

1991 Senate Bill 395

Date of enactment: **April 14, 1992**  
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# 1991 WISCONSIN ACT 185

AN ACT *to renumber and amend* 19.21 (5) (d) and 44.09; and *to create* 16.61 (13) (e), 19.21 (5) (d) 2 and 44.09 (2) of the statutes, **relating to:** exempting certain patient health care records from transfer to the state historical society.

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

**SECTION 1.** 16.61 (13) (e) of the statutes is created to read:

16.61 (13) (e) This subsection does not apply to patient health care records, as defined in s. 146.81 (4), that are in the custody or control of the department of health and social services.

**SECTION 2.** 19.21 (5) (d) of the statutes is renumbered 19.21 (5) (d) 1. and amended to read:

19.21 (5) (d) 1. ~~Prior~~ Except as provided in subd. 2. ~~prior~~ to any destruction of records under this subsection, except those specified within s. 59.715, at least 60 days' notice of such destruction shall be given in writing, to the historical society, which may preserve any records it determines to be of historical interest. Notice is not required for any records for which destruction has previously been approved by the historical society or in which the society has indicated that it has no interest for historical purposes. Records which have a confidential character while in the possession of the original custodian shall retain such confidential character after transfer to the historical society unless the director of the historical society, with the concurrence of the original custodian, determines that such records shall be made accessible to the public under such proper and reasonable rules as the historical society promulgates.

**SECTION 3.** 19.21 (5) (d) 2. of the statutes is created to read:

19.21 (5) (d) 2. Subdivision 1 does not apply to patient health care records, as defined in s. 146.81 (4), that are in the custody or control of a public health agency, as defined in s. 140.03 (1) (c).

**SECTION 4.** 44.09 of the statutes, as affected by 1991 Wisconsin Act 39, is renumbered 44.09 (1) and amended to read:

44.09 (1) The Except as provided in sub. (2), the proper officer of any county, city, village, town, school district or other local governmental unit or a district attorney may offer, and the historical society may accept for preservation, title to such noncurrent records as in the historical society's judgment are of permanent historical value and that are no longer needed for administrative purposes by the local governmental unit or district attorney. The proper officer of any court may offer, and the historical society may accept for preservation, on order of the judge of the court, title to such records as have been photographed or microphotographed in accordance with SCR chapter 72, or that have been retained for the period of time provided in SCR chapter 72, and that are deemed by the historical society to be of permanent historical value.

**SECTION 5.** 44.09 (2) of the statutes is created to read:

44.09 (2) Subsection (1) does not apply to patient health care records, as defined in s. 146.81 (4), that are in the custody or control of a public health agency, as defined in s. 140.03 (1) (c).