



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5091/1
MJW&KMS:emw&cjs

2023 ASSEMBLY BILL 774

December 8, 2023 - Introduced by Representatives SCHRAA, MAGNAFICI, MOSES, MURSAU and SAPIK, cosponsored by Senator CABRAL-GUEVARA. Referred to Committee on Health, Aging and Long-Term Care.

1 **AN ACT** *to renumber* 51.01 (1); *to amend* 46.28 (1) (b), 49.45 (25) (am) 4., 51.37
2 (5) (a) and 51.37 (5) (b); and *to create* 51.01 (1d), 51.01 (8m), 51.37 (5) (bm) and
3 301.28 (3) of the statutes; **relating to:** active psychosis and mental health
4 treatment for prisoners.

Analysis by the Legislative Reference Bureau

This bill provides that the Department of Corrections' training program for correctional officers must include training to identify symptoms of active psychosis among prisoners and training on how to report such symptoms to the superintendent of the correctional institution and to appropriate medical personnel at the correctional institution.

Under current law, DOC may authorize a voluntary transfer of a prisoner from a jail or prison to a mental health treatment facility if, in the opinion of a physician or psychologist of the jail, the prison, or DOC, the prisoner meets the requirements for the voluntary transfer. Under the bill, DOC may authorize a voluntary transfer if, in the opinion of a health care professional of the jail, the prison, or DOC, the prisoner meets the requirements for the voluntary transfer. The bill defines a "health care professional" as a physician, psychologist, registered nurse, licensed practical nurse, or physician assistant.

The bill also provides that DOC must authorize an emergency transfer of a prisoner from a prison or jail to a mental health treatment facility or the Wisconsin Resource Center if there is cause to believe the prisoner is in active psychosis and is a danger to himself or herself or to others. If 48 hours have passed since DOC

ASSEMBLY BILL 774

authorized an emergency transfer of a prisoner in active psychosis, the bill requires the attending health care professional of the sending institution to evaluate the prisoner every 24 hours until the prisoner is transferred. Upon an emergency transfer of a prisoner from a prison or jail to a mental health treatment facility or the Wisconsin Resource Center, the correctional custodian and the attending health care professional of the sending institution must jointly execute a statement of emergency detention or a petition for emergency commitment for the prisoner and deliver it to the mental health treatment facility or the Wisconsin Resource Center. Under current law, only the correctional custodian of the sending institution must execute the statement of emergency detention or petition for emergency commitment.

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

1 **SECTION 1.** 46.28 (1) (b) of the statutes is amended to read:

2 46.28 (1) (b) “Chronically disabled” means any person who is alcoholic,
3 developmentally disabled, drug dependent, or mentally ill, as defined in s. 51.01 (1)
4 (1h), (5), (8b), and (13), or any person who is physically disabled.

5 **SECTION 2.** 49.45 (25) (am) 4. of the statutes is amended to read:

6 49.45 (25) (am) 4. Is an alcoholic, as defined under s. 51.01 (1) (1h).

7 **SECTION 3.** 51.01 (1) of the statutes is renumbered 51.01 (1h).

8 **SECTION 4.** 51.01 (1d) of the statutes is created to read:

9 51.01 (1d) “Active psychosis” means a severe mental condition where an
10 individual’s mental reality is separated from the individual’s physical reality and the
11 individual experiences symptoms such as hallucinations or delusions.

12 **SECTION 5.** 51.01 (8m) of the statutes is created to read:

13 51.01 (8m) “Health care professional” has the meaning given under s. 16.417
14 (1) (e).

15 **SECTION 6.** 51.37 (5) (a) of the statutes is amended to read:

16 51.37 (5) (a) When a ~~licensed physician or licensed psychologist~~ health care
17 professional of a state prison, of a county jail, or of the department of corrections

ASSEMBLY BILL 774

1 reports in writing to the officer in charge of a jail or institution that any prisoner is,
2 in his or her opinion, mentally ill, drug dependent, or developmentally disabled and
3 is appropriate for treatment as described in s. 51.20 (1), or is dangerous and is an
4 alcoholic or a person who is drug dependent as described in s. 51.45 (13) (a) 1. and
5 2.; or that the prisoner is mentally ill, drug dependent, developmentally disabled or
6 is an alcoholic and is in need of psychiatric or psychological treatment, and that the
7 prisoner voluntarily consents to a transfer for treatment, the officer shall make a
8 written report to the department of corrections which may transfer the prisoner if
9 a voluntary application is made and the department of health services consents. If
10 voluntary application is not made, the department of corrections may file a petition
11 for involuntary commitment under s. 51.20 (1) or 51.45 (13). Any time spent by a
12 prisoner in an institution designated under sub. (3) or s. 51.37 (2), 1983 stats., shall
13 be included as part of the individual's sentence.

14 **SECTION 7.** 51.37 (5) (b) of the statutes is amended to read:

15 51.37 (5) (b) The department of corrections may authorize an emergency
16 transfer of an individual from a prison, jail, or other criminal detention facility to a
17 state treatment facility if there is cause to believe that the individual is mentally ill,
18 drug dependent, or developmentally disabled and exhibits conduct which constitutes
19 a danger as described in s. 51.20 (1) (a) 2. a., b., c., or d. of physical harm to himself
20 or herself or to others, or is mentally ill and satisfies the standard under s. 51.20 (1)
21 (a) 2. e. or is dangerous and is an alcoholic or a person who is drug dependent as
22 provided in s. 51.45 (13) (a) 1. and 2. The department of corrections shall authorize
23 an emergency transfer of an individual from a prison, jail, or other criminal detention
24 facility to a state treatment facility or the Wisconsin Resource Center established
25 under s. 46.056 if there is cause to believe that the individual is in active psychosis

ASSEMBLY BILL 774

1 and exhibits conduct which constitutes a danger as described in s. 51.20 (1) (a) 2. a.,
2 b., c., or d. of physical harm to himself or herself or to others. The correctional
3 custodian of the sending institution and the attending health care professional of the
4 sending institution shall jointly execute a statement of emergency detention or
5 petition for emergency commitment for the individual and deliver it to the receiving
6 state treatment facility or the Wisconsin Resource Center established under s.
7 46.056. The department of health services shall file the statement or petition with
8 the court within 24 hours after receiving the subject individual for detention. The
9 statement or petition shall conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After an
10 emergency transfer is made, the director of the receiving facility or center may file
11 a petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return
12 the individual to the institution from which the transfer was made. As an alternative
13 to this procedure, the emergency detention procedure in s. 51.15 or 51.45 (12) may
14 be used, except that no prisoner may be released without the approval of the court
15 which directed confinement in the institution. Any transportation expenses related
16 to a transfer under this paragraph shall be paid for by the department of corrections.

17 **SECTION 8.** 51.37 (5) (bm) of the statutes is created to read:

18 51.37 (5) (bm) If an individual in active psychosis has not been transferred to
19 a state treatment facility or the Wisconsin Resource Center established under s.
20 46.056 within 48 hours after the department of corrections authorized an emergency
21 transfer under par. (b), the attending health care professional of the sending
22 institution shall evaluate the individual every 24 hours until the individual is
23 transferred.

24 **SECTION 9.** 301.28 (3) of the statutes is created to read:

ASSEMBLY BILL 774

1 301.28 (3) The training program approved by the department under sub. (2)
2 (b) shall include a requirement that each correctional officer be trained to identify
3 symptoms of active psychosis, as defined in s. 51.01 (1d), among prisoners and how
4 to report such symptoms to the superintendent of the correctional institution and to
5 appropriate medical personnel at the correctional institution.

6

(END)