



State of Wisconsin
2019 - 2020 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 563**

December 11, 2019 - Offered by Representative DITTRICH.

1 **AN ACT to create** 48.64 (5) of the statutes; **relating to:** providing information
2 to out-of-home care providers.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Children and Families administrative code requires an agency that is placing a child in out-of-home care to provide certain information to the out-of-home care provider. Under current administrative code, an agency is required to provide, among other things, information pertaining to medical needs, upcoming appointments, and educational programming. This bill creates a statutory provision that mirrors the current DCF administrative code on what information must be provided to an out-of-home care provider, and specifies that the information must include eligibility for services and an individualized education program, if applicable.

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

3 **SECTION 1.** 48.64 (5) of the statutes is created to read:
4 **48.64 (5) INFORMATION SHARING.** (a) In this subsection:

1 1. “Agency” does not include the department of corrections.

2 2. “Allegation” means an allegation of delinquency or a criminal charge against
3 a child or the child’s family for which there has not been a finding by a governmental
4 body or court or a statement regarding the child or the child’s family that is not
5 substantiated by evidence, except “allegation” does not include any of the following:

6 a. An interpretation of information made by a professional individual involved
7 in the child’s treatment.

8 b. An allegation of delinquency, charge, or statement that, in whole or in part,
9 formed the basis for the child’s removal from his or her home.

10 c. In the case of a juvenile who has been adjudicated delinquent, any additional
11 allegations of delinquency read into the record at the time of adjudication.

12 (b) Before a prospective out-of-home care provider agrees to placement of a
13 child, the agency shall do all of the following:

14 1. Gather all available information about the child and the child’s family that
15 is required under par. (e).

16 2. Enter the information on the forms under par. (e) or attach another document
17 that contains the information to the appropriate form.

18 3. Provide the forms prescribed under par. (e) and any attached documents to
19 the prospective out-of-home care provider.

20 (c) 1. The agency shall make a reasonable attempt to gather information
21 required under par. (e) that was not available to the agency when the agency
22 provided the forms to the prospective out-of-home care provider. The agency shall
23 provide the out-of-home care provider with information it receives after providing
24 the forms to the out-of-home care provider, as follows:

1 a. For information required under par (e) 1. to 8., as soon as possible, but no
2 later than 2 days after the date that the child is placed with the out-of-home care
3 provider.

4 b. For information required under par. (e) 9. to 15., as soon as possible, but no
5 later than 7 days after the date that the child is placed with the out-of-home care
6 provider, except that the agency shall provide information that the agency
7 determines is of critical importance to the health, safety, or welfare of the child or the
8 out-of-home care provider to the out-of-home care provider no later than 2 days
9 after receiving the information.

10 2. If the agency receives information required under par. (e) after the deadlines
11 in subd. 1. have passed, the agency shall provide the information to the out-of-home
12 care provider as soon as possible, but no later than 7 days after the date that the
13 agency receives the information, except the agency shall provide information it
14 determines is of critical importance to the health, safety, or welfare of the child or the
15 out-of-home care provider no later than 2 days after receiving the information.

16 (d) Notwithstanding pars. (b) and (c), the agency may not provide a prospective
17 or actual out-of-home care provider with information regarding the child or the
18 child's family that is an allegation unless the agency determines that, if
19 substantiated, the allegation would have a significant impact on the success of the
20 placement and related services or on the health, safety, or welfare of the child, the
21 out-of-home care provider, others in the out-of-home care provider's home or
22 facility, or the community. If the agency informs the out-of-home care provider of
23 an allegation about the child or the child's family, the agency shall record the
24 allegation in the child's case record and shall include the justification for providing
25 the information.

1 (e) An agency shall use forms prescribed by the department to provide
2 information about the child and the child's family to a prospective or actual
3 out-of-home care provider under this section. The forms shall include requests for
4 all of the following information:

5 1. Child information, including the child's name, date of birth, physical
6 characteristics, tribal affiliation, the spiritual or religious affiliation of the child or
7 family, and the date the child is placed in out-of-home care.

8 2. Parent or guardian contact information.

9 3. Significant contact information, including agency contacts, emergency
10 contact person, persons who are allowed to have contact with the child, prohibited
11 contacts and visitors, and sibling information.

12 4. Medical information, including providers, health insurance coverage,
13 medications, scheduled medical or mental health appointments, eligibility for
14 services, and immunization record.

15 5. Information on the school or child care that the child currently attends or
16 most recently attended and the child's educational programming, including an
17 individualized education program for the child, if applicable.

18 6. Life functioning, including formula or feeding restrictions, special medical
19 equipment, allergies, therapeutic exercises, eligibility for services, and activity
20 restrictions.

21 7. Considerations for making reasonable and prudent parenting decisions.

22 8. Any additional information critical to the care of the child.

23 9. Placement reasons.

24 10. Contact information for the child's guardian ad litem and legal counsel.

25 11. Placement history, permanence goal, and concurrent permanence goal.

1 12. Information on the well-being of the child, including the child's trauma
2 history and developmental, medical, cultural, emotional, behavioral, and
3 educational needs.

4 13. Qualifications or needs of the out-of-home care provider.

5 14. A list of important documents and records regarding the child that have
6 been given to the out-of-home care provider.

7 15. A plan for managing challenging behaviors, including a list of the child's
8 behaviors that may lead to health or safety concerns, warning signs of escalating
9 behaviors, steps to take in response to those escalations, and the agency's reporting
10 requirements.

11 (f) An agency is not required to provide information under this subsection if the
12 agency determines that one of the following applies:

13 1. The information is confidential information that the agency does not have
14 access to, and the agency has made a reasonable effort to obtain the information.

15 2. The information is not critical to the success of the placement and related
16 treatment or services and failing to provide the information does not jeopardize the
17 health, safety, or welfare of the child, the out-of-home care provider, others in the
18 out-of-home care provider's home or facility, or the community.

19 (g) An agency shall provide detailed documentation in the narrative section of
20 the child's case record for any information that the agency does not provide under
21 par. (f). The documentation shall specify the information or type of information that
22 was not provided to the out-of-home care provider, the reason for not providing the
23 information, the name of the agency representative who made the decision to not
24 provide that information, the date the decision was made, and written approval by
25 that person's supervisor or the supervisor's designee.

1 (h) Except as permitted under s. 252.15 (6), an out-of-home care provider that
2 receives any information under this chapter shall keep the information confidential
3 and may disclose the information only for the purposes of providing care for the child
4 or participating in a court hearing or permanency plan review concerning the child.

5 (i) When an agency first provides any information regarding a child to the
6 out-of-home care provider, the agency shall inform the out-of-home care provider
7 of all confidentiality requirements mandated under state or federal law, including
8 the confidentiality requirements under ss. 48.396, 48.78, 48.981 (7), 51.30, 118.125,
9 146.82, 252.15, 938.396, and 938.78, and any agency policy. The agency shall also
10 inform the out-of-home care provider of any penalties that may be imposed for
11 violating the confidentiality rights of the child and the child's family.

12 (j) The agency providing information about a child under this subsection shall
13 require that the information and any related documents be maintained by the
14 out-of-home care provider in a manner that would prohibit access to the information
15 by the child, any other children in the care of the out-of-home care provider, and any
16 other party whose access to the information is prohibited.

17 **SECTION 2. Initial applicability.**

18 (1) This act first applies to an agency that places a child with an out-of-home
19 care provider on the effective date of this subsection.

20 **SECTION 3. Effective date.**

21 (1) This act takes effect on the 30th day after publication.

22 (END)