

# State of Wisconsin



2025 Senate Bill 419

Date of enactment:  
Date of publication\*:

## 2025 WISCONSIN ACT

**AN ACT** to *renumber* 968.38 (1) (a); to *amend* 146.81 (4), 252.11 (5m), 252.15 (2m) (b) 3., 252.15 (3m) (d) 14., 252.15 (4) (c), 901.05 (3) and 968.38 (2m) (intro.); to *create* 968.38 (1) (ag), 968.38 (1) (br), 968.38 (1) (bv), 968.38 (6) and 973.20 (4r) of the statutes; **relating to:** emergency testing of a person for certain diseases.

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

**SECTION 1.** 146.81 (4) of the statutes is amended to read:

146.81 (4) "Patient health care records" means all records related to the health of a patient prepared by or under the supervision of a health care provider; and all records made by an ambulance service provider, as defined in s. 256.01 (3), an emergency medical services practitioner, as defined in s. 256.01 (5), or an emergency medical responder, as defined in s. 256.01 (4p), in administering emergency care procedures to and handling and transporting sick, disabled, or injured individuals. "Patient health care records" includes billing statements and invoices for treatment or services provided by a health care provider and includes health summary forms prepared under s. 302.388 (2). "Patient health care records" does not include those records subject to s. 51.30, reports collected under s. 69.186, records of tests administered under s. 252.15 (5g) or (5j), 343.305, 938.296 (4) or (5) or 968.38 (4) ~~or~~ (5), or (6), records related to sales of pseudoephedrine products, as defined in s. 961.01 (20c), that are maintained by pharmacies under s. 961.235, fetal monitor tracings, as defined under s. 146.817 (1), or a pupil's physical health records maintained by a school under s. 118.125.

**SECTION 2.** 252.11 (5m) of the statutes is amended to read:

252.11 (5m) A health care professional, as defined in s. 968.38 (1) ~~or~~ (ar), acting under an order of a court under s. 938.296 (4) or 968.38 (4) may, without first obtaining informed consent to the testing, subject an individual to a test or a series of tests to ascertain whether that individual is infected with a sexually transmitted disease. No sample used for performance of a test under this subsection may disclose the name of the test subject.

**SECTION 3.** 252.15 (2m) (b) 3. of the statutes is amended to read:

252.15 (2m) (b) 3. HIV testing by a health care professional acting under an order of the court under sub. (5j) or s. 938.296 (4) or (5) or 968.38 (4) ~~or~~ (5), or (6). No sample used for laboratory test purposes under this subdivision may disclose the name of the HIV test subject, and the HIV test results may not be made part of the individual's permanent medical record.

**SECTION 4.** 252.15 (3m) (d) 14. of the statutes is amended to read:

252.15 (3m) (d) 14. To a person under s. 938.296 (4) (a) to (e) as specified in s. 938.296 (4); to a person under s. 938.296 (5) (a) to (e) as specified in s. 938.296 (5); to a person under s. 968.38 (4) (a) to (c) as specified

\* 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 s. 968.38 (4); ~~or to a person under s. 968.38 (5) (a) to (c) as specified in s. 968.38 (5); or to a person under s. 968.38 (6) (b) 1. to 3. as specified in s. 968.38 (6) (b).~~

**SECTION 5.** 252.15 (4) (c) of the statutes is amended to read:

252.15 (4) (c) A record of the results of an HIV test administered to the person, except that results of an HIV test administered under sub. (5g) or (5j) or s. 938.296 (4) or (5) or 968.38 (4) ~~or (5)~~, or (6) that include the identity of the test subject may not be maintained without the consent of the test subject.

**SECTION 6.** 901.05 (3) of the statutes is amended to read:

901.05 (3) The results of a test or tests under s. 938.296 (4) or (5) or 968.38 (4) ~~or (5)~~, or (6) and the fact that a person has been ordered to submit to such a test or tests under s. 938.296 (4) or (5) or 968.38 (4) ~~or (5)~~, or (6) are not admissible during the course of a civil or criminal action or proceeding or an administrative proceeding.

**SECTION 7.** 968.38 (1) (a) of the statutes is renumbered 968.38 (1) (ar).

**SECTION 8.** 968.38 (1) (ag) of the statutes is created to read:

968.38 (1) (ag) “Correctional staff member” has the meaning given in s. 940.225 (5) (ad).

**SECTION 9.** 968.38 (1) (br) of the statutes is created to read:

968.38 (1) (br) “Prosecutor” has the meaning given in s. 941.375 (1) (am).

**SECTION 10.** 968.38 (1) (bv) of the statutes is created to read:

968.38 (1) (bv) “Public safety worker” has the meaning given in s. 941.375 (1) (b).

**SECTION 11.** 968.38 (2m) (intro.) of the statutes is amended to read:

968.38 (2m) (intro.) ~~It~~ Except as provided in sub. (6), in a criminal action under s. 941.375 (2) or 946.43 (2m), the district attorney shall apply to the circuit court for his or her county for an order requiring the defendant to submit to a test or a series of tests administered by a health care professional to detect the presence of communicable diseases and to disclose the results of the test or tests as specified in sub. (5) (a) to (c), if all of the following apply:

**SECTION 12.** 968.38 (6) of the statutes is created to read:

968.38 (6) (a) Regardless of whether criminal proceedings have commenced, the district attorney may, at any time, apply to the circuit court for his or her county for an order requiring a person to immediately submit to a test or a series of tests administered by a health care professional to detect the presence of communicable

diseases and to disclose the results of the test or tests as specified in par. (b) if all of the following apply:

1. The district attorney has probable cause to believe that an act or alleged act of the person constitutes a crime, carried a potential for transmitting a communicable disease to a public safety worker, prosecutor, or correctional staff member, and involved the person’s blood, semen, vomit, saliva, urine, or feces or other bodily substance of the person.

2. The district attorney has probable cause to believe that requiring the person to submit to testing may prevent a public safety worker, prosecutor, or correctional staff member from experiencing bodily harm.

3. A public safety worker, prosecutor, or correctional staff member or a person who is authorized to make health care decisions on behalf of a public safety worker, prosecutor, or correctional staff member requests the district attorney to apply for an order.

(b) The court shall immediately hear an application for an order under par. (a). If the court finds probable cause to believe that an act or alleged act of the person constitutes a crime, carried a potential for transmitting a communicable disease to a public safety worker, prosecutor, or correctional staff member, and involved the person’s blood, semen, vomit, saliva, urine, or feces or other bodily substance of the person and that requiring the person to submit to testing may prevent a public safety worker, prosecutor, or correctional staff member from experiencing bodily harm, the court shall order the person to submit to a test or a series of tests administered by a health care professional to detect the presence of any communicable disease that was potentially transmitted by the act or alleged act of the person. The court shall require the health care professional who performs the test to immediately disclose the test results to the person. The court shall require the health care professional who performs the test to refrain from making the test results part of the person’s permanent medical record and to disclose the results of the test to any of the following:

1. A public safety worker, prosecutor, or correctional staff member who requested the test.

2. A person who is authorized to make health care decisions on behalf of a public safety worker, prosecutor, or correctional staff member who requested the test.

3. The health care professional who provides care to a public safety worker, prosecutor, or correctional staff member, upon request by the public safety worker, prosecutor, or correctional staff member or a person authorized to make health care decisions on behalf of a public safety worker, prosecutor, or correctional staff member.

**SECTION 13.** 973.20 (4r) of the statutes is created to read:

973.20 (4r) If the court ordered the defendant to

submit to testing under s. 968.38 (5) or (6), the restitution order shall require the defendant to pay for the cost

of the testing, to be reimbursed to the entity that paid the costs at the time the testing was performed.

