



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2013 Wisconsin Act 158**  
[2013 Assembly Bill 360]

**Emergency Detention and  
Involuntary Commitment**

2013 Wisconsin Act 158 makes the following changes to several provisions of the laws relating to emergency detention of, and involuntary commitment for treatment of, persons with who are mentally ill, developmentally disabled, or drug dependent.

Emergency Detention:

- Modifies the emergency detention statute to require that when an emergency detention is being contemplated, a determination must be made "...that taking the person into custody is the least restrictive alternative appropriate to the person's needs."
- Creates a "purpose" statement for the emergency detention statute which provides that the purpose of emergency detention is to provide, on an emergency basis, treatment by the least restrictive means possible, to individuals who meet all of the following criteria: (a) are mentally ill, drug dependent, or developmentally disabled; (b) evidence one of the statutory standards of dangerousness; and (c) are reasonably believed to be unable or unwilling to cooperate with voluntary treatment.
- Provides that the required approval by a county department of an emergency detention may only be given if the county department reasonably believes the individual will not voluntarily consent to evaluation, diagnosis, and treatment that is necessary to stabilize the individual and remove a substantial probability of physical harm, impairment, or injury to himself, herself, or others.
- Deletes the reference to drug dependency from the fourth standard of emergency detention, to make this standard consistent with the fourth standard of dangerousness for involuntary commitment.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

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- Amends the third standard of emergency detention to allow for an emergency detention if there is a substantial probability of harm to others, which makes this standard consistent with the third standard of dangerousness for involuntary commitment.

Taking an Individual Into Custody:

- Consolidates the references to facilities that may be used for emergency detention to provide that detention may occur in a treatment facility approved by the Department of Health Services (DHS) or the county department, if the facility agrees to detain the individual, or in a state treatment facility.
- Provides that an individual is deemed to be in custody when the individual is under the physical control of the law enforcement officer, or other person authorized to take a child or juvenile into custody, for the purposes of emergency detention.

Milwaukee County-Specific Provisions:

- Modifies the statute creating the 24-hour requirement for a facility's treatment director statement, which is unique to Milwaukee County, to provide that when calculating the 24 hours, any period delaying the determination about the individual's detention that is directly attributable to evaluation or stabilizing treatment of non-psychiatric medical conditions of the individual shall be excluded from the calculation. Further, because Dane County's population is expected to approach 500,000 in the near future, the Act increases the population threshold to 750,000, to ensure that those procedures will continue to apply only to Milwaukee County.

Rights of Individuals Subject to Emergency Detention:

- Amends the provision regulating an individual to be informed of his or her rights, to state that the individual must be informed of his or her rights at the time of the individual's arrival at the emergency detention facility, rather than at the time of "detention," as under current law. The Act also provides that the probable cause hearing must be held within 72 hours from the time that the person is taken into custody for violation of a settlement agreement.

Miscellaneous Changes to Involuntary Commitment Laws:

- Eliminates the limitation that a person committed under the fourth standard of dangerousness may be committed no longer than 45 days in any 365-day period.
- Eliminates the provision which specifies that an involuntary commitment of an inmate in a state prison or county jail or house of correction ends on the inmate's date of release to parole or extended supervision.

*Effective date:* March 29, 2014.

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LR:jb;ksm