

2001 DRAFTING REQUEST

Assembly Amendment (AA-AB578)

Received: 12/03/2001

Received By: rryan

Wanted: Soon

Identical to LRB:

For: Mark Gundrum (608) 267-5158

By/Representing: Don Dyke (LC)

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - procedure

Extra Copies: Don Dyke (LC)

Submit via email: YES

Requester's email: Rep.Gundrum@legis.state.wi.us

Carbon copy (CC:) to: jolene.churchill@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Access to competency examination reports

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rryan 12/03/2001	jdyer 12/03/2001	pgreensl 12/03/2001	_____	lrb_docadmin 12/03/2001	lrb_docadmin 12/03/2001	

FE Sent For:

<END>

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1?	rryan	11/13 jld	12/3 pg	12/3 setb			

FE Sent For:

<END>

**ASSEMBLY AMENDMENT ,
TO 2001 ASSEMBLY BILL 578**

1 At the locations indicated, amend the bill as follows:

2 1. After the underscored period, insert: "The sheriff or jailer may release the report to
3 a person designated to maintain medical records of inmates of the jail and to a health care
4 provider for the defendant or who serves as staff for the jail if the health care provider is a nurse
5 licensed under ch. 441 or a physician or physician assistant licensed under subch. II of ch.
6 448.".

7 (END)

Page 2, line 6,

*Robin -
Pls. draft for Rep. Gundrum -
the Judiciary Committee adopted
this yesterday.*

*Thanks,
Don Dyke*

Ryan, Robin

From: Ryan, Robin
Sent: December 03, 2001 10:38 AM
To: Dyke, Don
Subject: Amendment to AB 578

How about the following:

"The sheriff or jailer may provide a copy of the report to the person who is responsible for maintaining medical records for inmates of the jail, or to a nurse licensed under ch. 441 or a physician or physician assistant licensed under subch. II of ch. 448 who is a health care provider for the defendant or who is responsible for providing health care services to inmates of the jail."

My change is purely stylistic. I want to replace the phrase "to a health care provider for the defendant or who serves as a staff....."

Also I used "provide a copy of the report" instead of "release the report," because "release" seems to imply that the report is no longer confidential. If you prefer the original language, I will keep it the way it is.

It seems that under current law a defendant may provide his or her own copy of the report to his or her own private physician or have his or her attorney provide the report to the physician. This language (either version) seems to allow the jailer to send a copy of the report to the defendant's private physician even if the defendant doesn't request that the jailer provide the report to the private physician. I won't change this because the committee already voted on the amendment, but I may d-note it.

*Don - ok with
this version*



State of Wisconsin
2001-2002 LEGISLATURE

LRBa09794

RLR:.....

jld

In 12/3/01

SOON

RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

ASSEMBLY AMENDMENT,
TO 2001 ASSEMBLY BILL 578

D-Note

- 1 At the locations indicated, amend the bill as follows:
- 2 1. Page 2, line 6: after "jailer." insert "The sheriff or jailer may provide a copy
- 3 of the report to the person who is responsible for maintaining medical records for
- 4 inmates of the jail, or to a nurse licensed under ch. 441 or a physician or physician
- 5 assistant licensed under subch. II of ch. 448 who is a health care provider for the
- 6 defendant or who is responsible for providing health care services to inmates of the
- 7 jail."

8 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0979/ldn

RLR:.....

Jld

Representative Gundrum:

Under current law, the court is required to provide the defendant or his or her counsel a copy of the competency examination report when the report is filed with the court. The defendant may already provide a copy of the report to his or her own health care provider. The portion of this amendment that allows the sheriff or jailer to provide a copy of the report to the defendant's health care provider is therefore unnecessary, and could potentially be construed to allow the sheriff or jailer, without the consent of the defendant, to provide a copy of the report to a health care provider who has treated the defendant in the past. The amendment could instead be drafted so it permits sheriffs and jailers to provide a copy of the report only to the person who maintains inmate medical records or the nurse, physician, or physician assistant who is responsible for providing health care to inmates.

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0979/1dn
RLR:jld:pg

December 3, 2001

Representative Gundrum:

Under current law, the court is required to provide the defendant or his or her counsel a copy of the competency examination report when the report is filed with the court. The defendant may already provide a copy of the report to his or her own health care provider. The portion of this amendment that allows the sheriff or jailer to provide a copy of the report to the defendant's health care provider is therefore unnecessary, and could potentially be construed to allow the sheriff or jailer, without the consent of the defendant, to provide a copy of the report to a health care provider who has treated the defendant in the past. The amendment could instead be drafted so it permits sheriffs and jailers to provide a copy of the report only to the person who maintains inmate medical records or the nurse, physician, or physician assistant who is responsible for providing health care to inmates.

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