

# Key Statues Chapter 48

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## **48.293: Discovery**

(1) Copies of all law enforcement officer reports, including the officer's memorandum and witnesses' statements, shall be made available upon request to counsel or guardian ad litem for any party and to the court-appointed special advocate for the child prior to a plea hearing. The reports shall be available through the representative of the public designated under s. 48.09. The identity of a confidential informant may be withheld pursuant to s. 905.10.

(2) All records relating to a child, or to an unborn child and the unborn child's expectant mother, which are relevant to the subject matter of a proceeding under this chapter shall be open to inspection by a guardian ad litem or counsel for any party and to inspection by the court-appointed special advocate for the child, upon demand and upon presentation of releases when necessary, at least 48 hours before the proceeding. Persons and unborn children, by their guardians ad litem, entitled to inspect the records may obtain copies of the records with the permission of the custodian of the records or with permission of the court. The court may instruct counsel, a guardian ad litem or a court-appointed special advocate not to disclose specified items in the materials to the child or the parent, or to the expectant mother, if the court reasonably believes that the disclosure would be harmful to the interests of the child or the unborn child.

(3) Upon request prior to the fact-finding hearing, counsel for the interests of the public shall disclose to the child, through his or her counsel or guardian ad litem, or to the unborn child, through the unborn child's guardian ad litem, the existence of any audiovisual recording of an oral statement of a child under s. [908.08](#) which is within the possession, custody or control of the state and shall make reasonable arrangements for the requesting person to view the statement. If, after compliance with this subsection, the state obtains possession, custody or control of such a statement, counsel for the interests of the public shall promptly notify the requesting person of that fact and make reasonable arrangements for the requesting person to view the statement.

(4) In addition to the discovery procedures permitted under subs. (1) to (3), the discovery procedures permitted under ch. [804](#) shall apply in all proceedings under this chapter.

Judicial Council Note, 1985: Sub. (3) makes videotaped oral statements of children in the possession, custody or control of the state discoverable upon demand by the child, child's counsel or guardian ad litem. These statements may be admissible under s. 908.08, stats. [85 Act 262]

The juvenile court must make a threshold relevancy determination by an in camera review when confronted with: 1) a discovery request under s. [48.293](#) (2); 2) an inspection request of juvenile records under ss. 48.396 (2) and 938.396 (2); or 3) an inspection request of agency records under ss. 48.78 (2) (a) and 938.78 (2) (a). The test for permissible discovery is whether the information sought appears reasonably calculated to lead to the discovery of admissible evidence. *Courtney F. v. Ramiro* M.C. [2004 WI App 36](#), [269 Wis. 2d 709](#), [676 N.W.2d 545](#), [03-3018](#).

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## 48.396 Records.

**(1)** Law enforcement officers' records of children shall be kept separate from records of adults. Law enforcement officers' records of the adult expectant mothers of unborn children shall be kept separate from records of other adults. Law enforcement officers' records of children and the adult expectant mothers of unborn children shall not be open to inspection or their contents disclosed except under sub. [\(1b\)](#), [\(1d\)](#), [\(5\)](#), or [\(6\)](#) or s. [48.293](#) or [938.396 \(2m\) \(c\) 1p](#), or by order of the court. This subsection does not apply to the representatives of newspapers or other reporters of news who wish to obtain information for the purpose of reporting news without revealing the identity of the child or adult expectant mother involved, to the confidential exchange of information between the police and officials of the public or private school attended by the child or other law enforcement or social welfare agencies, or to children 10 years of age or older who are subject to the jurisdiction of the court of criminal jurisdiction. A public school official who obtains information under this subsection shall keep the information confidential as required under s. [118.125](#), and a private school official who obtains information under this subsection shall keep the information confidential in the same manner as is required of a public school official under s. [118.125](#). This subsection does not apply to the confidential exchange of information between the police and officials of the tribal school attended by the child if the police determine that enforceable protections are provided by a tribal school policy or tribal law that requires tribal school officials to keep the information confidential in a manner at least as stringent as is required of a public school official under s. [118.125](#). A law enforcement agency that obtains information under this subsection shall keep the information confidential as required under this subsection and s. [938.396 \(1\) \(a\)](#). A social welfare agency that obtains information under this subsection shall keep the information confidential as required under ss. [48.78](#) and [938.78](#).

**(1b)** If requested by the parent, guardian or legal custodian of a child who is the subject of a law enforcement officer's report, or if requested by the child, if 14 years of age or over, a law enforcement agency may, subject to official agency policy, provide to the parent, guardian, legal custodian or child a copy of that report. If requested by the parent, guardian or legal custodian of a child expectant mother of an unborn child who is the subject of a law enforcement officer's report, if requested by an expectant mother of an unborn child who is the subject of a law enforcement officer's report, if 14 years of age or over, or if requested by an unborn child through the unborn child's guardian ad litem, a law enforcement agency may, subject to official agency policy, provide to the parent, guardian, legal custodian, expectant mother or unborn child by the unborn child's guardian ad litem a copy of that report.

**(1d)** Upon the written permission of the parent, guardian or legal custodian of a child who is the subject of a law enforcement officer's report or upon the written permission of the child, if 14 years of age or over, a law enforcement agency may, subject to official agency policy, make available to the person named in the permission any reports specifically identified by the parent, guardian, legal custodian or child in the written permission. Upon the written permission of the parent, guardian or legal custodian of a child expectant mother of an unborn child who is the subject of a law enforcement officer's report, or of an expectant mother of an unborn child who is the subject of a law enforcement officer's report, if 14 years of age or over, and of the unborn child by the unborn child's guardian ad litem, a law enforcement agency may, subject to official

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agency policy, make available to the person named in the permission any reports specifically identified by the parent, guardian, legal custodian or expectant mother, and unborn child by the unborn child's guardian ad litem in the written permission.

(2)

**(a)** Records of the court assigned to exercise jurisdiction under this chapter and ch. [938](#) and of courts exercising jurisdiction under s. [48.16](#) shall be entered in books or deposited in files kept for that purpose only. Those records shall not be open to inspection or their contents disclosed except by order of the court assigned to exercise jurisdiction under this chapter and ch. [938](#) or as required or permitted under this subsection, sub. [\(3\) \(b\)](#) or [\(c\) 1g.](#), [1m.](#), or [1r.](#) or [\(6\)](#), or s. [48.375 \(7\) \(e\)](#).

**(ag)** Upon request of the parent, guardian or legal custodian of a child who is the subject of a record of a court specified in par. [\(a\)](#), or upon request of the child, if 14 years of age or over, the court shall open for inspection by the parent, guardian, legal custodian or child the records of the court relating to that child, unless the court finds, after due notice and hearing, that inspection of those records by the parent, guardian, legal custodian or child would result in imminent danger to anyone.

**(aj)** Upon request of the parent, guardian or legal custodian of a child expectant mother of an unborn child who is the subject of a record of a court specified in par. [\(a\)](#), upon request of an expectant mother of an unborn child who is the subject of a record of a court specified in par. [\(a\)](#), if 14 years of age or over, or upon request of an unborn child by the unborn child's guardian ad litem, the court shall open for inspection by the parent, guardian, legal custodian, expectant mother or unborn child by the unborn child's guardian ad litem the records of the court relating to that expectant mother, unless the court finds, after due notice and hearing, that inspection of those records by the parent, guardian, legal custodian, expectant mother or unborn child by the unborn child's guardian ad litem would result in imminent danger to anyone.

**(am)** Upon the written permission of the parent, guardian or legal custodian of a child who is the subject of a record of a court specified in par. [\(a\)](#), or upon the written permission of the child, if 14 years of age or over, the court shall open for inspection by the person named in the permission any records specifically identified by the parent, guardian, legal custodian or child in the written permission, unless the court finds, after due notice and hearing, that inspection of those records by the person named in the permission would result in imminent danger to anyone.

**(ap)** Upon the written permission of the parent, guardian or legal custodian of a child expectant mother of an unborn child who is the subject of a record of a court specified in par. [\(a\)](#), or of an expectant mother of an unborn child who is the subject of a record of a court specified in par. [\(a\)](#), if 14 years of age or over, and of the unborn child by the unborn child's guardian ad litem, the court shall open for inspection by the person named in the permission any records specifically identified by the parent, guardian, legal custodian or expectant mother, and unborn child by the unborn child's guardian ad litem in the written permission, unless the court finds, after due notice and hearing, that inspection of

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those records by the person named in the permission would result in imminent danger to anyone.

**(b)** Upon request of the department or a federal agency to review court records for the purpose of monitoring and conducting periodic evaluations of activities as required by and implemented under [45 CFR 1355](#), [1356](#) and [1357](#), the court shall open those records for inspection by authorized representatives of the department or federal agency.

**(dm)** Upon request of a court having jurisdiction over actions affecting the family, an attorney responsible for support enforcement under s. [59.53 \(6\) \(a\)](#) or a party to a paternity proceeding under subch. [IX of ch. 767](#), the party's attorney or the guardian ad litem for the child who is the subject of that proceeding to review or be provided with information from the records of the court assigned to exercise jurisdiction under this chapter and ch. [938](#) relating to the paternity of a child for the purpose of determining the paternity of the child or for the purpose of rebutting the presumption of paternity under s. [891.405](#) or [891.41 \(1\)](#), the court assigned to exercise jurisdiction under this chapter and ch. [938](#) shall open for inspection by the requester its records relating to the paternity of the child or disclose to the requester those records.

**(dr)** Upon request of the department of corrections or any other person preparing a presentence investigation under s. [972.15](#) to review court records for the purpose of preparing the presentence investigation, the court shall open for inspection by any authorized representative of the requester the records of the court relating to any child who has been the subject of a proceeding under this chapter.

**(e)** Upon request of a court of criminal jurisdiction to review court records for the purpose of conducting or preparing for a proceeding in that court or upon request of a district attorney to review court records for the purpose of performing his or her official duties in a proceeding in a court of criminal jurisdiction, the court assigned to exercise jurisdiction under this chapter and ch. [938](#) shall open for inspection by authorized representatives of the requester the records of the court relating to any child who has been the subject of a proceeding under this chapter.

**(g)** Upon request of any court assigned to exercise jurisdiction under this chapter and ch. [938](#), any municipal court exercising jurisdiction under s. [938.17 \(2\)](#), or a district attorney, corporation counsel, or city, village, or town attorney to review court records for the purpose of any proceeding in that court or upon request of the attorney or guardian ad litem for a party to a proceeding in that court to review court records for the purpose of that proceeding, the court shall open for inspection by any authorized representative of the requester the records of the court relating to any child who has been the subject of a proceeding under this chapter.

**(h)** Upon request of the court having jurisdiction over an action affecting the family or of an attorney for a party or a guardian ad litem in an action affecting the family to review court records for the purpose of considering the custody of a child, the court assigned to exercise jurisdiction under this chapter and ch. [938](#) shall open for inspection by an authorized representative of the

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requester the records of the court relating to any child who has been the subject of a proceeding under this chapter.

(3)

(a) In this subsection, "court" means the court assigned to exercise jurisdiction under this chapter and ch. [938](#).

(b)

1. The court shall make information relating to proceedings under this chapter that is contained in the electronic records of the court available to any other court assigned to exercise jurisdiction under this chapter and ch. [938](#), a municipal court exercising jurisdiction under s. [938.17 \(2\)](#), a court of criminal jurisdiction, a person representing the interests of the public under s. [48.09](#) or [938.09](#), an attorney or guardian ad litem for a parent or child who is a party to a proceeding in a court assigned to exercise jurisdiction under this chapter or ch. [938](#) or a municipal court, a district attorney prosecuting a criminal case, or the department, regardless of whether the person to whom the information is transferred is a party to or is otherwise involved in the proceedings in which the electronic records containing that information were created. The director of state courts may use the circuit court automated information systems established under s. [758.19 \(4\)](#) to make information contained in the electronic records of the court available as provided in this subdivision.

2. Subdivision [1](#) does not authorize disclosure of any information relating to the physical or mental health of an individual or that deals with any other sensitive personal matter of an individual, including information contained in a patient health care record, as defined in s. [146.81 \(4\)](#), a treatment record, as defined in s. [51.30 \(1\) \(b\)](#), the record of a proceeding under s. [48.135](#), a report resulting from an examination or assessment under s. 938.295 [s. [48.295](#)], a court report under s. 938.33 [s. [48.33](#)], or a permanency plan under s. 938.38 [s. [48.38](#)], except with the informed consent of a person authorized to consent to that disclosure, by order of the court, or as otherwise permitted by law.

**NOTE: The correct cross-references are shown in brackets. Corrective legislation is pending.**

(bm) The department may transfer to the court information contained in the electronic records of the department that are maintained in the statewide automated child welfare information system under s. [48.47 \(7g\)](#). The director of state courts may use the circuit court automated information systems established under s. [758.19 \(4\)](#) to facilitate the transfer of those electronic records from the department to the court. The director of state courts and the department shall specify what types of information may be transferred from the department to the court under this paragraph and made available by the court to the department under par. [\(b\) 1](#).

(c)

1g. A court assigned to exercise jurisdiction under this chapter and ch. [938](#), a municipal court exercising jurisdiction under s. [938.17 \(2\)](#), or a court of criminal jurisdiction shall keep any information made available to that court under par. [\(b\) 1](#) confidential and may use or allow access to that information only for the purpose of conducting or preparing for a proceeding in that court. That court may allow that access

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regardless of whether the person who is allowed that access is a party to or is otherwise involved in the proceedings in which the electronic records containing that information were created.

**1m.** A person representing the interests of the public under s. [48.09](#) or [938.09](#), an attorney or guardian ad litem for a parent or child who is a party to a proceeding in a court assigned to exercise jurisdiction under this chapter or ch. [938](#) or a municipal court, or a district attorney prosecuting a criminal case shall keep any information made available to that person under par. [\(b\) 1.](#) confidential and may use or allow access to that information only for the purpose of performing his or her official duties relating to a proceeding in a court assigned to exercise jurisdiction under this chapter and ch. [938](#), a municipal court, or a court of criminal jurisdiction. That person may allow that access regardless of whether the person who is allowed that access is a party to or is otherwise involved in the proceedings in which the electronic records containing that information were created.

**1r.** The department shall keep any information made available to the department under par. [\(b\) 1.](#) confidential and may use or allow access to that information only for the purpose of providing services under s. [48.06](#), [48.067](#), [48.069](#), [938.06](#), [938.067](#), or [938.069](#). The department may allow that access regardless of whether the person who is allowed that access is a party to or is otherwise involved in the proceedings in which the electronic records containing that information were created.

**2.** The court or the director of state courts may allow access to any information transferred to the court under par. [\(bm\)](#) only to the extent that the information may be disclosed under this chapter or ch. [938](#).

**3.** An individual who is allowed under subd. [1g.](#), [1m.](#), [1r.](#), or [2.](#) to have access to any information transferred or made available under par. [\(b\) 1.](#) or [\(bm\)](#) shall keep the information confidential and may use and further disclose the information only for the purposes described in subd. [1g.](#), [1m.](#), or [1r.](#) or to the extent permitted undersubd. [2.](#)

**(d)** Any person who intentionally uses or discloses information in violation of par. [\(c\)](#) may be required to forfeit not more than \$5,000.

**(5)**

**(a)** Any person who is denied access to a record under sub. [\(1\)](#), [\(1b\)](#), [\(1d\)](#), or [\(6\)](#) may petition the court to order the disclosure of the records governed by the applicable subsection. The petition shall be in writing and shall describe as specifically as possible all of the following:

- 1.** The type of information sought.
- 2.** The reason the information is being sought.
- 3.** The basis for the petitioner's belief that the information is contained in the records.

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4. The relevance of the information sought to the petitioner's reason for seeking the information.
5. The petitioner's efforts to obtain the information from other sources.

(b) The court shall notify the child, the child's counsel, the child's parents, appropriate law enforcement agencies and, if the child is an expectant mother of an unborn child under s. [48.133](#), the unborn child by the unborn child's guardian ad litem, or shall notify the adult expectant mother, the unborn child by the unborn child's guardian ad litem and appropriate law enforcement agencies, in writing of the petition. If any person notified objects to the disclosure, the court may hold a hearing to take evidence relating to the petitioner's need for the disclosure.

(c) The court shall make an inspection, which may be in camera, of the records of the child or expectant mother. If the court determines that the information sought is for good cause and that it cannot be obtained with reasonable effort from other sources, the court shall then determine whether the petitioner's need for the information outweighs society's interest in protecting its confidentiality. In making that determination, the court shall balance the interest of the petitioner in obtaining access to the record against the interest of the child or expectant mother in avoiding the stigma that might result from disclosure.

(d) If the court determines that disclosure is warranted, it shall order the disclosure of only as much information as is necessary to meet the petitioner's need for the information.

(e) The court shall record the reasons for its decision to disclose or not to disclose the records of the child or expectant mother. All records related to a decision under this subsection are confidential.

(6) Records of law enforcement officers and of the court assigned to exercise jurisdiction under this chapter and ch. [938](#) shall be open for inspection to authorized representatives of the department of corrections, the department of health services, the department of justice, or a district attorney for use in the prosecution of any proceeding or any evaluation conducted under ch. [980](#), if the records involve or relate to an individual who is the subject of the proceeding or evaluation. The court in which the proceeding under ch. [980](#) is pending may issue any protective orders that it determines are appropriate concerning information made available or disclosed under this subsection. Any representative of the department of corrections, the department of health services, the department of justice, or a district attorney may disclose information obtained under this subsection for any purpose consistent with any proceeding under ch. [980](#).

**History:** [1971 c. 278](#); [1977 c. 354 s. 47](#); [1977 c. 449](#); Stats. 1977 s. [48.396](#); [1979 c. 300](#); [1979 c. 333 s. 5](#); [1983 a. 74 s. 32](#); [1983 a. 487, 538](#); [1985 a. 311, 332](#); [1987 a. 27, 180, 403](#); [1989 a. 31, 107, 145](#); [1991 a. 39, 263](#); [1993 a. 98, 195, 228, 334, 479, 491](#); [1995 a. 27 ss. 2479 to 2480m, 9126 \(19\)](#); [1995 a. 77, 173, 275, 352, 440, 448](#); [1997 a. 35, 80, 191, 205, 252, 292](#); [1999 a. 32, 89](#); [2003 a. 82](#); [2005 a. 344, 434](#); [2005 a. 443 s. 265](#); [2007 a. 20 s. 9121 \(6\) \(a\)](#); [2007 a. 97](#); [2009 a. 302, 338](#); [2011 a. 270](#).

In the interest of fostering fair and efficient administration of justice, a circuit court has the power to order disclosure of police records. State ex rel. Herget v. Waukesha Co. Cir. Ct. [84 Wis. 2d 435, 267 N.W.2d 309](#) (1978).

Section 967.06 gives the public defender the right to receive juvenile records of indigent clients notwithstanding s. [48.396](#) (2). State ex rel. S. M. O. [110 Wis. 2d 447, 329 N.W.2d 275](#) (Ct. App. 1982).

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In determining whether to release juvenile court records, the child's best interests are paramount. The child's interests must be weighed against the need of the party seeking the information. The child whose confidentiality interests are at stake must be represented. *State v. Bellows*, [218 Wis. 2d 614](#), [582 N.W.2d 53](#) (Ct. App. 1998), [97-0977](#).

The juvenile court must make a threshold relevancy determination by an in camera review when confronted with: 1) a discovery request under s. 48.293 (2); 2) an inspection request of juvenile records under ss. [48.396](#) (2) and [938.396](#) (2); or 3) an inspection request of agency records under ss. 48.78 (2) (a) and [938.78](#) (2) (a). The test for permissible discovery is whether the information sought appears reasonably calculated to lead to the discovery of admissible evidence. *Courtney F. v. Ramiro M.C.* [2004 WI App 36](#), [269 Wis. 2d 709](#), [676 N.W.2d 545](#), [03-3018](#).

Juvenile officers are not required to provide information concerning juveniles to school officials. A school does not violate sub. (1) by using information obtained from an officer to take disciplinary actions against a student as long as the school does not reveal the reason for its action. 69 Atty. Gen. 179.

A sheriff's department may, when evaluating an individual for an employment position, consider information in its possession concerning the individual's juvenile record. 67 Atty. Gen. 327 is overruled. [79 Atty. Gen. 89](#).

Corporation counsel may not have access to juvenile cases through the court system's electronic case management system until such time as the system can be programmed to provide for access only to individual files when access is permitted under this section. The statutes cannot be interpreted to provide corporation counsel unlimited access to juvenile records through the electronic case management system when the general rule is confidentiality and disclosure is the exception granted only after a fact-specific, case-by-case analysis. [OAG 07-10](#).

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## 48.78 Confidentiality of Records

**(1)**In this section, unless otherwise qualified, "agency" means the department, a county department, a licensed child welfare agency, or a licensed child care center.

**(2)**

**(a)** No agency may make available for inspection or disclose the contents of any record kept or information received about an individual who is or was in its care or legal custody, except as provided under s. [48.371](#), [48.38 \(5\) \(b\)](#) or [\(d\)](#) or [\(5m\) \(d\)](#), [48.396 \(3\) \(bm\)](#) or [\(c\) 1r.](#), [48.432](#), [48.433](#), [48.48 \(17\) \(bm\)](#), [48.57 \(2m\)](#), [48.93](#), [48.981 \(7\)](#), [938.396 \(2m\) \(c\) 1r.](#), [938.51](#), or [938.78](#) or by order of the court.

**(ag)** Paragraph [\(a\)](#) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the request of the parent, guardian, or legal custodian of the child who is the subject of the record or upon the request of the child, if 14 years of age or over, to the parent, guardian, legal custodian, or child, unless the agency determines that inspection of the record by the child, parent, guardian, or legal custodian would result in imminent danger to anyone.

**(aj)** Paragraph [\(a\)](#) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the request of a parent, guardian, or legal custodian of a child expectant mother of an unborn child who is the subject of the record, upon the request of an expectant mother of an unborn child who is the subject of the record, if 14 years of age or over, or upon the request of an unborn child by the unborn child's guardian ad litem to the parent, guardian, legal custodian, expectant mother, or unborn child by the unborn child's guardian ad litem, unless the agency determines that inspection of the record by

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the parent, guardian, legal custodian, expectant mother, or unborn child by the unborn child's guardian ad litem would result in imminent danger to anyone.

**(am)** Paragraph [\(a\)](#) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the written permission of the parent, guardian, or legal custodian of the child who is the subject of the record or upon the written permission of the child, if 14 years of age or over, to the person named in the permission if the parent, guardian, legal custodian, or child specifically identifies the record in the written permission, unless the agency determines that inspection of the record by the person named in the permission would result in imminent danger to anyone.

**(ap)** Paragraph [\(a\)](#) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the written permission of the parent, guardian, or legal custodian of a child expectant mother of an unborn child who is the subject of the record, or of an expectant mother of an unborn child who is the subject of the record, if 14 years of age or over, and of the unborn child by the unborn child's guardian ad litem, to the person named in the permission if the parent, guardian, legal custodian, or expectant mother, and unborn child by the unborn child's guardian ad litem, specifically identify the record in the written permission, unless the agency determines that inspection of the record by the person named in the permission would result in imminent danger to anyone.

**(b)** Paragraph [\(a\)](#) does not apply to the confidential exchange of information between an agency and another social welfare agency, a law enforcement agency, a health care provider, as defined in s. [146.81 \(1\) \(a\) to \(p\)](#), a public school, or a private school regarding an individual in the care or legal custody of the agency. A social welfare agency that obtains information under this paragraph shall keep the information confidential as required under this section and s. [938.78](#). A law enforcement agency that obtains information under this paragraph shall keep the information confidential as required under ss. [48.396 \(1\)](#) and [938.396 \(1\) \(a\)](#). A health care provider that obtains information under this paragraph shall keep the information confidential as provided under s. [146.82](#). A public school that obtains information under this paragraph shall keep the information confidential as required under s. [118.125](#), and a private school that obtains information under this paragraph shall keep the information confidential in the same manner as is required of a public school under s. [118.125](#). Paragraph [\(a\)](#) does not apply to the confidential exchange of information between an agency and officials of a tribal school regarding an individual in the care or legal custody of the agency if the agency determines that enforceable protections are provided by a tribal school policy or tribal law that requires tribal school officials to keep the information confidential in a manner at least as stringent as is required of a public school official under s. [118.125](#).

**(c)** Paragraph [\(a\)](#) does not prohibit the department or a county department from using in the media a picture or description of a child in the guardianship of the department or a county department for the purpose of finding adoptive parents for that child.

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(d) Paragraph (a) does not prohibit the department of health services or a county department from disclosing information about an individual formerly in the legal custody or under the supervision of that department under s. [48.34 \(4m\)](#), 1993 stats., or formerly under the supervision of that department or county department under s. [48.34 \(4n\)](#), 1993 stats., to the department of corrections, if the individual is at the time of disclosure any of the following:

1. The subject of a presentence investigation under s. [972.15](#).
2. Under sentence to the Wisconsin state prisons under s. [973.15](#).
3. Subject to an order under s. [48.366](#) and placed in a state prison under s. [48.366 \(8\)](#).
4. On probation to the department of corrections under s. [973.09](#).
5. On parole under s. [302.11](#) or ch. [304](#) or on extended supervision under s. [302.113](#) or [302.114](#).

(e) Notwithstanding par. (a), an agency shall, upon request, disclose information to authorized representatives of the department of corrections, the department of health services, the department of justice, or a district attorney for use in the prosecution of any proceeding or any evaluation conducted under ch. [980](#), if the information involves or relates to an individual who is the subject of the proceeding or evaluation. The court in which the proceeding under ch. [980](#) is pending may issue any protective orders that it determines are appropriate concerning information made available or disclosed under this paragraph. Any representative of the department of corrections, the department of health services, the department of justice, or a district attorney may disclose information obtained under this paragraph for any purpose consistent with any proceeding under ch. [980](#).

(g) Paragraph (a) does not prohibit an agency from disclosing information about an individual in its care or legal custody on the written request of the department of safety and professional services or of any interested examining board or affiliated credentialing board in that department for use in any investigation or proceeding relating to any alleged misconduct by any person who is credentialed or who is seeking credentialing under ch. [448](#), [455](#) or [457](#). Unless authorized by an order of the court, the department of safety and professional services and any examining board or affiliated credentialing board in that department shall keep confidential any information obtained under this paragraph and may not disclose the name of or any other identifying information about the individual who is the subject of the information disclosed, except to the extent that redisclosure of that information is necessary for the conduct of the investigation or proceeding for which that information was obtained.

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

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(i) Paragraph (a) does not prohibit an agency from disclosing information to a relative of a child placed outside of his or her home only to the extent necessary to facilitate the establishment of a relationship between the child and the relative or a placement of the child with the relative or from disclosing information under s. [48.21 \(5\) \(e\)](#), [48.355 \(2\) \(cm\)](#), or [48.357 \(2v\) \(d\)](#). In this paragraph, "relative" includes a relative whose relationship is derived through a parent of the child whose parental rights are terminated.

(j) Paragraph (a) does not prohibit an agency from disclosing information to any public or private agency in this state or any other state that is investigating a person for purposes of licensing the person to operate a foster home or placing a child for adoption in the home of the person.

(k) Paragraph (a) does not prohibit the department of children and families from providing to the department of revenue, upon request, information concerning a recipient of payments under s. [48.57 \(3m\)](#) or [\(3n\)](#) or aid under s. [48.645](#), including information contained in the electronic records of the department of children and families, solely for the purposes of administering state taxes, including verifying a claim for a state tax refund or a refundable state tax credit, and collecting debts owed to the department of revenue. Any information obtained by the department of revenue under this paragraph is subject to the confidentiality provisions specified in s. [71.78](#).

**History:** [1979 c. 34](#); [1981 c. 359](#); [1983 a. 471 s. 7](#); [1985 a. 29 s. 3202 \(23\)](#); [1985 a. 176, 292, 332](#); [1987 a. 332](#); [1989 a. 31, 107, 336](#); [1991 a. 17, 39](#); [1993 a. 16, 92, 95, 218, 227, 377, 385, 395, 479, 491](#); [1995 a. 27 ss. 2610 to 2614p, 9126 \(19\)](#); [1995 a. 77, 230, 352](#); [1997 a. 205, 207, 283, 292](#); [2001 a. 38, 69, 104, 109](#); [2005 a. 25, 293, 344, 406, 434](#); [2007 a. 20 ss. 1364, 9121 \(6\) \(a\)](#); [2009 a. 79, 185, 302, 338](#); [2011 a. 32, 260, 270](#); [2013 a. 20](#).

The juvenile court must make a threshold relevancy determination by an in camera review when confronted with: 1) a discovery request under s. 48.293 (2); 2) an inspection request of juvenile records under ss. 48.396 (2) and 938.396 (2); or 3) an inspection request of agency records under ss. [48.78 \(2\) \(a\)](#) and 938.78 (2) (a). The test for permissible discovery is whether the information sought appears reasonably calculated to lead to the discovery of admissible evidence. *Courtney F. v. Ramiro* M.C. [2004 WI App 36, 269 Wis. 2d 709, 676 N.W.2d 545, 03-3018](#).

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