



1995 SENATE BILL 425

November 16, 1995 - Introduced by Senators WELCH, DRZEWIECKI, PETAK, SCHULTZ, ZIEN and FITZGERALD, cosponsored by Representatives GROTHMAN, ALBERS, DUFF, GOETSCH, WOOD, HAHN, KREIBICH, LAZICH, NASS, OTTE, OWENS, PORTER, SERATTI, WALKER, ZUKOWSKI, LADWIG, JENSEN, FREESE and SCHNEIDERS. Referred to Committee on Education and Financial Institutions.

1 **AN ACT to create** 118.135 of the statutes; **relating to:** surveys, analyses and
2 evaluations of pupils and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill requires school boards to make available to their pupils' parents or guardians all instructional material that will be used in connection with any survey, analysis or evaluation of pupils. The bill also prohibits any official, employe or agent of a school board from conducting any survey, analysis or evaluation of pupils that may reveal information with respect to a pupil or the pupil's family about political affiliations, mental or psychological problems, sexual behavior or attitudes, illegal or antisocial behavior, critical appraisals of family members, privileged relationships, income or religious beliefs or practices, without the pupil's written consent if he or she is an adult or emancipated minor, or without the written consent of the pupil's parent or guardian if the pupil is an unemancipated minor.

The bill directs each school board to annually notify the pupils enrolled in the school district and their parents or guardians of the above provisions. The bill provides a civil forfeiture for those school board officers, employes or agents who require pupils to participate in a survey, analysis or evaluation that may reveal the information specified above without the required consent, and also provides an enforcement mechanism.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

3 **SECTION 1.** 118.135 of the statutes is created to read:

1 **118.135 Surveys, analyses and evaluations of pupils. (1)** INSTRUCTIONAL
2 MATERIALS AVAILABLE; CONSENT REQUIRED. (a) Each school board shall make available
3 for inspection by the parents and guardians of pupils enrolled in the school district
4 all instructional material, including teacher's manuals, films, tapes and other
5 supplementary material, that will be used in connection with any survey, analysis
6 or evaluation of pupils.

7 (b) No official, employe or agent of a school board may conduct any survey,
8 analysis or evaluation of pupils that may reveal information about any of the
9 following with respect to a pupil or the pupil's family without the written consent of
10 the pupil, if the pupil is an adult or an emancipated minor, or without the written
11 consent of the pupil's parent or guardian, if the pupil is an unemancipated minor:

- 12 1. Political affiliations.
- 13 2. Mental or psychological problems that may embarrass the pupil or the pupil's
14 family.
- 15 3. Sexual behavior or attitudes.
- 16 4. Illegal, antisocial, self-incriminating or demeaning behavior.
- 17 5. Critical appraisals of individuals with whom the pupil has close family
18 relationships.
- 19 6. Legally recognized privileged or analogous relationships, including
20 relationships with lawyers, physicians or members of the clergy.
- 21 7. Income, unless the information is required by law to determine eligibility for
22 participation in a program or for receiving financial assistance.
- 23 8. Religious beliefs or practices.

24 (c) An official, employe or agent of a school board shall obtain written consent
25 under par. (b) for each survey, analysis or evaluation conducted. In seeking consent,

1 the official, employe or agent shall explicitly describe, in writing, the specific survey,
2 analysis or evaluation to which the consent will apply.

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

5 (3) PENALTY. Any person who knowingly violates sub. (1) (b) shall forfeit not less
6 than \$25 nor more than \$300 for each violation. Each survey, analysis or evaluation
7 of each pupil constitutes a separate violation.

8 (4) ENFORCEMENT. (a) Forfeitures under this section shall be enforced by action
9 on behalf of the state by the attorney general or, upon the verified complaint of any
10 person, by the district attorney of any county where a violation occurs. In actions
11 brought by the attorney general, the court shall award any forfeiture recovered
12 together with reasonable costs to the state; and in actions brought by the district
13 attorney, the court shall award any forfeiture recovered together with reasonable
14 costs to the county.

15 (b) In addition and supplementary to the remedy provided in sub. (3), the
16 attorney general or the district attorney may commence an action, separately or in
17 conjunction with an action brought under sub. (3), to obtain such other legal or
18 equitable relief, including but not limited to mandamus, injunction or declaratory
19 judgment, as may be appropriate under the circumstances.

20 (c) If the district attorney refuses or otherwise fails to commence an action to
21 enforce this section within 20 days after receiving a verified complaint, the person
22 making such complaint may bring an action under par. (a) and (b) on his or her
23 relation in the name, and on behalf, of the state. In such actions, the court may award

SECTION 1

1 actual and necessary costs of prosecution, including reasonable attorney fees to the
2 relator if he or she prevails, but any forfeiture recovered shall be paid to the state.

3 (END)