



**SENATE SUBSTITUTE AMENDMENT 1,
TO 2009 SENATE BILL 375**

December 14, 2009 – Offered by Senator SULLIVAN.

1 **AN ACT to amend** 48.396 (2) (a), 48.47 (7g), 48.78 (2) (a), 48.78 (2) (h), 938.396
2 (2), 938.78 (2) (a) and 938.78 (2) (h); and **to create** 48.396 (3) of the statutes;
3 **relating to:** the exchange of electronic records between the juvenile courts and
4 the Department of Children and Families and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the director of state courts has established an automated information system, know as the Consolidated Court Automation Programs (CCAP), that contains information about cases filed in the circuit courts in this state, including cases filed in the juvenile courts. Records of the juvenile court, however, are confidential and may not be opened to inspection, nor may their contents be disclosed, except under certain statutory exceptions or by an order of the juvenile court.

Also, under current law, the Department of Children and Families (DCF) has established a Statewide Automated Child Welfare Information System (SACWIS) that contains information about child welfare cases entered into that system by DCF, county departments of human services or social services (county departments), and licensed child welfare agencies. Current law permits DCF, a county department, or any other agency that has entered into an information sharing and access agreement with DCF or a county department, and that has been approved for access to SACWIS

by DCF, to have access to SACWIS, if necessary for the performance of its duties under state or federal law.

This substitute amendment permits the juvenile court to transfer to DCF the electronic records of the juvenile court, and DCF to transfer to the juvenile court the electronic records of DCF that are maintained in SACWIS. The substitute amendment permits the director of state courts to use CCAP to facilitate the transfer of those electronic records between the juvenile court and DCF and requires the director of state courts and DCF to specify what types of information may be transferred under the substitute amendment.

In addition, the substitute amendment permits 1) DCF to allow access to any information transferred to DCF under the substitute amendment only for the purpose of providing child welfare or juvenile justice intake or dispositional services; and 2) a juvenile court or the director of state courts to allow access to any information transferred to the juvenile court under the substitute amendment only to the extent that the information may be disclosed under the Children’s Code or the Juvenile Justice Code.

Finally, the substitute amendment requires DCF, a juvenile court, the director of state courts, and any individual who is allowed access to any information transferred under the substitute amendment to keep the information confidential and to use and further disclose the information only as permitted under the substitute amendment and provides for a forfeiture of not more than \$5,000 for any person who intentionally discloses information in violation of the substitute amendment.

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

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

2 48.396 (2) (a) Records of the court assigned to exercise jurisdiction under this
3 chapter and ch. 938 and of courts exercising jurisdiction under s. 48.16 shall be
4 entered in books or deposited in files kept for that purpose only. They shall not be
5 open to inspection or their contents disclosed except by order of the court assigned
6 to exercise jurisdiction under this chapter and ch. 938 or as permitted under this
7 ~~section subsection, sub. (3) (b) or (c) 1. or (6),~~ or s. 48.375 (7) (e).

8 **SECTION 2.** 48.396 (3) of the statutes is created to read:

9 48.396 (3) (a) In this subsection, “court” means the court assigned to exercise
10 jurisdiction under this chapter and ch. 938.

1 (b) The court may transfer to the department information contained in the
2 electronic records of the court, regardless of whether the department is a party to the
3 proceedings in which the electronic records containing that information were
4 created, and the department may transfer to the court information contained in the
5 electronic records of the department that are maintained in the statewide automated
6 child welfare information system under s. 48.47 (7g). The director of state courts may
7 use the circuit court automated information systems established under s. 758.19 (4)
8 to facilitate the transfer of those electronic records between the court and the
9 department. The director of state courts and the department shall specify what types
10 of information may be transferred under this paragraph.

11 (c) 1. The department may allow access to any information transferred to the
12 department under par. (b) only for the purpose of providing services under s. 48.06,
13 48.067, 48.069, 938.06, 938.067, or 938.069. The department may allow that access
14 regardless of whether the person who is allowed that access is a party to the
15 proceedings in which the electronic records containing that information were
16 created.

17 2. The court or the director of state courts may allow access to any information
18 transferred to the court under par. (b) only to the extent that the information may
19 be disclosed under this chapter or ch. 938.

20 3. The department, a court, the director of state courts, and any individual who
21 is allowed access to any information transferred under par. (b) shall keep the
22 information confidential and may use and further disclose the information only for
23 the purpose described in subd. 1. or to the extent permitted under subd. 2.

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

1 **SECTION 3.** 48.47 (7g) of the statutes is amended to read:

2 48.47 **(7g)** STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEM. Establish
3 a statewide automated child welfare information system. Notwithstanding ss.
4 46.2895 (9), 48.396 (1) and (2) (a), 48.78 (2) (a), 48.981 (7), 49.45 (4), 49.83, 51.30,
5 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 252.15, 253.07 (3) (c), 938.396 (1) (a) and
6 (2), and 938.78 (2) (a), the department may enter the content of any record kept or
7 information received by the department into the statewide automated child welfare
8 information system, and a county department under s. 46.215, 46.22, or 46.23, the
9 department, or any other organization that has entered into an information sharing
10 and access agreement with the department or any of those county departments and
11 that has been approved for access to the statewide automated child welfare
12 information system by the department may have access to information that is
13 maintained in that system, if necessary to enable the county department,
14 department, or organization to perform its duties under this chapter, ch. 46, 51, 55,
15 or 938, or 42 USC 670 to 679b ~~to~~ or to coordinate the delivery of services under this
16 chapter, ch. 46, 51, 55, or 938, or 42 USC 670 to 679b. The department may also
17 transfer information that is maintained in the system to a court under s. 48.396 (3)
18 (b), and the court and the director of state courts may allow access to that information
19 as provided in s. 48.396 (3) (c) 2.

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

21 48.78 **(2)** (a) No agency may make available for inspection or disclose the
22 contents of any record kept or information received about an individual in its care
23 or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d) or (5m) (d),
24 48.396 (3) (b) or (c) 1., 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.93, 48.981 (7),
25 938.51, or 938.78 or by order of the court.

1 **SECTION 5.** 48.78 (2) (h) of the statutes is amended to read:

2 48.78 (2) (h) Paragraph (a) does not prohibit the department, a county
3 department, or a licensed child welfare agency from entering the content of any
4 record kept or information received by the department, county department, or
5 licensed child welfare agency into the statewide automated child welfare
6 information system established under s. 48.47 (7g) or the department from
7 transferring any information maintained in that system to the court under s. 48.396
8 (3) (b). If the department transfers that information to the court, the court and the
9 director of state courts may allow access to that information as provided in s. 48.396
10 (3) (c) 2.

11 **SECTION 6.** 938.396 (2) of the statutes is amended to read:

12 938.396 (2) COURT RECORDS; CONFIDENTIALITY. Records of the court assigned to
13 exercise jurisdiction under this chapter and ch. 48 and of municipal courts exercising
14 jurisdiction under s. 938.17 (2) shall be entered in books or deposited in files kept for
15 that purpose only. Those records shall not be open to inspection or their contents
16 disclosed except by order of the court assigned to exercise jurisdiction under this
17 chapter and ch. 48 or as permitted under sub. (2g) or (10) or s. 48.396 (3) (b) or (c) 1.

18 **SECTION 7.** 938.78 (2) (a) of the statutes is amended to read:

19 938.78 (2) (a) No agency may make available for inspection or disclose the
20 contents of any record kept or information received about an individual who is or was
21 in its care or legal custody, except as provided under sub. (3) or s. 48.396 (3) (b) or (c)
22 1., 938.371, 938.38 (5) (b) or (d) or (5m) (d), 938.51, or 938.57 (2m) or by order of the
23 court.

24 **SECTION 8.** 938.78 (2) (h) of the statutes is amended to read:

1 938.78 (2) (h) Paragraph (a) does not prohibit the department of children and
2 families, a county department, or a licensed child welfare agency from entering the
3 content of any record kept or information received by that department, county
4 department, or licensed child welfare agency into the statewide automated child
5 welfare information system established under s. 48.47 (7g) or the department of
6 children and families from transferring any information maintained in that system
7 to the court under s. 48.396 (3) (b). If the department of children and families
8 transfers that information to the court, the court and the director of state courts may
9 allow access to that information as provided in s. 48.396 (3) (c) 2.

10 (END)