



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 795**

March 8, 2000 – Offered by COMMITTEE ON CORRECTIONS AND THE COURTS.

1 **AN ACT** *to amend* 146.81 (4); and *to create* 146.82 (2) (a) 20., 252.15 (5) (a) 20.
2 and 302.388 of the statutes; **relating to:** prisoner medical records.

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

3 **SECTION 1.** 146.81 (4) of the statutes is amended to read:
4 146.81 (4) “Patient health care records” means all records related to the health
5 of a patient prepared by or under the supervision of a health care provider, including
6 the records required under s. 146.82 (2) (d) and (3) (c), but not those records subject
7 to s. 51.30, reports collected under s. 69.186, records of tests administered under s.
8 252.15 (2) (a) 7., 343.305, 938.296 (4) or 968.38 (4), fetal monitor tracings, as defined
9 under s. 146.817 (1), or a pupil’s physical health records maintained by a school
10 under s. 118.125. “Patient health care records” also includes health summary forms
11 prepared under s. 302.388 (2).

1 **SECTION 2.** 146.82 (2) (a) 20. of the statutes is created to read:

2 146.82 (2) (a) 20. To a prisoner’s health care provider, the medical staff of a
3 prison or jail in which a prisoner is confined, the receiving institution intake staff at
4 a prison or jail to which a prisoner is being transferred or a person designated by a
5 jailer to maintain prisoner medical records, if the disclosure is made with respect to
6 a prisoner’s patient health care records under s. 302.388 or to the department of
7 corrections if the disclosure is made with respect to a prisoner’s patient health care
8 records under s. 302.388 (4).

9 **SECTION 3.** 252.15 (5) (a) 20. of the statutes is created to read:

10 252.15 (5) (a) 20. To a prisoner’s health care provider, the medical staff of a
11 prison or jail in which a prisoner is confined, the receiving institution intake staff at
12 a prison or jail to which a prisoner is being transferred or a person designated by a
13 jailer to maintain prisoner medical records, if the disclosure is made with respect to
14 the prisoner’s patient health care records under s. 302.388, to the medical staff of a
15 jail to whom the results are disclosed under s. 302.388 (2) (c) or (d), to the medical
16 staff of a jail to which a prisoner is being transferred, if the results are provided to
17 the medical staff by the department of corrections as part of the prisoner’s medical
18 file, to a health care provider to whom the results are disclosed under s. 302.388 (2)
19 (c) or (f) or the department of corrections if the disclosure is made with respect to a
20 prisoner’s patient health care records under s. 302.388 (4).

21 **SECTION 4.** 302.388 of the statutes is created to read:

22 **302.388 Prisoner medical records. (1) DEFINITIONS.** In this section:

23 (a) “Health care provider” has the meaning given in s. 146.81 (1).

24 (b) “Jail” means a jail or house of correction.

25 (c) “Jailer” means the sheriff, superintendent or other keeper of a jail.

1 (d) "Medical staff" means health care providers employed by the department
2 or a jail.

3 (e) "Patient health care records" has the meaning given in s. 146.81 (4).

4 (f) "Prisoner" means any person who is either arrested, incarcerated,
5 imprisoned or otherwise detained in a jail or prison but does not include any of the
6 following:

7 1. Any person who is serving a sentence of detention under s. 973.03 (4) unless
8 the person is in the county jail under s. 973.03 (4) (c).

9 2. Any child held in custody under ss. 48.19 to 48.21.

10 3. Any child participating in the mother-young child care program under s.
11 301.049.

12 4. A juvenile held in a jail under s. 938.209.

13 (g) "Receiving institution intake staff" means the warden or superintendent or
14 his or her designee, if a prisoner is transferred to a prison, or the jailer or his or her
15 designee, if a prisoner is transferred to a jail.

16 **(2) HEALTH SUMMARY FORM.** (a) The department shall provide each jailer a
17 standardized form for recording the medical conditions and history of prisoners
18 being transferred to the department or another county's jail. Except as provided in
19 par. (b), jail medical staff shall complete the form and provide it to the receiving
20 institution intake staff at the time of each such transfer.

21 (b) If the jail does not have medical staff on duty at the time of a transfer, the
22 officer in charge shall complete as much of the form as possible and provide it to the
23 receiving institution intake staff at the time of the transfer. The jailer shall ensure
24 that all of the following occur within 24 hours after the transfer:

1 1. The jail medical staff, the prisoner’s health care provider or, if the prisoner
2 does not have a health care provider, a health care provider under contract with the
3 jail reviews the form provided to the receiving institution at the time of the transfer.

4 2. The medical staff or health care provider reviewing the form corrects any
5 errors in the form and includes in it any additional available information.

6 3. The medical staff or health care provider reviewing the form transmits the
7 updated form or the information included on the form by the quickest available
8 means to the receiving institution intake staff.

9 (c) Except as provided in pars. (d) and (e), the department shall complete the
10 form described in par. (a) for each prisoner whom the department transfers to a jail
11 and shall provide it to the receiving institution intake staff at the time of the transfer.

12 (d) If the prison does not have medical staff on duty at the time of a transfer,
13 the officer in charge shall complete as much of the form as possible and provide it to
14 the receiving institution intake staff at the time of the transfer. The department
15 shall ensure that all of the following occur within 24 hours after the transfer, unless
16 the prisoner returns to the prison within that time:

17 1. The prison medical staff, the prisoner’s health care provider or, if the
18 prisoner does not have a health care provider, a health care provider under contract
19 with the department reviews the form provided to the receiving institution at the
20 time of the transfer.

21 2. The medical staff or health care provider reviewing the form corrects any
22 errors in the form and includes in it any additional available information.

23 3. The medical staff or health care provider reviewing the form transmits the
24 updated form or the information included on the form by the quickest available
25 means to the receiving institution intake staff.

1 (e) Paragraph (c) does not apply if the department provides a copy of the
2 prisoner's complete medical file to the receiving institution intake staff at the time
3 of the transfer.

4 (f) Receiving institution intake staff may make a health summary form
5 available to any of the following:

6 1. The prison's or jail's medical staff.

7 2. A prisoner's health care provider.

8 3. In the case of a prison or jail that does not have medical staff on duty at the
9 time of the transfer, a health care provider designated by the department or the jailer
10 to review health summary forms.

11 4. In the case of a jail that does not have medical staff, a person designated by
12 the jailer to maintain prisoner medical records.

13 **(3) TREATMENT SUMMARIES.** Each health care provider, other than medical staff,
14 who provides health care services to a prisoner shall provide the department or the
15 jail in which the prisoner is confined a written summary of the services provided and
16 a description of follow-up care and treatment that the prisoner requires. The
17 treatment summary may be made available to medical staff at the prison or jail at
18 which the prisoner is confined or the prisoner's health care provider or, in the case
19 of a jail that does not have medical staff, to a person designated by the jailer to
20 maintain prisoner medical records.

21 **(4) REQUESTS FOR PRISONER MEDICAL RECORDS.** Health care providers providing
22 health care services to a prisoner or medical staff at the prison or jail in which a
23 prisoner is confined may obtain patient health care records for the prisoner from
24 other health care providers who have provided health care services to the prisoner

1 while he or she has been confined in a prison or jail and from other prisons or jails
2 in which the prisoner has been confined.

3 (END)