



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0872/2
RAC:lmk&jld:pg

2005 SENATE BILL 489

December 27, 2005 - Introduced by LAW REVISION COMMITTEE. Referred to Joint Survey Committee on Retirement Systems.

1 **AN ACT to renumber** 40.07 (1) (a), 40.07 (1) (b), 40.07 (1) (c) and 40.07 (1) (d); **to**
2 **renumber and amend** 40.07 (1) (intro.) and 40.07 (2); and **to create** 40.07
3 (1m) (intro.), 40.07 (2) (c) and 40.07 (2m) of the statutes; **relating to:** access to
4 medical records possessed by the Department of Employee Trust Funds
5 (suggested as remedial legislation by the Department of Employee Trust
6 Funds).

Analysis by the Legislative Reference Bureau

The bill clarifies the instances in which individual personal information, other than medical records, may be disclosed by the Department of Employee Trust Funds (DETF) and when medical records may be disclosed by DETF. Under the bill, the release of medical records is subject to different requirements from the release of other individual personal information.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Employee Trust Funds and introduced by the

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Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

According to the Department of Employee Trust Funds, the changes made by this bill also conform statutory provisions with the federal health insurance portability and accountability act.

1 **SECTION 1.** 40.07 (1) (intro.) of the statutes is renumbered 40.07 (1) and
2 amended to read:

3 40.07 (1) Notwithstanding any other statutory provision, individual personal
4 information in the records of the department is not a public record and shall not be
5 disclosed, ~~unless:~~ except as provided in this section.

6 **SECTION 2.** 40.07 (1) (a) of the statutes is renumbered 40.07 (1m) (a).

7 **SECTION 3.** 40.07 (1) (b) of the statutes is renumbered 40.07 (1m) (b).

8 **SECTION 4.** 40.07 (1) (c) of the statutes is renumbered 40.07 (1m) (c).

9 **SECTION 5.** 40.07 (1) (d) of the statutes is renumbered 40.07 (1m) (d).

10 **SECTION 6.** 40.07 (1m) (intro.) of the statutes is created to read:

11 40.07 (1m) (intro.) Individual personal information, other than medical
12 records, may only be disclosed by the department under any of the following
13 circumstances:

14 **SECTION 7.** 40.07 (2) of the statutes is renumbered 40.07 (2) (intro.) and
15 amended to read:

16 40.07 (2) (intro.) ~~Notwithstanding sub. (1) medical~~ Medical records may be
17 disclosed ~~by the department only when~~ under any of the following circumstances:

18 (a) When a disability application or health insurance claim denial is appealed
19 or under,

20 (b) Under a court order, or order of a hearing examiner, that is duly obtained
21 upon prior notice to the department and a showing to the court or administrative

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1 tribunal that the information is relevant to a pending court or administrative action
2 ~~but medical information gathered for any one of the benefit plans established under~~
3 ~~this chapter may be used by any other benefit plan established under this chapter.~~

4 **SECTION 8.** 40.07 (2) (c) of the statutes is created to read:

5 40.07 (2) (c) Upon a written authorization that specifically identifies the
6 medical records that may be disclosed, but only to the person who is the subject of
7 the medical records or to the person's designee, except that this paragraph shall not
8 apply to any medical records to which the person's access is otherwise prohibited by
9 law.

10 **SECTION 9.** 40.07 (2m) of the statutes is created to read:

11 40.07 (2m) Medical information gathered for any one of the benefit plans
12 established under this chapter may be used by any other benefit plan established
13 under this chapter.

14 (END)