create an activity that would constitute an intrusion upon the privacy of an
22 individual, or alter an activity in such a way as to create such an intrusion.

1 3. Use the name, picture, or likeness of an individual without the consent of the
2 individual, or the consent of the individual's parent or guardian if the individual is
3 a minor.

4 4. Permit or cause publicity to be given to the private life of an individual.

5 (c) "Personally identifiable information" has the meaning given under s. 19.62
6 (5).

7 (d) "State agency" means an office, department, independent agency,
8 institution of higher education, association, society, or other body in state
9 government created or authorized to be created by the constitution or any law, which
10 is entitled to expend moneys appropriated by law, including the legislature and the
11 courts, but not including an authority.

12 **(2)** (a) Whenever a bill is introduced in either house of the legislature that
13 would have an impact upon personal privacy, the legislative reference bureau shall
14 promptly transmit a copy of the bill to the department of administration.

15 (b) Either house of the legislature may, under rules of that house or joint rules
16 of the legislature, request the department of administration to order the preparation
17 of a privacy impact statement with respect to any bill before that house, either in its
18 original form or as affected by one or more amendments. If a house so requests, the
19 chief clerk of that house shall thereupon transmit a copy of that bill and any affected
20 amendments to the department of administration.

21 **(3)** Upon receipt of a bill under sub. (2), the department of administration shall
22 direct one or more state agencies or authorities to prepare a privacy impact
23 statement with respect to that bill. Each privacy impact statement shall describe the
24 impact upon personal privacy that would result from enactment of the bill and
25 analyze the desirability of that impact from the standpoint of public policy.

1 (4) Each state agency or authority receiving a bill under sub. (3) shall provide
2 the statement required under sub. (3) to the department of administration within 15
3 days after the department's directive.

4 (5) Upon receiving a privacy impact statement under sub. (4), the department
5 of administration shall provide one copy to the legislative reference bureau, one copy
6 to the principal author of the bill, and one copy to the chief clerk of the house of the
7 legislature in which the bill originated. The chief clerk shall thereupon distribute
8 the statement in the same manner as amendments to the bill are distributed.

9 (6) Whenever a bill requires preparation of a privacy impact statement under
10 this section, the legislative reference bureau shall include a notation to that effect
11 on the jacket of the bill when the jacket is prepared. If the preparation of a privacy
12 impact statement is requested by a house of the legislature, the chief clerk of that
13 house shall include a notation to that effect on the jacket of the bill.

14 (7) Whenever a privacy impact statement is required or requested for any bill
15 under this section, a standing committee to which the bill is referred may not hold
16 a public hearing on the bill or report the bill until the statement is received by the
17 chief clerk of the house in which the bill originated.

18 **SECTION 2.** 19.32 (1bg), (1de), (1dm), (2g) and (4) of the statutes are created to
19 read:

20 19.32 **(1bg)** "Employee" means an individual who is engaged in employment
21 in this state, other than an individual holding a state public office or a local public
22 office.

23 **(1de)** "Local governmental unit" has the meaning given in s. 19.42 (7u).

24 **(1dm)** "Local public office" has the meaning given in s. 19.42 (7w), and also
25 includes any appointive office or position of a local governmental unit in which an

1 individual serves as the head of a department, agency, or division of the local
2 governmental unit.

3 **(2g)** “Record subject” means an individual about whom personally identifiable
4 information is contained in a record.

5 **(4)** “State public office” has the meaning given in s. 19.42 (13), but does not
6 include a position identified in s. 20.923 (6) (em) to (gm).

7 **SECTION 3.** 19.345 of the statutes is created to read:

8 **19.345 Time computation.** In ss. 19.33 to 19.39, when a time period is
9 provided for performing an act, whether the period is expressed in hours or days, the
10 whole of Saturday, Sunday, and any legal holiday, from midnight to midnight, shall
11 be excluded in computing the period.

12 **SECTION 4.** 19.356 of the statutes is created to read:

13 **19.356 Notice to record subject; right of action. (1)** Except as authorized
14 in this section or as otherwise provided by statute, no authority is required to notify
15 a record subject prior to providing to a requester access to a record containing
16 information pertaining to that record subject, and no person is entitled to judicial
17 review of the decision of an authority to provide a requester with access to a record.

18 **(2) (a)** Except as provided in pars. (b) to (d) and as otherwise authorized or
19 required by statute, if an authority decides to permit access to a record containing
20 information relating to an employee that is created or kept by the authority as a
21 result of the authority’s investigation into a disciplinary matter involving the
22 employee or possible violation by the employee of a statute, ordinance, rule,
23 regulation, or policy of the employee’s employer, or any record obtained by the
24 authority through a subpoena or search warrant, the authority shall, before
25 permitting access and within 72 hours after making the decision to permit access,

1 serve written notice of that decision on any record subject to whom that record
2 pertains, either by certified mail or by personally serving the notice on the subject.
3 The notice shall briefly describe the requested record and include a description of the
4 rights of the record subject under subs. (3) and (4).

5 (b) Paragraph (a) does not apply to an authority who provides access to a record
6 pertaining to an employee to the employee who is the subject of the record or to his
7 or her representative to the extent required under s. 103.13 or to a collective
8 bargaining representative to the extent required to fulfill a duty to bargain or
9 pursuant to a collective bargaining agreement under ch. 111.

10 (c) Paragraph (a) does not apply to an investigation by an authority who or
11 which is charged with the responsibility to enforce a law, ordinance, rule, or
12 regulation that is applicable to individuals other than officers or employees of the
13 authority or persons under contract with the authority unless the investigation
14 involves an officer or employee of the authority or a person under contract with the
15 authority.

16 (d) Paragraph (a) does not apply to access to a record produced in relation to
17 a function specified in s. 106.54 or 230.45 or subch. II of ch. 111 if the record is
18 provided by an authority having responsibility for that function.

19 **(3)** Within 5 days after receipt of a notice under sub. (2), any record subject may
20 provide written notification to the authority of his or her intent to seek a court order
21 restraining the authority from providing access to the requested record.

22 **(4)** Within 10 days after receipt of a notice under sub. (2), any record subject
23 may commence an action seeking a court order to restrain the authority from
24 providing access to the requested record. If a record subject commences such an

1 action, the record subject shall name the authority as a defendant. Notwithstanding
2 s. 803.09, the requester may intervene in the action as a matter of right.

3 (5) An authority shall not provide access to a requested record within 12 days
4 of sending a notice pertaining to that record under sub. (2). In addition, if the record
5 subject commences an action under sub. (4), the authority shall not provide access
6 to the requested record during pendency of the action. If the record subject appeals
7 or petitions for review of a decision of the court or the time for appeal or petition for
8 review of a decision adverse to the record subject has not expired, the authority shall
9 not provide access to the requested record until any appeal is decided, until the
10 period for appealing or petitioning for review expires, until a petition for review is
11 denied, or until the authority receives written notice from the record subject that an
12 appeal or petition for review will not be filed, whichever occurs first.

13 (6) The court may restrain the authority from providing access to the requested
14 record. The court shall apply substantive common law principles construing the
15 right to inspect, copy, or receive copies of records in making its decision.

16 (7) The court shall not grant any request by a requester to delay the
17 proceedings. The court shall issue a decision within 10 days after the filing of the
18 summons and complaint and proof of service of the summons and complaint upon the
19 defendant and the requester, unless a party demonstrates cause for extension of this
20 period. In any event, the court shall issue a decision within 30 days after those filings
21 are complete.

22 (8) If a party appeals a decision of the court under sub. (7), the court of appeals
23 shall grant precedence to the appeal over all other matters not accorded similar
24 precedence by law.

25 **SECTION 5.** 19.36 (10) and (11) of the statutes are created to read:

1 **19.36 (10) EMPLOYEE PERSONNEL RECORDS.** Unless access is specifically
2 authorized or required by statute, an authority shall not provide access to records
3 containing the following information under s. 19.35 (1), except to an employee or the
4 employee's representative to the extent required under s. 103.13 or to a collective
5 bargaining representative to the extent required to fulfill a duty to bargain under ch.
6 111 or pursuant to a collective bargaining agreement under ch. 111:

7 (a) Information prepared or provided by an employer concerning the home
8 address or telephone number of an employee, unless the employee authorizes the
9 authority to provide access to such information.

10 (b) Information relating to the current investigation of a possible criminal
11 offense or possible misconduct connected with employment by an employee prior to
12 disposition of the investigation.

13 (c) Information pertaining to an employee's employment examination, except
14 an examination score if access to that score is not otherwise prohibited.

15 (d) Information relating to one or more specific employees that is used by an
16 authority or by the employer of the employees for staff management planning,
17 including performance evaluations, judgments or recommendations concerning
18 future salary adjustments or other wage treatments, management bonus plans,
19 promotions, job assignments, letters of reference, or other comments or ratings
20 relating to employees.

21 **(11) INFORMATION RELATING TO CERTAIN EMPLOYEES.** Except as otherwise
22 authorized or required by statute, no authority may permit access to a record
23 prepared or provided by an employer, other than an authority, that contains
24 personally identifiable information relating to an employee of that employer, unless
25 the employee authorizes the authority to provide access to that information.

1 **SECTION 6.** 22.21 of the statutes is created to read:

2 **22.21 Privacy and security information officers.** (1) The chief
3 information officer shall appoint an employee of the department to serve as a privacy
4 information officer. The privacy information officer shall provide information to
5 employees of the department and other persons who are or may be the subject of any
6 information maintained or processed by the department concerning applicable laws,
7 rules, and regulations governing the protection of privacy.

8 (2) The chief information officer shall appoint an employee of the department
9 to serve as a security information officer. The security information officer shall
10 ensure the security of information maintained or processed by the department.

11 **SECTION 7.** 36.11 (35) (title) of the statutes is renumbered 36.32 (title).

12 **SECTION 8.** 36.11 (35) of the statutes is renumbered 36.32 (2) and amended to
13 read:

14 36.32 (2) ~~The board~~ An institution of higher education may assign to each
15 student enrolled in the system institution a unique identification number. ~~The board~~
16 An institution of higher education shall not assign to any student an identification
17 number that is identical to or incorporates the student's social security number. This
18 subsection does not prohibit ~~the board~~ an institution of higher education from
19 requiring a student to disclose his or her social security number, nor from using a
20 student's social security number if such use is required by a federal or state agency
21 or private organization in order for the system or the student to participate in a
22 particular program.

23 **SECTION 9.** 36.32 (1) of the statutes is created to read:

24 36.32 (1) In this section, "institution of higher education" means an institution
25 within the system, or a private educational institution located in this state that

1 awards a bachelor’s or higher degree or provides a program that is acceptable toward
2 such a degree.

3 **SECTION 10.** 36.38 of the statutes is created to read:

4 **36.38 Policy on privacy in athletic locker rooms.** Each institution and
5 college campus shall adopt a written policy on who may enter and remain, to
6 interview or seek information from any person, in a locker room being used by an
7 athletic team representing the institution or college campus. The policy shall reflect
8 the privacy interests of members of athletic teams representing the institution or
9 college campus.

10 **SECTION 11.** 38.12 (12) of the statutes is created to read:

11 38.12 (12) POLICY ON PRIVACY IN ATHLETIC LOCKER ROOMS. The district board shall
12 adopt a written policy on who may enter and remain, to interview or seek information
13 from any person, in a locker room being used by an athletic team representing the
14 district. The policy shall reflect the privacy interests of members of athletic teams
15 representing the district.

16 **SECTION 12.** 39.49 of the statutes is created to read:

17 **39.49 Policy on privacy in athletic locker rooms.** (1) In this section,
18 “institution of higher education” means a private educational institution that
19 awards a bachelor’s or higher degree or provides a program that is acceptable for
20 credit toward such a degree, and that fields an athletic team that represents the
21 institution.

22 (2) Each institution of higher education shall adopt a written policy on who
23 may enter and remain, to interview or seek information from any person, in a locker
24 room being used by an athletic team representing the institution. The policy shall

1 reflect the privacy interests of members of athletic teams representing the
2 institution.

3 **SECTION 13.** 40.07 (1) (intro.) and (3) of the statutes are amended to read:

4 40.07 (1) (intro.) Notwithstanding any other statutory provision, individual
5 personal information in the records of the department is not ~~a public record and shall~~
6 ~~not be disclosed, unless~~ subject to access under s. 19.35 (1), but access to that
7 information may be provided, unless prohibited under s. 19.36 (10), if:

8 (3) The department shall not furnish lists of participants, annuitants or
9 beneficiaries to any person or organization except as permitted under s. 19.36 (10)
10 and as required for the proper administration of the department.

11 **SECTION 14.** 48.236 (4) (a) of the statutes is amended to read:

12 48.236 (4) (a) Inspect any reports and records relating to the child who is the
13 subject of the proceeding, the child's family, and any other person residing in the
14 same home as the child that are relevant to the subject matter of the proceeding,
15 including records discoverable under s. 48.293, examination reports under s. 48.295
16 (2), law enforcement reports and records under ss. 48.396 (1) and 938.396 (1), court
17 records under ss. 48.396 (2) (a) and 938.396 (2) (a), ~~social-welfare~~ agency records
18 under ss. 48.78 (2) (a) and 938.78 (2) (a), abuse and neglect reports and records under
19 s. 48.981 (7) (a) 11r., and pupil records under s. 118.125 (2) (L). The order shall also
20 require the custodian of any report or record specified in this paragraph to permit
21 the court-appointed special advocate to inspect the report or record on presentation
22 by the court-appointed special advocate of a copy of the order. A court-appointed
23 special advocate that obtains access to a report or record described in this paragraph
24 shall keep the information contained in the report or record confidential and may
25 disclose that information only to the court. If a court-appointed special advocate

1 discloses any information to the court under this paragraph, the court-appointed
2 special advocate shall also disclose that information to all parties to the proceeding.
3 If a court-appointed special advocate discloses information in violation of the
4 confidentiality requirement specified in this paragraph, the court-appointed special
5 advocate is liable to any person damaged as a result of that disclosure for such
6 damages as may be proved and, notwithstanding s. 814.04 (1), for such costs and
7 reasonable actual attorney fees as may be incurred by the person damaged.

8 **SECTION 15.** 48.396 (1) of the statutes is amended to read:

9 48.396 (1) Law enforcement officers' records of children shall be kept separate
10 from records of adults. Law enforcement officers' records of the adult expectant
11 mothers of unborn children shall be kept separate from records of other adults. Law
12 enforcement officers' records of children and the adult expectant mothers of unborn
13 children shall not be open to inspection or their contents disclosed except under sub.
14 (1b), (1d), (1h), (1j), (1k), or (5) or s. 48.293 or by order of the court. This subsection
15 does not apply to the representatives of newspapers or other reporters of news the
16 news media who wish to obtain information for the purpose of reporting news
17 without revealing the identity of the child or adult expectant mother involved; to the
18 confidential exchange of information between the police and an agency, as defined
19 in s. 48.38 (1) (a) or 938.78 (1), officials of the school attended by the child, or other
20 law enforcement or ~~social welfare~~ agencies; or to children 10 years of age or older who
21 are subject to the jurisdiction of the court of criminal jurisdiction. A public school
22 official who obtains information under this subsection shall keep the information
23 confidential as required under s. 118.125, and a private school official who obtains
24 information under this subsection shall keep the information confidential in the
25 same manner as is required of a public school official under s. 118.125. A law

1 enforcement agency that obtains information under this subsection shall keep the
2 information confidential as required under this subsection and s. 938.396 (1). ~~A~~
3 ~~social welfare agency~~ An agency, as defined in s. 48.38 (1) (a) or 938.78 (1), that
4 obtains information under this subsection shall keep the information confidential as
5 required under ss. 48.78 and 938.78.

6 **SECTION 16.** 48.396 (1h) of the statutes is created to read:

7 48.396 (1h) If requested by another law enforcement agency, a law enforcement
8 agency may, subject to official agency policy, disclose to the other law enforcement
9 agency any information in its records relating to a child or an adult expectant mother
10 of an unborn child as necessary for the other law enforcement agency to pursue an
11 investigation of any alleged criminal or delinquent activity. A law enforcement
12 agency that obtains information under this paragraph shall keep the information
13 confidential as required under sub. (1) and s. 938.396 (1) and may disclose the
14 information only for the purpose of pursuing that investigation or as permitted under
15 sub. (1) or s. 938.396 (1).

16 **SECTION 17.** 48.396 (1j) of the statutes is created to read:

17 48.396 (1j) If requested by a court assigned to exercise jurisdiction under this
18 chapter and ch. 938, a court exercising jurisdiction under s. 48.16, a court exercising
19 jurisdiction under s. 938.17 (2), or a person representing the interests of the public
20 under s. 48.09 or 938.09, a law enforcement agency may, subject to official agency
21 policy, disclose to the requester any information in its records relating to a child or
22 an adult expectant mother of an unborn child as necessary for the court to conduct,
23 or the person representing the interests of the public to prepare for, any proceedings
24 in the court. A court that obtains information under this paragraph shall keep the
25 information confidential as required under sub. (2) (a) and s. 938.396 (2) (a) and may

1 disclose the information only for the purpose of conducting those proceedings or as
2 permitted under sub. (2) (a) and s. 938.396 (2) (a). A person representing the
3 interests of the public who obtains any information under this paragraph shall keep
4 the information confidential and may disclose the information only as necessary for
5 the person to perform the person's official duties relating to those proceedings.

6 **SECTION 18.** 48.396 (1k) of the statutes is created to read:

7 48.396 (1k) If requested by any person authorized to provide intake or
8 dispositional services under s. 48.067, 48.069, 938.067, or 938.069 or any other
9 person employed by an agency, as defined in s. 48.38 (1) (a) or 938.78 (1), to provide
10 any other professional services, a law enforcement agency may, subject to official
11 agency policy, disclose to the person any information in its records relating to a child
12 or an adult expectant mother of an unborn child as necessary for the person to
13 provide those services. A person who obtains any information under this paragraph
14 shall keep the information confidential and may disclose the information only as
15 necessary for the person to provide those services.

16 **SECTION 19.** 48.396 (2) (c) of the statutes is created to read:

17 48.396 (2) (c) Upon request of any law enforcement agency to review court
18 records for the purpose of pursuing an investigation of any alleged delinquent or
19 criminal activity, the court shall open for inspection by any authorized
20 representative of the requester the records of the court relating to a child or an adult
21 expectant mother of an unborn child who has been the subject of a proceeding under
22 this chapter as necessary for the law enforcement agency to pursue the investigation.
23 A law enforcement agency that obtains information under this paragraph shall keep
24 the information confidential as required under sub. (1) and s. 938.396 (1) and may

1 disclose the information only for the purpose of pursuing that investigation or as
2 permitted under sub. (1) or s. 938.396 (1).

3 **SECTION 20.** 48.396 (2) (g) of the statutes is renumbered 48.396 (2) (gm) and
4 amended to read:

5 48.396 (2) (gm) Upon request of any other court assigned to exercise
6 jurisdiction under this chapter and ch. 938, ~~a district attorney or corporation counsel~~
7 any court exercising jurisdiction under s. 48.16, any court exercising jurisdiction
8 under s. 938.17 (2), or any person representing the interests of the public under s.
9 48.09 or 938.09 to review court records for the purpose of conducting or preparing for
10 any proceeding in that other court, the court shall open for inspection by any
11 authorized representative of the requester the records of the court relating to any
12 child who has been the subject of a proceeding under this chapter. A court that
13 obtains information under this paragraph shall keep the information confidential as
14 required under par. (a) and s. 938.396 (2) (a) and may disclose the information only
15 for the purpose of conducting those proceedings or as permitted under par. (a) and
16 s. 938.396 (2) (a). A person representing the interests of the public who obtains any
17 information under this paragraph shall keep the information confidential and may
18 disclose the information only as necessary for the person to perform the person's
19 official duties relating to that proceeding.

20 **SECTION 21.** 48.396 (2) (gr) of the statutes is created to read:

21 48.396 (2) (gr) Upon request of any person authorized to provide intake or
22 dispositional services under s. 48.067, 48.069, 938.067, or 938.069 or any other
23 person employed by an agency, as defined in s. 48.38 (1) (a) or 938.78 (1), to provide
24 any other professional services to review court records for the purpose of performing
25 those services, the court shall open for inspection by the person the records of the

1 court relating to a child or an adult expectant mother of an unborn child who has been
2 the subject of a proceeding under this chapter. A person who obtains any information
3 under this paragraph shall keep the information confidential and may disclose the
4 information only as necessary for the person to provide those services.

5 **SECTION 22.** 48.396 (5) (a) (intro.) of the statutes is amended to read:

6 48.396 (5) (a) (intro.) Any person who is denied access to a record under sub.
7 (1), (1b) ~~or~~, (1d), (1h), (1j), or (1k) may petition the court to order the disclosure of the
8 ~~records governed by the applicable subsection~~ record. The petition shall be in writing
9 and shall describe as specifically as possible all of the following:

10 **SECTION 23.** 48.78 (2) (b) of the statutes is amended to read:

11 48.78 (2) (b) Paragraph (a) does not apply to the confidential exchange of
12 information between an agency and another ~~social-welfare~~ agency, a law
13 enforcement agency, a public school, or a private school regarding an individual in
14 the care or legal custody of the agency. ~~A social-welfare~~ An agency that obtains
15 information under this paragraph shall keep the information confidential as
16 required under this section and s. 938.78. A law enforcement agency that obtains
17 information under this paragraph shall keep the information confidential as
18 required under ss. 48.396 (1) and 938.396 (1). A public school that obtains
19 information under this paragraph shall keep the information confidential as
20 required under s. 118.125, and a private school that obtains information under this
21 paragraph shall keep the information confidential in the same manner as is required
22 of a public school under s. 118.125.

23 **SECTION 24.** 100.52 (1) (bg) and (br) of the statutes are created to read:

1 100.52 (1) (bg) “Blocking service” means a service that allows a person who
2 makes a telephone call to withhold his or her telephone number or name from a
3 person who receives the telephone call and who uses a caller identification service.

4 (br) “Caller identification service” means a service that allows a person who
5 receives a telephone call to identify the telephone number or name of the person
6 making the telephone call.

7 **SECTION 25.** 100.52 (4) (a) 4. of the statutes is created to read:

8 100.52 (4) (a) 4. Use a blocking service when making a telephone solicitation.

9 **SECTION 26.** 118.39 of the statutes is created to read:

10 **118.39 Policy on privacy in athletic locker rooms.** Each school board, and
11 the governing body of each private school that fields an athletic team representing
12 the school, shall adopt a written policy on who may enter and remain, to interview
13 or seek information from any person, in a locker room being used by an athletic team
14 representing the private school or representing a public school in the school district.
15 The policy shall reflect the privacy interests of members of athletic teams
16 representing the school.

17 **SECTION 27.** 146.81 (1) (fm) of the statutes is amended to read:

18 146.81 (1) (fm) A pharmacist or pharmacy licensed under ch. 450.

19 **SECTION 28.** 146.81 (4) of the statutes is amended to read:

20 146.81 (4) “Patient health care records” means all records related to the health
21 of a patient prepared by or under the supervision of or owned by a health care
22 provider, including the records required under s. 146.82 (2) (d) and (3) (c), but not
23 those records subject to s. 51.30, reports collected under s. 69.186, records of tests
24 administered under s. 252.15 (2) (a) 7., 343.305, 938.296 (4) or (5) or 968.38 (4) or (5),
25 fetal monitor tracings, as defined under s. 146.817 (1), or a pupil’s physical health

1 records maintained by a school under s. 118.125. "Patient health care records" also
2 includes health summary forms prepared under s. 302.388 (2).

3 **SECTION 29.** 146.82 (2) (bm) of the statutes is created to read:

4 146.82 (2) (bm) Except as otherwise permitted under 45 CFR Parts 160 and
5 164, no recipient of a patient health care record under par. (a) may use identifying
6 information in the record to market a service or product to a patient or health care
7 provider.

8 **SECTION 30.** 146.84 (1) (d) of the statutes is created to read:

9 146.84 (1) (d) Any person who obtains a patient health care record from a
10 pharmacy or pharmacist under circumstances that constitute a violation of s. 146.82
11 or 146.83 in a manner that is knowing and willful shall be liable to any person injured
12 as a result of the violation for actual damages to that person, exemplary damages of
13 not more than \$25,000, costs, and reasonable actual attorney fees.

14 **SECTION 31.** 146.84 (5) of the statutes is created to read:

15 146.84 (5) ENFORCEMENT. The department of justice or a district attorney may
16 bring an action in the name of the state to enforce sub. (2) or to restrain by temporary
17 or permanent injunction a violation of sub. (2).

18 **SECTION 32.** 175.22 of the statutes is created to read:

19 **175.22 Policy on privacy for professional athletic teams.** Any
20 professional athletic team that has its home field or arena in this state shall adopt
21 a written policy on who may enter and remain, to interview or seek information from
22 any person, in a locker room used by the professional athletic team. The policy shall
23 reflect the privacy interests of members of the professional athletic team.

24 **SECTION 33.** 230.08 (4) (b) 5. of the statutes is created to read:

1 230.08 (4) (b) 5. Functions performed by the privacy information officer under
2 s. 22.21 (1) and functions performed by the security information officer under s. 22.21
3 (2).

4 **SECTION 34.** 230.13 (1) (intro.) of the statutes is amended to read:

5 230.13 (1) (intro.) Except as provided in sub. (3) and s. ss. 19.36 (10) and 103.13,
6 the secretary and the administrator may keep records of the following personnel
7 matters closed to the public:

8 **SECTION 35.** 230.13 (3) of the statutes is renumbered 230.13 (3) (a).

9 **SECTION 36.** 230.13 (3) (b) of the statutes is created to read:

10 230.13 (3) (b) The secretary and the administrator may provide any agency
11 with personnel information relating to the hiring and recruitment process, including
12 specifically the examination scores and ranks and other evaluations of applicants.

13 **SECTION 37.** 233.13 (intro.) of the statutes is amended to read:

14 **233.13 Closed records.** (intro.) Except as provided in s. ss. 19.36 (10) and
15 103.13, the authority may keep records of the following personnel matters closed to
16 the public:

17 **SECTION 38.** 301.029 (2) (a) of the statutes is amended to read:

18 301.029 (2) (a) The department may not enter into any contract or other
19 agreement if, in the performance of the contract or agreement, a prisoner would
20 perform data entry or telemarketing services and have access to an individual's
21 financial transaction card numbers, checking or savings account numbers, date of
22 birth, or social security number.

23 **SECTION 39.** 938.396 (1) of the statutes is amended to read:

24 938.396 (1) Law enforcement officers' records of juveniles shall be kept
25 separate from records of adults. Law enforcement officers' records of juveniles shall

1 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),
2 (1h), (1j), (1k), (1m), (1r), (1t), (1x) or (5) or s. 938.293 or by order of the court. This
3 subsection does not apply to representatives of the news media who wish to obtain
4 information for the purpose of reporting news without revealing the identity of the
5 juvenile involved; to the confidential exchange of information between the police
6 and an agency, as defined in s. 48.38 (1) (a) or 938.78 (1), officials of the school
7 attended by the juvenile, or other law enforcement ~~or social welfare~~ agencies; or to
8 juveniles 10 years of age or older who are subject to the jurisdiction of the court of
9 criminal jurisdiction. A public school official who obtains information under this
10 subsection shall keep the information confidential as required under s. 118.125, and
11 a private school official who obtains information under this subsection shall keep the
12 information confidential in the same manner as is required of a public school official
13 under s. 118.125. A law enforcement agency that obtains information under this
14 subsection shall keep the information confidential as required under this subsection
15 and s. 48.396 (1). ~~A social welfare agency~~ An agency, as defined in s. 48.38 (1) (a) or
16 938.78 (1), that obtains information under this subsection shall keep the information
17 confidential as required under ss. 48.78 and 938.78.

18 **SECTION 40.** 938.396 (1h) of the statutes is created to read:

19 938.396 (1h) If requested by another law enforcement agency, a law
20 enforcement agency may, subject to official agency policy, disclose to the other law
21 enforcement agency any information in its records relating to a juvenile as necessary
22 for the other law enforcement agency to pursue an investigation of any alleged
23 criminal or delinquent activity. A law enforcement agency that obtains information
24 under this paragraph shall keep the information confidential as required under sub.

1 (1) and s. 48.396 (1) and may disclose the information only for the purpose of
2 pursuing that investigation or as permitted under sub. (1) or s. 48.396 (1).

3 **SECTION 41.** 938.396 (1j) of the statutes is created to read:

4 938.396 (1j) If requested by a court assigned to exercise jurisdiction under this
5 chapter and ch. 48, a court exercising jurisdiction under s. 48.16, a court exercising
6 jurisdiction under s. 938.17 (2), or a person representing the interests of the public
7 under s. 48.09 or 938.09, a law enforcement agency may, subject to official agency
8 policy, disclose to the requester any information in its records relating to a juvenile
9 as necessary for the court to conduct, or for the person representing the interests of
10 the public to prepare for, any proceedings in the court. A court that obtains
11 information under this paragraph shall keep the information confidential as
12 required under sub. (2) (a) and s. 48.396 (2) (a) and may disclose the information only
13 for the purpose of conducting those proceedings or as permitted under sub. (2) (a) or
14 s. 48.396 (2) (a). A person representing the interests of the public who obtains any
15 information under this paragraph shall keep the information confidential and may
16 disclose the information only as necessary for the person to perform the person's
17 official duties relating to those proceedings.

18 **SECTION 42.** 938.396 (1k) of the statutes is created to read:

19 938.396 (1k) If requested by any person authorized to provide intake or
20 dispositional services under s. 48.067, 48.069, 938.067, or 938.069 or any other
21 person employed by an agency, as defined in s. 48.38 (1) (a) or 938.78 (1), to provide
22 any other professional services, a law enforcement agency may, subject to official
23 agency policy, disclose to the person any information in its records relating to a
24 juvenile as necessary for the person to provide those services. A person who obtains
25 any information under this paragraph shall keep the information confidential and

1 may disclose the information only as necessary for the person to provide those
2 services.

3 **SECTION 43.** 938.396 (2) (c) of the statutes is amended to read:

4 938.396 (2) (c) Upon request of a law enforcement agency to review court
5 records for the purpose of ~~investigating a crime that might constitute criminal gang~~
6 ~~activity, as defined in s. 941.38 (1) (b) pursuing an investigation of any alleged~~
7 ~~delinquent or criminal activity,~~ the court shall open for inspection by authorized
8 representatives of the law enforcement agency the records of the court relating to any
9 juvenile who has been found to have committed a delinquent act at the request of or
10 for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been
11 a felony under chs. 939 to 948 or 961 if committed by an adult the subject of a
12 proceeding under this chapter as necessary for the law enforcement agency to pursue
13 the investigation. A law enforcement agency that obtains information under this
14 paragraph shall keep the information confidential as required under sub. (1) and s.
15 48.396 (1) and may disclose the information only for the purpose of pursuing that
16 investigation or as permitted under sub. (1) or s. 48.396 (1).

17 **SECTION 44.** 938.396 (2) (gm) of the statutes is amended to read:

18 938.396 (2) (gm) Upon request of any other court assigned to exercise
19 jurisdiction under this chapter and ch. 48, ~~a district attorney or corporation counsel~~
20 any court exercising jurisdiction under s. 48.16, any court exercising jurisdiction
21 under s. 938.17 (2), or any person representing the interests of the public under s.
22 48.09 or 938.09 to review court records for the purpose of conducting or preparing for
23 any proceeding in that other court, the court shall open for inspection by any
24 authorized representative of the requester the records of the court relating to any
25 juvenile who has been the subject of a proceeding under this chapter. A court that

1 obtains information under this paragraph shall keep the information confidential as
2 required under par. (a) and s. 48.396 (2) (a) and may disclose the information only
3 for the purpose of conducting those proceedings or as permitted under par. (a) or s.
4 48.396 (2) (a). A person representing the interests of the public who obtains any
5 information under this paragraph shall keep the information confidential and may
6 disclose the information only as necessary for the person to perform the person's
7 official duties relating to that proceeding.

8 **SECTION 45.** 938.396 (2) (gr) of the statutes is created to read:

9 938.396 (2) (gr) Upon request of any person authorized to provide intake or
10 dispositional services under s. 48.067, 48.069, 938.067, or 938.069 or any other
11 person employed by an agency, as defined in s. 48.38 (1) (a) or 938.78 (1), to provide
12 any other professional services to review court records for the purpose of performing
13 those services, the court shall open for inspection by the person the records of the
14 court relating to a juvenile who has been the subject of a proceeding under this
15 chapter. A person who obtains any information under this paragraph shall keep the
16 information confidential and may disclose the information only as necessary for the
17 person to provide those services.

18 **SECTION 46.** 938.396 (5) (a) (intro.) of the statutes is amended to read:

19 938.396 (5) (a) (intro.) Any person who is denied access to a record under sub.
20 (1), (1b), (1d), (1g), (1h), (1j), (1k), (1m), (1r), or (1t) may petition the court to order
21 the disclosure of the records ~~governed by the applicable subsection~~ record. The
22 petition shall be in writing and shall describe as specifically as possible all of the
23 following:

24 **SECTION 47.** 938.78 (2) (b) 1. of the statutes is amended to read:

1 938.78 (2) (b) 1. Paragraph (a) does not apply to the confidential exchange of
2 information between an agency and another ~~social-welfare~~ agency, a law
3 enforcement agency, the victim-witness coordinator, a fire investigator under s.
4 165.55 (15), a public school district, or a private school regarding an individual in the
5 care or legal custody of the agency. ~~A social-welfare~~ An agency that obtains
6 information under this paragraph shall keep the information confidential as
7 required under this section and s. 48.78. A law enforcement agency that obtains
8 information under this paragraph shall keep the information confidential as
9 required under ss. 48.396 (1) and 938.396 (1). A public school that obtains
10 information under this paragraph shall keep the information confidential as
11 required under s. 118.125, and a private school that obtains information under this
12 paragraph shall keep the information confidential in the same manner as is required
13 of a public school under s. 118.125.

14 **SECTION 48.** 979.028 of the statutes is created to read:

15 **979.028 Confidentiality of autopsy records.** (1) Photographs or other
16 pictorial images taken during an autopsy are subject to inspection as provided under
17 s. 19.35 (1). Such pictorial images are not subject to copying under s. 19.35 (1). The
18 custodian of such pictorial images shall prohibit copying of the pictorial images and
19 may not release copies of the pictorial images to the public unless the deceased's
20 spouse, or if there is no living spouse the deceased's next of kin, consents to the
21 release or unless a court of record orders the release. Autopsy records other than
22 photographs and other pictorial images taken during an autopsy are subject to both
23 inspection and copying under s. 19.35 (1).

24 (2) Notwithstanding sub. (1), the custodian of photographs or other pictorial
25 images of a deceased person that are taken during an autopsy may release the

1 photographs or other pictorial images for use in educational activities conducted by
2 a coroner or medical examiner or conducted under the auspices of a postsecondary
3 educational institution, or to persons conducting health care peer reviews or health
4 care quality assurance activities.

5 **SECTION 49. Initial applicability.**

6 (1) PRIVACY IMPACT STATEMENTS. The creation of section 13.0991 of the statutes
7 first applies with respect to bills introduced in the 2001-03 legislative session and
8 jacketed by the legislative reference bureau after the effective date of this subsection.

9 (2) MARKETING SERVICES OR PRODUCTS FROM HEALTH CARE RECORD INFORMATION.

10 The creation of section 146.82 (2) (bm) of the statutes first applies to the use by a
11 covered entity, as defined in 45 CFR 160.013, of identifying information to market
12 a service or product to a patient or health care provider on April 14, 2003, except that
13 the creation of section 146.82 (2) (bm) of the statutes first applies to that use by a
14 small health plan, as defined in 45 CFR 160.013, on April 14, 2004.

15 **SECTION 50. Effective dates.** This act takes effect on the day after publication,
16 except as follows:

17 (1) The treatment of sections 36.11 (35) and 36.32 (1) of the statutes takes effect
18 on January 1, 2007.

19 (2) The treatment of sections 36.38, 38.12 (12), 39.49, 118.39, and 175.22 of the
20 statutes takes effect on the first day of the 6th month beginning after publication.

21 (END)