

1 **AN ACT** *to amend* 938.78 (2) (a), (ag) and (am) and (3); and *to create* 938.78 (1)
2 (title) and (2) (title) of the statutes; **relating to:** general provisions on juvenile
3 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 recodification of ch. 938, the juvenile justice code. The draft proposes initial language for the recodification of subchapter XVII, relating to general provisions on juvenile records.

4 **SECTION 1.** 938.78 (1) (title) and (2) (title) of the statutes are created to read:
5 938.78 (1) (title) DEFINITION OF "AGENCY".

6 (2) (title) WHEN AGENCY MAY DISCLOSE CONTENTS OF RECORDS.

7 **SECTION 2.** 938.78 (2) (a), (ag) and (am) and (3) of the statutes are amended to read:
8 938.78 (2) (a) No agency may make available for inspection or disclose the contents
9 of any record kept or information received about an individual in its care or legal custody,
10 except as provided under sub. (3) or s. 938.371, 938.38 (5) (b) or (d) or (5m) (d), or 938.51
11 or by order of the court.

COMMENT: The following issue has been raised by the department of corrections, division of juvenile services (DOC/DJS) relating to sub. (2) (a): "What does the term "an individual in its care or legal custody" mean? Does it extend to all forms of supervision, and all youth whether current or past supervisees?"

12 (ag) Paragraph (a) does not prohibit an agency from making available for inspection
13 or disclosing the contents of a record, upon the request of the parent, guardian, or legal
14 custodian of the juvenile who is the subject of the record or upon the request of the juvenile,

1 if 14 years of age or ~~over~~ older, to the parent, guardian, legal custodian, or juvenile, unless the
2 agency finds that inspection of the record by the juvenile, parent, guardian, or legal custodian
3 would result in imminent danger to anyone.

4 (am) Paragraph (a) does not prohibit an agency from making available for inspection
5 or disclosing the contents of a record, upon the written permission of the parent, guardian, or
6 legal custodian of the juvenile who is the subject of the record or upon the written permission
7 of the juvenile, if 14 years of age or ~~over~~ older, to the person named in the permission if the
8 parent, guardian, legal custodian, or juvenile specifically identifies the record in the written
9 permission, unless the agency determines that inspection of the record by the person named
10 in the permission would result in imminent danger to anyone.

11 (3) RELEASE OF INFORMATION WHERE ESCAPE OR ABSENCE: RULES. If a juvenile adjudged
12 delinquent under s. 48.12, 1993 stats., or s. 938.12 or found to be in need of protection or
13 services under s. 48.13 (12), 1993 stats., or s. 48.13 (14), 1993 stats., or s. 938.13 (12) or (14)
14 on the basis of a violation of s. 943.23 (1m) or (1r), 1999 stats., or s. 941.10, 941.11, 941.20,
15 941.21, 941.23, 941.235, 941.237, 941.24, 941.26, 941.28, 941.295, 941.298, 941.30, 941.31,
16 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2) (a), 943.23 (1g), 943.32 (2), 948.02,
17 948.025, 948.03, 948.05, 948.055, 948.60, 948.605, or 948.61 or any crime specified in ch.
18 940 has escaped from a ~~secured~~ juvenile correctional facility, residential care center for
19 children and youth, ~~secured group home~~, inpatient facility, as defined in s. 51.01 (10), ~~secure~~
20 juvenile detention facility, or juvenile portion of a county jail, or from the custody of a peace
21 officer or a guard of such a facility, center, or jail, or has been allowed to leave a ~~secured~~
22 juvenile correctional facility, residential care center for children and youth, ~~secured group~~
23 ~~home~~, inpatient facility, ~~secure~~ juvenile detention facility, or juvenile portion of a county jail
24 for a specified time period and is absent from the facility, center, home, or jail for more than

1 12 hours after the expiration of the specified period, the department or county department
2 having supervision over the juvenile may release the juvenile's name and any information
3 about the juvenile that is necessary for the protection of the public or to secure the juvenile's
4 return to the facility, center, home, or jail. The department of ~~corrections~~ shall promulgate
5 rules establishing guidelines for the release of the juvenile's name or information about the
6 juvenile to the public.

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(END)