2015 Assembly Bill 745

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, 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, 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, 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 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. 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
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 photo-

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.

(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, the 
department of corrections, 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 JUVE-
NILE 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 Miss-

(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 juven-

(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 JUVE-
NILE 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 chil-
dren 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), (b), and (3) of the statutes, those departments are not required to provide evidence that 
promulgating a rule under this subsection as an emer-
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.