

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

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 pars. (b) and (bm), jail medical staff shall complete the form and provide it to the  
20 receiving 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 jailer or his or her designee shall complete as much of the form as possible and  
23 provide it to the receiving institution intake staff at the time of the transfer. The  
24 jailer shall ensure 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           (bm) Jail medical staff need not complete the form if the jailer or his or her  
10 designee provides a copy of the prisoner's complete medical file to the receiving  
11 institution intake staff at the time of the transfer.

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

15           (d) If the prison does not have medical staff on duty at the time of a transfer,  
16 the warden or superintendent or his or her designee shall complete as much of the  
17 form as possible and provide it to the receiving institution intake staff at the time of  
18 the transfer. The department shall ensure that all of the following occur within 24  
19 hours after the transfer, unless the prisoner returns to the prison within that time:

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

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

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

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

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

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

10          2. A prisoner's health care provider.

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

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

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

24          **(4) REQUESTS FOR PRISONER MEDICAL RECORDS.** Health care providers providing  
25 health care services to a prisoner or medical staff at the prison or jail in which a

1 prisoner is confined may obtain patient health care records for the prisoner from  
2 other health care providers who have provided health care services to the prisoner  
3 while he or she has been confined in a prison or jail and from other prisons or jails  
4 in which the prisoner has been confined.

5 **SECTION 4v. Effective date.**

6 (1) This act takes effect on the first day of the 6th month beginning after  
7 publication.

8 (END)