



2015 ASSEMBLY BILL 745

January 20, 2016 - Introduced by Representatives NEYLON, KLEEFISCH, LOUDENBECK, GANNON, JACQUE, BALLWEG, HORLACHER, DUCHOW, KREMER, JOHNSON, SUBECK, OHNSTAD, ZEPNICK and BILLINGS, cosponsored by Senator LASSA. Referred to Committee on Children and Families.

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

Analysis by the Legislative Reference Bureau

This bill requires 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 (collectively "agency") that determines that a child over whom the agency has placement, care, or supervision responsibility is missing to report that determination: 1) to a local law enforcement agency within eight hours after making that determination; and 2) to the National Center for Missing and Exploited Children within 24 hours after making that determination. The report must be accompanied by a recent photograph of the missing child, if available. Such

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reporting is required under the federal Preventing Sex Trafficking and Strengthening Families Act of 2014 beginning on September 29, 2016.

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

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

2 48.47 (7g) STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEM. Establish
3 a statewide automated child welfare information system. Notwithstanding ss.
4 46.2895 (9), 48.396 (1) and (2) (a), 48.78 (2) (a), 48.981 (7), 49.45 (4), 49.83, 51.30,
5 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 252.15, 253.07 (3) (c), 938.396 (1) (a) and
6 (2), and 938.78 (2) (a), the department may enter the content of any record kept or
7 information received by the department into the statewide automated child welfare
8 information system, and a county department under s. 46.215, 46.22, or 46.23, the
9 department, or any other organization that has entered into an information sharing
10 and access agreement with the department or any of those county departments and
11 that has been approved for access to the statewide automated child welfare
12 information system by the department may have access to information that is
13 maintained in that system, if necessary to enable the county department,
14 department, or organization to perform its duties under this chapter, ch. 46, 51, 55,
15 or 938, or 42 USC 670 to 679b or to coordinate the delivery of services under this
16 chapter, ch. 46, 51, 55, or 938, or 42 USC 670 to 679b. The department may also
17 transfer information that is maintained in the system to a court under s. 48.396 (3)
18 (bm), and the court and the director of state courts may allow access to that
19 information as provided in s. 48.396 (3) (c) 2. In addition, the department, a county
20 department under s. 46.215, 46.22, or 46.23 or any other organization that has
21 entered into an information sharing and access agreement, and that has been

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1 approved for access to the system, under this subsection may transfer information
2 about a missing child that is maintained in the system to the National Center for
3 Missing and Exploited Children under s. 48.78 (2m) (c) or 938.78 (2m) (c).

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

5 48.78 (1) (title) DEFINITION.

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

7 48.78 (2) (title) CONFIDENTIALITY; EXCEPTIONS.

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

9 48.78 (2) (a) No agency may make available for inspection or disclose the
10 contents of any record kept or information received about an individual who is or was
11 in its care or legal custody, except as provided under sub. (2m) or s. 48.371, 48.38 (5)
12 (b) or (d) or (5m) (d), 48.396 (3) (bm) or (c) 1r., 48.432, 48.433, 48.48 (17) (bm), 48.57
13 (2m), 48.93, 48.981 (7), 938.396 (2m) (c) 1r., 938.51, or 938.78 or by order of the court.

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

15 48.78 (2m) **RELEASE OF INFORMATION WHEN CHILD IS MISSING.** (a) If an agency that
16 has responsibility for the placement, care, or supervision of a child, as determined
17 by the department under par. (d), determines that the child is missing, the agency
18 shall do all of the following:

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

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

ASSEMBLY BILL 745**SECTION 5**

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

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

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

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

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

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

17 938.78 (2) (a) No agency may make available for inspection or disclose the
18 contents of any record kept or information received about an individual who is or was
19 in its care or legal custody, except as provided under sub. (2m) or (3) or s. 48.396 (3)
20 (bm) or (c) 1r., 938.371, 938.38 (5) (b) or (d) or (5m) (d), 938.396 (2m) (c) 1r., 938.51,
21 or 938.57 (2m) or by order of the court.

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

23 938.78 (2m) **RELEASE OF INFORMATION WHEN JUVENILE IS MISSING.** (a) If an agency
24 that has responsibility for the placement, care, or supervision of a juvenile, as

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1 determined by the department of children and families under par. (d), determines
2 that the juvenile is missing, the agency shall do all of the following:

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

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

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

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

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

19 (d) The department of children and families shall provide guidance to agencies
20 as to the scope of the juveniles to whom this subsection applies. Notwithstanding s.
21 227.10 (1), that guidance need not be promulgated as rules.

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

25 **SECTION 8. Nonstatutory provisions.**

ASSEMBLY BILL 745**SECTION 8**

1 (1) RELEASE OF INFORMATION WHEN CHILD IS MISSING; EMERGENCY RULES. Using the
2 procedure under section 227.24 of the statutes, the department of children and
3 families and the department of health services may promulgate the rules under
4 sections 48.78 (2m) (e) of the statutes, as created by this act, and the department of
5 children and families, the department of corrections, and the department of health
6 services may promulgate the rules under section 938.78 (2m) (e) of the statutes, as
7 created by this act, for the period before the effective date of any permanent rules
8 promulgated under sections 48.78 (2m) (e) and 938.78 (2m) (e) of the statutes, as
9 created by this act, but not to exceed the period authorized under section 227.24 (1)
10 (c) of the statutes, subject to extension under section 227.24 (2) of the statutes.
11 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, those
12 departments are not required to provide evidence that promulgating a rule under
13 this subsection as an emergency rule is necessary for the preservation of the public
14 peace, health, safety, or welfare and are not required to provide a finding of
15 emergency for a rule promulgated under this subsection.

SECTION 9. Initial applicability.

16
17 (1) RELEASE OF INFORMATION WHEN CHILD IS MISSING. This act first applies to a
18 child who is determined to be missing on the effective date of this subsection.

SECTION 10. Effective date.

19
20 (1) RELEASE OF INFORMATION WHEN CHILD IS MISSING. This act takes effect on July
21 1, 2016.

22 (END)