

State of Wisconsin



1997 Senate Bill 140

Date of enactment: **April 13, 1998**
Date of publication*: **April 27, 1998**

1997 WISCONSIN ACT 94

AN ACT *to amend* 19.32 (3), 19.35 (5), 19.37 (1m) and 19.37 (2) (a); and *to create* 19.32 (1b) and 19.32 (1d) of the statutes; **relating to:** access to public records.

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

SECTION 1. 19.32 (1b) of the statutes is created to read:

19.32 (1b) "Committed person" means a person who is committed under ch. 51, 971, 975 or 980 and who is placed in an inpatient treatment facility, during the period that the person's placement in the inpatient treatment facility continues.

SECTION 2. 19.32 (1d) of the statutes is created to read:

19.32 (1d) "Inpatient treatment facility" means any of the following:

(a) A mental health institute, as defined in s. 51.01 (12).

(b) The Wisconsin resource center established under s. 46.056.

(c) A secure mental health unit or facility established under s. 980.065 (2).

(d) The Milwaukee county mental health complex established under s. 51.08.

SECTION 3. 19.32 (3) of the statutes is amended to read:

19.32 (3) "Requester" means any person who requests inspection or copies of a record, except ~~an a committed or incarcerated person~~, unless the person requests inspection or copies of a record that contains specific ref-

erences to that person or his or her minor children for whom he or she has not been denied physical placement under ch. 767, and the record is otherwise accessible to the person by law.

SECTION 4. 19.35 (5) of the statutes is amended to read:

19.35 (5) RECORD DESTRUCTION. No authority may destroy any record at any time after the receipt of a request for inspection or copying of the record under sub. (1) until after the request is granted or until at least 60 days after the date that the request is denied or, if the requester is ~~an a committed or incarcerated person~~, until at least 90 days after the date that the request is denied. If an authority receives written notice that an action relating to a record has been commenced under s. 19.37, the record may not be destroyed until after the order of the court in relation to such record is issued and the deadline for appealing that order has passed, or, if appealed, until after the order of the court hearing the appeal is issued. If the court orders the production of any record and the order is not appealed, the record may not be destroyed until after the request for inspection or copying is granted.

SECTION 5. 19.37 (1m) of the statutes is amended to read:

19.37 (1m) TIME FOR COMMENCING ACTION. No action for mandamus under sub. (1) to challenge the denial of a request for access to a record or part of a record may be commenced by any ~~committed or incarcerated person~~

* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

later than 90 days after the date that the request is denied by the authority having custody of the record or part of the record.

SECTION 6. 19.37 (2) (a) of the statutes is amended to read:

19.37 (2) (a) Except as provided in this paragraph, the court shall award reasonable attorney fees, damages of not less than \$100, and other actual costs to the requester if the requester prevails in whole or in substantial part in any action filed under sub. (1) relating to access to a record or part of a record under s. 19.35 (1) (a). If the re-

quester is ~~an~~ a committed or incarcerated person, the requester is not entitled to any minimum amount of damages, but the court may award damages. Costs and fees shall be paid by the authority affected or the unit of government of which it is a part, or by the unit of government by which the legal custodian under s. 19.33 is employed and may not become a personal liability of any public official.

SECTION 7. Initial applicability.

(1) This act first applies to records access requests made on the effective date of this subsection.
