

# State of Wisconsin



2015 Assembly Bill 745

Date of enactment: April 19, 2016  
Date of publication\*: April 20, 2016

## 2015 WISCONSIN ACT 368

AN ACT to amend 48.47 (7g), 48.78 (2) (a) and 938.78 (2) (a); and to create 48.78 (1) (title), 48.78 (2) (title), 48.78 (2m) and 938.78 (2m) of the statutes; relating to: notification of a local law enforcement agency and the National Center for Missing and Exploited Children when a child over whom the Department of Children and Families, the Department of Corrections, a county department of human services or social services, or a licensed child welfare agency has placement, care, or supervision responsibility is missing and granting rule-making authority.

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

**SECTION 1.** 48.47 (7g) of the statutes is amended to read:

48.47 (7g) STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEM. Establish a statewide automated child welfare information system. Notwithstanding ss. 46.2895 (9), 48.396 (1) and (2) (a), 48.78 (2) (a), 48.981 (7), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 252.15, 253.07 (3) (c), 938.396 (1) (a) and (2), and 938.78 (2) (a), the department may enter the content of any record kept or information received by the department into the statewide automated child welfare information system, and a county department under s. 46.215, 46.22, or 46.23, the department, or any other organization that has entered into an information sharing and access agreement with the department or any of those county departments and that has been approved for access to the statewide automated child welfare information system by the department may have access to information that is maintained in that system, if necessary to enable the county department, department, or organization to perform its duties under this chapter, ch. 46, 51, 55, or 938, or 42 USC 670 to 679b or to coordinate the

delivery of services under this chapter, ch. 46, 51, 55, or 938, or 42 USC 670 to 679b. The department may also transfer information that is maintained in the system to a court under s. 48.396 (3) (bm), and the court and the director of state courts may allow access to that information as provided in s. 48.396 (3) (c) 2. In addition, the department, a county department under s. 46.215, 46.22, or 46.23 or any other organization that has entered into an information sharing and access agreement, and that has been approved for access to the system, under this subsection may transfer information about a missing child that is maintained in the system to the National Center for Missing and Exploited Children under s. 48.78 (2m) (c) or 938.78 (2m) (c).

**SECTION 2.** 48.78 (1) (title) of the statutes is created to read:

48.78 (1) (title) DEFINITION.

**SECTION 3.** 48.78 (2) (title) of the statutes is created to read:

48.78 (2) (title) CONFIDENTIALITY; EXCEPTIONS.

**SECTION 4.** 48.78 (2) (a) of the statutes is amended to read:

48.78 (2) (a) No agency may make available for inspection or disclose the contents of any record kept or information received about an individual who is or was

\* Section 991.11, WISCONSIN STATUTES: 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."

in its care or legal custody, except as provided under sub. (2m) or s. 48.371, 48.38 (5) (b) or (d) or (5m) (d), 48.396 (3) (bm) or (c) 1r., 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.93, 48.981 (7), 938.396 (2m) (c) 1r., 938.51, or 938.78 or by order of the court.

**SECTION 5.** 48.78 (2m) of the statutes is created to read:

48.78 (2m) RELEASE OF INFORMATION WHEN CHILD IS MISSING. (a) If an agency that has responsibility for the placement, care, or supervision of a child, as determined by the department under par. (d), determines that the child is missing, the agency shall do all of the following:

1. Within 8 hours after making that determination, report that determination to a local law enforcement agency for entry of that information into the national crime information databases, as defined in 28 USC 534 (f) (3) (A).

2. Within 24 hours after making that determination, report that determination to the National Center for Missing and Exploited Children.

3. Share information about a missing child reported under subds. 1. and 2. with law enforcement agencies, the National Center for Missing and Exploited Children, and other agencies that are involved in efforts to locate the missing child.

(b) An agency that has responsibility for the placement, care, or supervision of a child may photograph the child and maintain the photograph in the statewide automated child welfare information system. A report under par. (a) 1. or 2. shall be accompanied by a recent photograph of the missing child, if available.

(c) If permitted under s. 48.47 (7g), an agency may use the statewide automated child welfare information system to provide electronic information to the National Center for Missing and Exploited Children under par. (a) 2. or 3.

(d) The department shall provide guidance to agencies as to the scope of the children to whom this subsection applies. Notwithstanding s. 227.10 (1), that guidance need not be promulgated as rules.

(e) The department of children and families and the department of health services may promulgate rules to implement this subsection.

**SECTION 6.** 938.78 (2) (a) of the statutes is amended to read:

938.78 (2) (a) No agency may make available for inspection or disclose the contents of any record kept or information received about an individual who is or was in its care or legal custody, except as provided under sub. (2m) or (3) or s. 48.396 (3) (bm) or (c) 1r., 938.371, 938.38 (5) (b) or (d) or (5m) (d), 938.396 (2m) (c) 1r., 938.51, or 938.57 (2m) or by order of the court.

**SECTION 7.** 938.78 (2m) of the statutes is created to read:

938.78 (2m) RELEASE OF INFORMATION WHEN JUVENILE IS MISSING. (a) If an agency that has responsibility

for the placement, care, or supervision of a juvenile, as determined by the department of children and families under par. (d), determines that the juvenile is missing, the agency shall do all of the following:

1. Within 8 hours after making that determination, report that determination to a local law enforcement agency for entry of that information into the national crime information databases, as defined in 28 USC 534 (f) (3) (A).

2. Within 24 hours after making that determination, report that determination to the National Center for Missing and Exploited Children.

3. Share information about a missing juvenile reported under subds. 1. and 2. with law enforcement agencies, the National Center for Missing and Exploited Children, and other agencies that are involved in efforts to locate the missing juvenile.

(b) An agency that has responsibility for the placement, care, or supervision of a juvenile may photograph the juvenile and maintain the photograph in the statewide automated child welfare information system. A report under par. (a) 1. or 2. shall be accompanied by a recent photograph of the missing juvenile, if available.

(c) If permitted under s. 48.47 (7g), an agency may use the statewide automated child welfare information system to provide electronic information to the National Center for Missing and Exploited Children under par. (a) 2. or 3.

(d) The department of children and families shall provide guidance to agencies as to the scope of the juveniles to whom this subsection applies. Notwithstanding s. 227.10 (1), that guidance need not be promulgated as rules.

(e) The department of children and families, the department of corrections, and the department of health services may promulgate rules to implement this subsection.

#### **SECTION 8. Nonstatutory provisions.**

(1) RELEASE OF INFORMATION WHEN CHILD IS MISSING; EMERGENCY RULES. Using the procedure under section 227.24 of the statutes, the department of children and families and the department of health services may promulgate the rules under sections 48.78 (2m) (e) of the statutes, as created by this act, and the department of children and families, the department of corrections, and the department of health services may promulgate the rules under section 938.78 (2m) (e) of the statutes, as created by this act, for the period before the effective date of any permanent rules promulgated under sections 48.78 (2m) (e) and 938.78 (2m) (e) of the statutes, as created by this act, but not to exceed the period authorized under section 227.24 (1) (c) of the statutes, subject to extension under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, those departments are not required to provide evidence that promulgating a rule under this subsection as an emer-

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agency rule is necessary for the preservation of the public peace, health, safety, or welfare and are not required to provide a finding of emergency for a rule promulgated under this subsection.

**SECTION 9. Initial applicability.**

(1) RELEASE OF INFORMATION WHEN CHILD IS MISSING.

This act first applies to a child who is determined to be missing on the effective date of this subsection.

**SECTION 10. Effective date.**

(1) RELEASE OF INFORMATION WHEN CHILD IS MISSING.

This act takes effect on July 1, 2016.

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