



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Enact

LPS: many action phrases have been altered - please fix/check components

1 AN ACT ...; relating to: protective placements and protective services;  
2 involuntary administration of psychotropic medication; guardianships,  
3 conservatorships, and wards; and services for adults at risk and elder adults at  
4 risk.

*Analysis by the Legislative Reference Bureau*

With respect to the laws relating to protective placements and protective services, involuntary administration of psychotropic medication, guardianships, conservatorships, wards, and services for adults at risk and elder adults at risk, this bill reconciles three acts that cannot be reconciled by the revisor of statutes in preparing the statutes. The bill makes numerous and diverse minor changes to correct incorrect cross-references, align inconsistent provisions, give effect to certain provisions superceded by subsequent acts, and to make more uniform the definitions of "developmental disability," degenerative brain disorder," and "serious and persistent mental illness."

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

placement under s. 55.06, the court shall order the counsel appointed under s. 977.08 to represent the person.

Although ch. 55 does not explicitly provide for counsel appointed under s. 977.08 in case of an indigent subject, the language in s. 880.33 (2) (a) 2. implies that counsel should be appointed. Further, s. 55.06(11), relating to emergency protective placements, clearly provides for counsel appointed under s. 977.08 in the case of an indigent subject. Finally, it is the practice in this state to appoint counsel under s. 977.08 in the case of an indigent subject of a ch. 55 petition.

This bill amends the public defender statute that sets forth to whom the state public defender must provide legal services by clearly setting forth the requirement that the state public defender provide legal services in cases involving persons who are subject to petitions for protective placement under ch. 55. This codifies current practice.

The remainder of this PREFATORY NOTE consists of a table of contents for reorganized ch. 55:

55.001	Declaration of policy.
55.01	Definitions.
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55.03	Status of guardian.
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55.14	Involuntary administration of psychotropic medication.
55.15	Transfer of an individual under a protective placement order.
55.16	Modification of an order for protective placement or protective services.
55.17	Termination of an order for protective placement or protective services.
55.175	Discharge from protective placement.
55.18	Annual review of protective placement.
55.19	Annual review of order authorizing involuntary administration of psychotropic medication.
55.20	Appeals.
55.21	Centers for the developmentally disabled.
55.22	Records.
55.23	Patients' rights.

1           6.03 (1) (a) Any person who is incapable of understanding the objective of the  
2 elective process or ~~is under guardianship pursuant to the order of a court under ch.~~  
3 ~~880, except that when a person is under limited guardianship, unless the court may~~  
4 ~~determine has determined that the person is competent to exercise the right to vote;~~

5           \*~~4830/P1.2~~\* SECTION 2. 6.03 (3) of the statutes is amended to read:

6           6.03 (3) No person may be denied the right to register to vote or the right to vote  
7 by reason that the person is alleged to be incapable of understanding the objective  
8 of the elective process unless the person has been so adjudicated ~~in a separate~~  
9 ~~proceeding instituted for that purpose by an elector of the municipality in accordance~~  
10 ~~with the procedures set forth in ch. 880 for determining incompetency incompetent~~  
11 ~~in this state~~. If a determination of incompetency of the person has already been  
12 made, or if a determination of limited incompetency has been made ~~which~~ that does  
13 not include a specific finding that the subject is competent to exercise the right to  
14 vote, and a guardian ~~or limited guardian~~ has been appointed as a result of any such  
15 determination, then no determination of incapacity of understanding the objective  
16 of the elective process is required ~~unless the guardianship is terminated or modified~~  
17 ~~under s. 880.34 54.64~~.

18           \*~~4830/P1.3~~\* SECTION 3. 17.03 (6) of the statutes is amended to read:

19           17.03 (6) A competent tribunal voids the election or appointment; or adjudges  
20 the incumbent to be incapable of understanding the objective of the elective process;  
21 or places the incumbent under guardianship, ~~or under limited guardianship~~ unless  
22 the court finds that the incumbent is competent to exercise the right to vote.

23           \*~~4830/P1.4~~\* SECTION 4. 19.32 (1m) of the statutes is amended to read:

24           19.32 (1m) "Person authorized by the individual" means the parent, guardian,  
25 as defined in s. 48.02 (8), or legal custodian, as defined in s. 48.02 (11), of a child, as

1 defined in s. 48.02 (2), the guardian, ~~as defined in s. 880.01 (3)~~, of an individual  
2 ~~adjudged~~ adjudicated incompetent, ~~as defined in s. 880.01 (4) in this state~~, the  
3 personal representative or spouse of an individual who is deceased, or any person  
4 authorized, in writing, by the individual to exercise the rights granted under this  
5 section.

6 \*~~4829/P1.1~~\*~~0122/2.1~~\* SECTION 1. 20.435 (2) (gk) of the statutes is amended  
7 to read:

8 20.435 (2) (gk) *Institutional operations and charges.* The amounts in the  
9 schedule for care, other than under s. 51.06 (1r), provided by the centers for the  
10 developmentally disabled, to reimburse the cost of providing the services and to  
11 remit any credit balances to county departments that occur on and after  
12 July 1, 1978, in accordance with s. 51.437 (4rm) (c); for care, other than under s.  
13 46.043, provided by the mental health institutes, to reimburse the cost of providing  
14 the services and to remit any credit balances to county departments that occur on and  
15 after January 1, 1979, in accordance with s. 51.42 (3) (as) 2.; for maintenance of  
16 state-owned housing at centers for the developmentally disabled and mental health  
17 institutes; for repair or replacement of property damaged at the mental health  
18 institutes or at centers for the developmentally disabled; and for reimbursing the  
19 total cost of using, producing, and providing services, products, and care. All moneys  
20 received as payments from medical assistance on and after August 1, 1978; as  
21 payments from all other sources including other payments under s. 46.10 and  
22 payments under s. 51.437 (4rm) (c) received on and after July 1, 1978; as medical  
23 assistance payments, other payments under s. 46.10, and payments under s. 51.42  
24 (3) (as) 2. received on and after January 1, 1979; as payments for the rental of  
25 state-owned housing and other institutional facilities at centers for the

1 developmentally disabled and mental health institutes; for the sale of electricity,  
2 steam, or chilled water; as payments in restitution of property damaged at the  
3 mental health institutes or at centers for the developmentally disabled; for the sale  
4 of surplus property, including vehicles, at the mental health institutes or at centers  
5 for the developmentally disabled; and for other services, products, and care shall be  
6 credited to this appropriation, except that any payment under s. 46.10 received for  
7 the care or treatment of patients admitted under s. 51.10, 51.15, or 51.20 for which  
8 the state is liable under s. 51.05 (3), ~~of patients admitted under s. 55.06 (9) (d) or (e)~~  
9 ~~for which the state is liable under s. 55.05 (1),~~ of forensic patients committed under  
10 ch. 971 or 975, admitted under ch. 975, or transferred under s. 51.35 (3), or of patients  
11 transferred from a state prison under s. 51.37 (5), to the Mendota Mental Health  
12 Institute or the Winnebago Mental Health Institute shall be treated as general  
13 purpose revenue — earned, as defined under s. 20.001 (4); and except that moneys  
14 received under s. 51.06 (6) may be expended only as provided in s. 13.101 (17).

NOTE: Deletes cross-references to s. 55.06 (9) (d) and (e), which are repealed by the bill.

15 **\*-4828/P1.1\* SECTION 1.** 20.435 (7) (dh) of the statutes is amended to read:  
16 20.435 (7) (dh) *Programs for senior citizens; elder abuse services; benefit*  
17 *specialist program.* The amounts in the schedule for the programs for senior citizens,  
18 including but not limited to the purpose of distributing funds under s. 46.80 (2m) (b)  
19 to supplement any federal foster grandparent project funds received under 42 USC  
20 5011 (a) and the purposes of ss. 46.80 (5) and 46.85; for direct services for elder  
21 ~~persons and other individuals~~ adults at risk under s. 46.90 (5m); and for the benefit  
22 specialist program for older persons under s. 46.81. Notwithstanding ss. 20.001 (3)  
23 (a) and 20.002 (1), the department of health and family services may transfer funds

1 between fiscal years under this paragraph. All funds allocated under ss. 46.80 (2m)  
2 (b) and (5), 46.81 (2) and 46.85 but not encumbered by December 31 of each year lapse  
3 to the general fund on the next January 1, unless transferred to the next calendar  
4 year by the joint committee on finance, but the department may carry forward funds  
5 allocated under s. 46.90 (5m) that are not encumbered by June 30 of each year for  
6 allocation under s. 46.90 (5m) in the following state fiscal year. For the purposes of  
7 this paragraph, funds are encumbered by December 31 if allocated for services  
8 received or for goods ordered by December 31.

9 \*~~4830/P1.5~~ SECTION 5. 29.024 (2u) of the statutes is created to read:

10 29.024 (2u) REVOCATION OF HUNTING LICENSES BASED ON INCOMPETENCY. The  
11 department shall revoke any license authorizing hunting issued to an individual for  
12 whom the department receives a record of a declaration under s. 54.25 (2) (c) 1. d.  
13 stating that the individual is incompetent to apply for a hunting license under this  
14 chapter.

15 \*~~4830/P1.6~~ SECTION 6. 29.161 of the statutes is amended to read:

16 29.161 Resident small game hunting license. A resident small game  
17 hunting license shall be issued subject to ~~s. ss. 29.024 and 54.25 (2) (c) 1. d.~~ by the  
18 department to any resident applying for this license. The resident small game  
19 hunting license does not authorize the hunting of bear, deer, elk, or wild turkey.

20 \*~~4830/P1.7~~ SECTION 7. 29.164 (3) (e) of the statutes, as affected by 2000  
21 Wisconsin Act 25, is repealed and recreated to read:

22 29.164 (3) (e) *Notification; issuance; payment.* The department shall issue a  
23 notice of approval to those qualified applicants selected to receive a wild turkey  
24 hunting license and tag under par. (a). A person who receives a notice of approval  
25 and who pays the license fee in the manner required by the department shall be

1 issued a wild turkey hunting license, subject to ss. 29.024 and 54.25 (2) (c) 1. d., and  
2 a tag. The department may not charge a fee for a tag that is issued under this  
3 paragraph.

4 ~~\*-4830/P1.8\* SECTION 8. 29.171 (1) of the statutes is amended to read:~~

5 ~~29.171 (1) A resident archer hunting license shall be issued subject to ~~s. ss.~~~~  
6 ~~29.024 and 54.25 (2) (c) 1. d. by the department to any resident applying for this~~  
7 ~~license.~~

8 ~~\*-4830/P1.9\* SECTION 9. 29.173 (1) of the statutes is amended to read:~~

9 ~~29.173 (1) ISSUANCE. A resident deer hunting license shall be issued subject to~~  
10 ~~s. ss. 29.024 and 54.25 (2) (c) 1. d. by the department to any resident applying for this~~  
11 ~~license.~~

12 ~~\*-4830/P1.10\* SECTION 10. 29.182 (4m) of the statutes is amended to read:~~

13 ~~29.182 (4m) LIMITATION OF ONE LICENSE. A person may be issued, or transferred~~  
14 ~~under sub. (4) (g), only one resident elk hunting license in his or her lifetime, and the~~  
15 ~~resident elk hunting license shall be valid for only one elk hunting season. The~~  
16 ~~issuance, or transfer under sub. (4) (g), of the license to the person is subject to ~~s. ss.~~~~  
17 ~~29.024 (2g) and 54.25 (2) (c) 1. d.~~

18 ~~\*-4830/P1.11\* SECTION 11. 29.184 (6) (c) 1r. of the statutes is amended to read:~~

19 ~~29.184 (6) (c) 1r. The department shall issue a notice of approval to those~~  
20 ~~qualified applicants selected to receive a Class A bear license. A person who receives~~  
21 ~~a notice of approval and who pays the fees required for the license shall be issued the~~  
22 ~~license subject to ~~s. ss.~~ 29.024 (2g) and 54.25 (2) (c) 1. d.~~

23 ~~\*-4830/P1.12\* SECTION 12. 29.184 (6) (c) 2. of the statutes is amended to read:~~

1           29.184 (6) (c) 2. A Class B bear license shall be issued subject to s. ss. 29.024  
2           ~~(2g) and 54.25 (2) (c) 1. d.~~ by the department to any resident who applies for this  
3           license.

4           \*~~4830/P1.13~~\* SECTION 13. 29.231 (1) of the statutes is amended to read:

5           29.231 (1) A resident sports license shall be issued subject to s. ss. 29.024 and  
6           54.25 (2) (c) 1. d. by the department to any resident who applies for this license, and  
7           a nonresident sports license shall be issued subject to s. 29.024 by the department  
8           to any person who is not a resident and who applies for the license.

9           \*~~4830/P1.14~~\* SECTION 14. 29.235 (1) of the statutes, as affected by 2005  
10          Wisconsin Act 25, is amended to read:

11          29.235 (1) ISSUANCE. A resident conservation patron license shall be issued  
12          subject to s. ss. 29.024 and 54.25 (2) (c) 1. d. by the department to any resident 12  
13          years old or older who applies for the license. A nonresident conservation patron  
14          license shall be issued subject to s. 29.024 by the department to any person 12 years  
15          old or older who is not a resident and who applies for the license.

16          \*~~4830/P1.15~~\* SECTION 15. 29.512 (1) of the statutes is amended to read:

17          29.512 (1) No person may engage or be employed for any compensation or  
18          reward to guide, direct or assist any other person in hunting, fishing or trapping  
19          unless the person is issued a guide license by the department subject to s. ss. 29.024  
20          and 54.25 (2) (c) 1. d. No guide license for hunting or trapping may be issued to or  
21          obtained by any person who is not a resident of this state. No guide license may be  
22          issued to any person under the age of 18 years. The holder of a guide license shall  
23          comply with all of the requirements of this chapter.

24          \*~~4830/P1.16~~\* SECTION 16. 32.05 (4) of the statutes is amended to read:

1           32.05 (4) HOW NOTICE OF JURISDICTIONAL OFFER IS GIVEN. The giving of such  
2 notice is a jurisdictional requisite to a taking by condemnation. Such notice may be  
3 given by personal service in the manner of service of a circuit court summons, or it  
4 may be transmitted by certified mail. If service is by mail, service of the papers shall  
5 be deemed completed on the date of mailing and the use of mail service shall not  
6 increase the time allowed to act in answer to or in consequence of such service. If such  
7 owner or mortgagee is unknown or cannot be found there shall be published in the  
8 county wherein the property is located a class 1 notice, under ch. 985. If such owner  
9 is a minor, or an ~~incompetent person~~ individual adjudicated incompetent, the  
10 condemnor shall serve such notice upon the legal guardian of ~~such~~ the minor or  
11 ~~incompetent individual~~, and if there is no such guardian the condemnor shall  
12 proceed under s. 32.15 to have a special guardian appointed to represent ~~such~~ the  
13 minor or ~~incompetent individual~~ in ~~such~~ the proceeding. The reasonable fees of ~~such~~  
14 any special guardian as approved by the court shall be paid by the condemnor. ~~Such~~  
15 The notice shall be called the “jurisdictional offer”. The condemnor shall file a lis  
16 pendens on or within 14 days of the date of service or mailing of the jurisdictional  
17 offer or within 14 days of the date of publication if publication is necessary. The lis  
18 pendens shall include a copy of the jurisdictional offer. From the time of such filing  
19 every purchaser or encumbrancer whose conveyance or encumbrance is not recorded  
20 or filed shall be deemed a subsequent purchaser or encumbrancer and shall be bound  
21 by the terms of the jurisdictional offer and it shall not be necessary to serve other  
22 jurisdictional offers on such subsequent purchaser or encumbrancer. In the award  
23 the condemnor may name and make payment to parties who were owners or  
24 mortgagees at the time of the filing of the lis pendens unless subsequent purchasers  
25 or encumbrancers give written notice to the condemnor of their subsequently

1 acquired interests in which event such parties shall be named in the award as their  
2 interests may appear.

3 ~~\*-4830/P1.17\* SECTION 17. 32.06 (4) of the statutes is amended to read:~~

4 ~~32.06 (4) RIGHT OF MINORS AND INCOMPETENTS INDIVIDUALS ADJUDICATED~~  
5 ~~INCOMPETENT. If any person having an ownership interest in the property proposed~~  
6 ~~to be condemned is a minor or an is adjudicated incompetent person, a special~~  
7 ~~guardian shall be appointed for the person pursuant to s. 32.05 (4).~~

8 ~~\*-4830/P1.18\* SECTION 18. 32.06 (7) of the statutes is amended to read:~~

9 ~~32.06 (7) PETITION FOR CONDEMNATION PROCEEDINGS. If the jurisdictional offer~~  
10 ~~is not accepted within the periods limited in sub. (6) or the owner fails to consummate~~  
11 ~~an acceptance as provided in sub. (6), the condemnor may present a verified petition~~  
12 ~~to the circuit court for the county in which the property to be taken is located, for~~  
13 ~~proceedings to determine the necessity of taking, where such determination is~~  
14 ~~required, and the amount of just compensation. The petition shall state that the~~  
15 ~~jurisdictional offer required by sub. (3) has been made and rejected; that it is the~~  
16 ~~intention of the condemnor in good faith to use the property or right therein for the~~  
17 ~~specified purpose. It shall name the parties having an interest of record in the~~  
18 ~~property as near as may be and shall name the parties who are minors or persons of~~  
19 ~~unsound mind, who are adjudicated incompetent, or whose location is unknown. The~~  
20 ~~petition may not disclose the amount of the jurisdictional offer, and if it does so it is~~  
21 ~~a nullity. The petition shall be filed with the clerk of the court. Notice of the petition~~  
22 ~~shall be given as provided in s. 32.05 (4) to all persons having an interest of record~~  
23 ~~in the property, including the special guardian appointed for minors or individuals~~  
24 ~~adjudicated incompetent persons. A lis pendens shall be filed on the date of filing~~  
25 ~~the petition. The date of filing the lis pendens is the "date of evaluation" of the~~

1 property for the purpose of fixing just compensation, except that if the property is to  
2 be used in connection with the construction of a facility, as defined under s. 196.491  
3 (1), the “date of evaluation” is the date that is 2 years prior to the date on which the  
4 certificate of public convenience and necessity is issued for the facility. The hearing  
5 on the petition may not be earlier than 20 days after the date of its filing unless the  
6 petitioner acquired possession of the land under s. 32.12 (1) in which event this  
7 hearing is not necessary. If the petitioner is entitled to condemn the property or any  
8 portion of it, the judge immediately shall assign the matter to the chairperson of the  
9 county condemnation commissioners for hearing under s. 32.08. An order by the  
10 judge determining that the petitioner does not have the right to condemn or refusing  
11 to assign the matter to the chairperson of the county condemnation commissioners  
12 may be appealed directly to the court of appeals.

13 **\*-4830/P1.19\* SECTION 19.** 32.075 (3) (b) of the statutes is amended to read:

14 32.075 (3) (b) If the person is a minor or an individual adjudicated incompetent,  
15 the notice under par. (a) shall be to the special guardian appointed for the person him  
16 or her. The notice under par. (a) shall state that the person, or, if the person is  
17 deceased, the person’s heirs, may petition the circuit court of the county in which the  
18 property is located, within 90 days after receipt of the notice, for an order to require  
19 the public utility to return the interest in the property to the petitioner. The circuit  
20 court shall grant the petition and shall make a formal order returning the  
21 petitioner’s interest in the property. The order shall operate to divest any title of the  
22 public utility to the property subject to the petition and to automatically discharge  
23 any lis pendens filed in relation to the condemnation of the property.

24 **\*-4830/P1.20\* SECTION 20.** 32.22 (6) (b) of the statutes is amended to read:

1           32.22 ~~(6)~~ (b) If any owner is a minor or an individual adjudicated incompetent  
2 person, a special guardian shall be appointed under s. 32.05 (4).

3           \*~~4830/P1.21~~\* SECTION 21. 32.64 of the statutes is repealed.

4           \*~~4830/P1.22~~\* SECTION 22. 36.27 (2) (a) 5. of the statutes is amended to read:

5           36.27 (2) (a) 5. Any minor student under guardianship in this state pursuant  
6 to ~~ch. 48 or 880~~ whose legal guardian has been a bona fide resident of this state for  
7 at least 12 months next preceding the beginning of any semester or session for which  
8 such student registers at an institution.

9           \*~~4830/P1.23~~\* SECTION 23. 40.08 (9) of the statutes is amended to read:

10           40.08 (9) PAYMENTS OF BENEFITS TO MINORS AND INCOMPETENTS INDIVIDUALS FOUND  
11 INCOMPETENT. In any case in which a benefit amount becomes payable to a minor or  
12 to ~~a person adjudged mentally~~ an individual adjudicated incompetent, the  
13 department may waive guardianship proceedings, and pay the benefit to the person  
14 providing for or caring for the minor, or to the spouse ~~or the~~ parent, or other relative  
15 by blood or adoption providing for or caring for the individual adjudicated  
16 incompetent person.

17           \*~~4830/P1.24~~\* SECTION 24. 45.36 (1) (b) of the statutes is amended to read:

18           45.36 (1) (b) "Duly authorized representative" means any person authorized  
19 in writing by the veteran to act for the veteran, or a legally constituted representative  
20 if the veteran is adjudicated incompetent or deceased. Where for proper reason no  
21 representative has been or will be appointed, the veteran's spouse, an adult child, or,  
22 if the veteran is unmarried, either parent shall be recognized as the duly authorized  
23 representative.

24           \*~~4830/P1.25~~\* SECTION 25. 46.011 (intro.) of the statutes is amended to read:

25           **46.011 Definitions.** (intro.) In chs. 46, 48, 50, 51, 54, 55 and 58:

1       \*~~4829/P1.2~~\* SECTION 2. 46.011 (2) of the statutes is amended to read:

2       46.011 (2) “Prisoner” means any person who is either arrested, incarcerated,  
3 imprisoned or otherwise detained in excess of 12 hours by any law enforcement  
4 agency of this state, except when detention is pursuant to s. 51.15, 51.20, 51.45 (11)  
5 (b) or ~~55.06 (11) (a)~~ 55.135 (1) or ch. 980. “Prisoner” does not include any person who  
6 is serving a sentence of detention under s. 973.03 (4) unless the person is in the  
7 county jail under s. 973.03 (4) (c).

NOTE: Changes a cross-reference to emergency protective placement, the provisions of which are renumbered under this bill.

8       \*~~4829/P1.3~~\* SECTION 3. 46.10 (2) of the statutes is amended to read:

9       46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,  
10 including but not limited to a person admitted, committed, protected, or placed under  
11 s. 975.01, 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., s. 55.05 (5),  
12 2003 stats., and 55.06, 2003 stats., and ss. 51.10, 51.13, 51.15, 51.20, 51.35 (3), 51.37  
13 (5), 51.45 (10), (11), (12) and (13), 55.05, ~~55.06~~ 55.055, 55.12, 55.13, 55.135, 971.14  
14 (2) and (5), 971.17 (1), 975.06 and 980.06, receiving care, maintenance, services and  
15 supplies provided by any institution in this state including University of Wisconsin  
16 Hospitals and Clinics, in which the state is chargeable with all or part of the person’s  
17 care, maintenance, services and supplies, any person receiving care and services  
18 from a county department established under s. 51.42 or 51.437 or from a facility  
19 established under s. 49.73, and any person receiving treatment and services from a  
20 public or private agency under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d) or (4)  
21 (e) or 980.08 (5) and the person’s property and estate, including the homestead, and  
22 the spouse of the person, and the spouse’s property and estate, including the  
23 homestead, and, in the case of a minor child, the parents of the person, and their

1 property and estates, including their homestead, and, in the case of a foreign child  
2 described in s. 48.839 (1) who became dependent on public funds for his or her  
3 primary support before an order granting his or her adoption, the resident of this  
4 state appointed guardian of the child by a foreign court who brought the child into  
5 this state for the purpose of adoption, and his or her property and estate, including  
6 his or her homestead, shall be liable for the cost of the care, maintenance, services  
7 and supplies in accordance with the fee schedule established by the department  
8 under s. 46.03 (18). If a spouse, widow or minor, or an incapacitated person may be  
9 lawfully dependent upon the property for their support, the court shall release all or  
10 such part of the property and estate from the charges that may be necessary to  
11 provide for those persons. The department shall make every reasonable effort to  
12 notify the liable persons as soon as possible after the beginning of the maintenance,  
13 but the notice or the receipt thereof is not a condition of liability.

NOTE: Changes cross-references to protective placement, which is renumbered in  
this bill.

14 \*~~4828/P1.2~~\* SECTION 2. 46.21 (2m) (c) of the statutes is amended to read:  
15 46.21 (2m) (c) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78  
16 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7) and  
17 253.07 (3) (c), ~~any~~ a subunit of ~~the~~ a county department of human services or tribal  
18 agency acting under this subsection may exchange confidential information about a  
19 client, without the informed consent of the client, with any other subunit of the same  
20 county department of human services or tribal agency, with a resource center, a care  
21 management organization, or a family care district, with an elder-adult-at-risk  
22 agency, an adult-at-risk agency, or any agency to which referral for investigation is  
23 made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with any a person providing

1 services to the client under a purchase of services contract with the county  
2 department of human services or tribal agency or with a resource center, a care  
3 management organization, or a family care district, if necessary to enable an  
4 employee or service provider to perform his or her duties, or to enable the county  
5 department of human services or tribal agency to coordinate the delivery of services  
6 to the client. An agency that releases information under this paragraph shall  
7 document that a request for information was received and what information was  
8 provided.

9 \*~~4829/P1.4~~\* SECTION 4. 46.21 (2m) (c) of the statutes is amended to read:

10 46.21 (2m) (c) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78  
11 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), ~~55.06 (17) (e)~~ 55.22 (3), 146.82, 252.11  
12 (7) and 253.07 (3) (c), any subunit of the county department of human services acting  
13 under this subsection may exchange confidential information about a client, without  
14 the informed consent of the client, with any other subunit of the same county  
15 department of human services, with a resource center, care management  
16 organization or family care district, or with any person providing services to the  
17 client under a purchase of services contract with the county department of human  
18 services or with a resource center, care management organization or family care  
19 district, if necessary to enable an employee or service provider to perform his or her  
20 duties, or to enable the county department of human services to coordinate the  
21 delivery of services to the client.

22 \*~~4828/P1.3~~\* SECTION 3. 46.215 (1m) of the statutes is amended to read:

23 46.215 (1m) EXCHANGE OF INFORMATION. Notwithstanding ss. 46.2895 (9), 48.78  
24 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), ~~55.06 (17) (c)~~, 146.82, 252.11 (7), 253.07  
25 (3) (c) and 938.78 (2) (a), any a subunit of the a county department of social services

1 or tribal agency acting under this section may exchange confidential information  
2 about a client, without the informed consent of the client, with any other subunit of  
3 the same county department of social services or tribal agency, with a resource  
4 center, a care management organization, or a family care district, with an  
5 elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral  
6 for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with any  
7 a person providing services to the client under a purchase of services contract with  
8 the county department of social services or tribal agency or with a resource center,  
9 a care management organization, or a family care district, if necessary to enable an  
10 employee or service provider to perform his or her duties, or to enable the county  
11 department of social services or tribal agency to coordinate the delivery of services  
12 to the client. An agency that releases information under this subsection shall  
13 document that a request for information was received and what information was  
14 provided.

15 \*~~4829/P1.5~~\* SECTION 5. 46.215 (1m) of the statutes is amended to read:

16 46.215 (1m) EXCHANGE OF INFORMATION. Notwithstanding ss. 46.2895 (9), 48.78  
17 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), ~~55.06 (17) (e)~~ 55.22 (3), 146.82, 252.11  
18 (7), 253.07 (3) (c) and 938.78 (2) (a), any subunit of the county department of social  
19 services acting under this section may exchange confidential information about a  
20 client, without the informed consent of the client, with any other subunit of the same  
21 county department of social services, with a resource center, care management  
22 organization or family care district, or with any person providing services to the  
23 client under a purchase of services contract with the county department of social  
24 services or with a resource center, care management organization or family care  
25 district, if necessary to enable an employee or service provider to perform his or her

1 duties, or to enable the county department of social services to coordinate the  
2 delivery of services to the client.

3 **\*-4828/P1.4\* SECTION 4.** 46.22 (1) (dm) of the statutes is amended to read:

4 46.22 (1) (dm) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78  
5 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07  
6 (3) (c) and 938.78 (2) (a), any a subunit of the a county department of social services  
7 or tribal agency acting under this subsection may exchange confidential information  
8 about a client, without the informed consent of the client, with any other subunit of  
9 the same county department of social services or tribal agency, with a resource  
10 center, a care management organization, or a family care district, with an  
11 elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral  
12 for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with any  
13 a person providing services to the client under a purchase of services contract with  
14 the county department of social services or tribal agency or with a resource center,  
15 a care management organization, or a family care district, if necessary to enable an  
16 employee or service provider to perform his or her duties, or to enable the county  
17 department of social services or tribal agency to coordinate the delivery of services  
18 to the client. An agency that releases information under this paragraph shall  
19 document that a request for information was received and what information was  
20 provided.

21 **\*-4829/P1.6\* SECTION 6.** 46.22 (1) (dm) of the statutes is amended to read:

22 46.22 (1) (dm) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78  
23 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), ~~55.06 (17) (c)~~ 55.22 (3), 146.82, 252.11  
24 (7), 253.07 (3) (c) and 938.78 (2) (a), any subunit of the county department of social  
25 services acting under this subsection may exchange confidential information about

1 a client, without the informed consent of the client, with any other subunit of the  
2 same county department of social services, with a resource center, care management  
3 organization or family care district, or with any person providing services to the  
4 client under a purchase of services contract with the county department of social  
5 services or with a resource center, care management organization or family care  
6 district, if necessary to enable an employee or service provider to perform his or her  
7 duties, or to enable the county department of social services to coordinate the  
8 delivery of services to the client.

9 \*~~4828/P1.5~~\* SECTION 5. 46.23 (3) (e) of the statutes is amended to read:

10 46.23 (3) (e) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78  
11 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07  
12 (3) (c) and 938.78 (2) (a), any a subunit of a county department of human services or  
13 tribal agency acting under this section may exchange confidential information about  
14 a client, without the informed consent of the client, with any other subunit of the  
15 same county department of human services or tribal agency, with a resource center,  
16 a care management organization, or a family care district, with an  
17 elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral  
18 for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with any  
19 a person providing services to the client under a purchase of services contract with  
20 the county department of human services or tribal agency or with a resource center,  
21 a care management organization, or a family care district, if necessary to enable an  
22 employee or service provider to perform his or her duties, or to enable the county  
23 department of human services or tribal agency to coordinate the delivery of services  
24 to the client. An agency that releases information under this paragraph shall

1 document that a request for information was received and what information was  
2 provided.

3 \*~~4829/P1.7~~\* SECTION 7. 46.23 (3) (e) of the statutes is amended to read:

4 46.23 (3) (e) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78  
5 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), ~~55.06 (17) (e)~~ 55.22 (3), 146.82, 252.11  
6 (7), 253.07 (3) (c) and 938.78 (2) (a), any subunit of a county department of human  
7 services acting under this section may exchange confidential information about a  
8 client, without the informed consent of the client, with any other subunit of the same  
9 county department of human services, with a resource center, care management  
10 organization or family care district, or with any person providing services to the  
11 client under a purchase of services contract with the county department of human  
12 services or with a resource center, care management organization or family care  
13 district, if necessary to enable an employee or service provider to perform his or her  
14 duties, or to enable the county department of human services to coordinate the  
15 delivery of services to the client.

NOTE: SECTIONS 4 to 7 change a cross-reference to provisions relating to  
confidentiality of treatment and service records for persons who are protected under  
chapter 55. These provisions are renumbered in this bill.

16 \*~~4830/P1.26~~\* SECTION 26. 46.27 (1) (e) of the statutes is amended to read:

17 46.27 (1) (e) “Voluntary” means according to ~~a person’s~~ an individual’s free  
18 choice, if competent, or by choice of ~~a~~ his or her guardian, if the individual is  
19 adjudicated incompetent.

20 \*~~4829/P1.8~~\* SECTION 8. 46.27 (6r) (b) 2. of the statutes is amended to read:

21 46.27 (6r) (b) 2. The person has ~~chronic~~ serious and persistent mental illness,  
22 as defined under s. 51.01 (3g) ~~(14t)~~, affecting mental health to the extent that

1 long-term or repeated hospitalization is likely unless the person receives long-term  
2 community support services.

NOTE: Deletes a reference to the term “chronic mental illness”, which is eliminated  
in this bill, and replaces it with the updated term “serious and persistent mental illness”.

3 ~~\*-4829/P1.9\* SECTION 9. 46.275 (4) (b) 1. of the statutes is amended to read:~~  
4 ~~46.275 (4) (b) 1. Consent for participation is given either by the person’s parent,~~  
5 ~~guardian or legal custodian, if the person is under age 18, or by the person or the~~  
6 ~~person’s guardian, if the person is age 18 or over, except that this subdivision does~~  
7 ~~not limit the authority of the circuit court to enter, change, revise or extend a~~  
8 ~~dispositional order under subch. VI of ch. 48 or subch. VI of ch. 938 or to order a~~  
9 ~~protective placement or protective services under s. ~~55.06~~ 55.12.~~

NOTE: Amends language in medical assistance waiver program language to reflect  
the bill’s clarification that protective services, as well as protective placement, may be  
court ordered.

10 ~~\*-4829/P1.10\* SECTION 10. 46.279 (2) of the statutes, as affected by 2005~~  
11 ~~Wisconsin Act ... (Assembly Bill 296), is amended to read:~~

12 ~~46.279 (2) PLACEMENTS AND ADMISSIONS TO INTERMEDIATE FACILITIES. Except as~~  
13 ~~provided in sub. (5), no person may protectively place or continue protective~~  
14 ~~placement of an individual with a developmental disability in an intermediate~~  
15 ~~facility and no intermediate facility may admit or continue service for such an~~  
16 ~~individual unless, before the protective placement, continued placement following~~  
17 ~~review under s. ~~55.06 (10)~~ 55.18, or admission and after having considered a plan~~  
18 ~~developed under sub. (4), a court under s. ~~55.06 (9) (a) or (10) (a) 2.~~ 55.12 or 55.18 (1)~~  
19 ~~(ar) finds that protective placement in the intermediate facility is the most~~  
20 ~~integrated setting that is appropriate to the needs of the individual or that the county~~  
21 ~~of residence of the individual would not reasonably be able to provide~~  
22 ~~community-based care in accordance with the plan within the limits of available~~

1 state and federal funds and county funds required to be appropriated to match state  
2 funds, taking into account information presented by all affected parties. An  
3 intermediate facility to which an individual who has a developmental disability  
4 applies for admission shall, within 5 days after receiving the application, notify the  
5 county department that is participating in the program under s. 46.278 of the county  
6 of residence of the individual who is seeking admission concerning the application.

7 \*~~4829/P1.11~~\* SECTION 11. 46.279 (3) of the statutes, as affected by 2005  
8 Wisconsin Act .... (Assembly Bill 296), is amended to read:

9 46.279 (3) PLACEMENTS AND ADMISSIONS TO NURSING FACILITIES. Except as  
10 provided in sub. (5), if the department or an entity determines from a screening  
11 under s. 49.45 (6c) (b) that an individual requires active treatment for developmental  
12 disability, no individual may be protectively placed in a nursing facility or have  
13 protective placement in a nursing facility continued following review under s. ~~55.06~~  
14 ~~(10) 55.18~~, and no nursing facility may admit or continue service for the individual,  
15 unless the department or entity that conducts the screening determines that the  
16 individual's need for care cannot fully be met in an intermediate facility or under a  
17 plan under sub. (4) or that the county of residence of the individual would not  
18 reasonably be able to provide community-based care in accordance with the plan  
19 within the limits of available state and federal funds and county funds required to  
20 be appropriated to match state funds.

NOTE: SECTIONS 10 and 11 change a cross-reference to orders for protective  
placement, the provisions of which are renumbered in this bill.

21 \*~~4829/P1.12~~\* SECTION 12. 46.279 (4) (c) of the statutes is amended to read:

1           46.279 (4) (c) ~~Within 120 days after a proposal is made under s. 55.06 (9) (a)~~  
2           ~~55.12 (6) to place~~ provide protective placement to the individual in an intermediate  
3           ~~facility or a nursing facility.~~

NOTE: Changes a cross-reference to the annual review of protective placements, the provisions of which are renumbered in this bill.

4           \*~~4829/P1.13~~\* SECTION 13. 46.279 (4) (d) of the statutes is amended to read:  
5           46.279 (4) (d) Within 120 days after receiving written notice under s. ~~55.06 (10)~~  
6           ~~(a) 2. 55.18 (1) (ar)~~ of the protective placement of the individual in a nursing facility  
7           ~~or an intermediate facility.~~

NOTE: Changes a cross-reference to the annual review of protective placement, the provisions of which are renumbered in this bill.

8           \*~~4829/P1.14~~\* SECTION 14. 46.279 (4) (e) of the statutes is amended to read:  
9           46.279 (4) (e) Within 90 days after extension of a temporary protective  
10          ~~placement order by the court under s. 55.06 (11) (e)~~ 55.135 (5).

NOTE: Changes a cross-reference to temporary protective placement, the provisions of which are renumbered in this bill.

11          \*~~4829/P1.15~~\* SECTION 15. 46.279 (5) of the statutes is amended to read:  
12          46.279 (5) EXCEPTIONS. Subsections (2) and (3) do not apply to an emergency  
13          protective placement under s. 55.06 (11) (a) 55.135 or to a temporary protective  
14          ~~placement under s. 55.06 (11) (e) or (12) 55.135 (5) or 55.055 (5).~~

NOTE: Changes cross-references to emergency and temporary protective placements, the provisions of which are renumbered under this bill.

15          \*~~4828/P1.6~~\* SECTION 6. 46.283 (4) (h) of the statutes is amended to read:  
16          46.283 (4) (h) Provide access to services under s. 46.90 and ch. 55 to a person  
17          who is eligible for the services, through cooperation with the ~~county~~  
18          ~~elder-adult-at-risk agency or the adult-at-risk agency or agencies that provide~~  
19          provides the services.

20          \*~~4829/P1.16~~\* SECTION 16. 46.283 (7) (b) of the statutes is amended to read:

1           46.283 (7) (b) Notwithstanding ss. 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45  
2           (14) (a), ~~55.06 (17) (e)~~ 55.22 (3), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a),  
3           a resource center acting under this section may exchange confidential information  
4           about a client, as defined in s. 46.287 (1), without the informed consent of the client,  
5           under s. 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm), 46.23 (3) (e), 46.284 (7), 46.2895  
6           (10), 51.42 (3) (e) or 51.437 (4r) (b) in the county of the resource center, if necessary  
7           to enable the resource center to perform its duties or to coordinate the delivery of  
8           services to the client.

9           \*~~4829/P1.17~~\* SECTION 17. 46.284 (7) (b) of the statutes is amended to read:

10           46.284 (7) (b) Notwithstanding ss. 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45  
11           (14) (a), ~~55.06 (17) (e)~~ 55.22 (3), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a),  
12           a care management organization acting under this section may exchange  
13           confidential information about a client, as defined in s. 46.287 (1), without the  
14           informed consent of the client, under s. 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm),  
15           46.23 (3) (e), 46.283 (7), 46.2895 (10), 51.42 (3) (e) or 51.437 (4r) (b) in the county of  
16           the care management organization, if necessary to enable the care management  
17           organization to perform its duties or to coordinate the delivery of services to the  
18           client.

NOTE: SECTIONS 16 and 17 change cross-references to records in protective placement and services proceedings, the provisions of which are renumbered in this bill.

19           \*~~4828/P1.7~~\* SECTION 7. 46.286 (1) (intro.) of the statutes is amended to read:

20           46.286 (1) ELIGIBILITY. (intro.) A person is eligible for, but not necessarily  
21           entitled to, the family care benefit if the person is at least 18 years of age; has a  
22           physical disability, as defined in s. 15.197 (4) (a) 2., a developmental disability, as

1 defined in s. 51.01 (5) (a), or ~~infirmities of aging~~ degenerative brain disorder, as  
2 defined in s. 55.01 (3) (1v); and meets all of the following criteria:

3 ~~\*-4829/P1.18\*~~ SECTION 18. 46.286 (1) (intro.) of the statutes is amended to  
4 read:

5 46.286 (1) ELIGIBILITY. (intro.) A person is eligible for, but not necessarily  
6 entitled to, the family care benefit if the person is at least 18 years of age; has a  
7 physical disability, as defined in s. 15.197 (4) (a) 2., a developmental disability, as  
8 defined in s. 51.01 (5) (a), or ~~infirmities of aging~~ degenerative brain disorder, as  
9 defined in s. 55.01 (3) (1v); and meets all of the following criteria:

10 ~~\*-4828/P1.8\*~~ SECTION 8. 46.286 (3) (a) (intro.) of the statutes is amended to  
11 read:

12 46.286 (3) (a) (intro.) Subject to pars. (c) and (d), a person is entitled to and may  
13 receive the family care benefit through enrollment in a care management  
14 organization if he or she is at least 18 years of age, has a physical disability, as defined  
15 in s. 15.197 (4) (a) 2., a developmental disability, as defined in s. 51.01 (5) (a), or  
16 ~~infirmities of aging~~ degenerative brain disorder, as defined in s. 55.01 (3) (1v), is  
17 financially eligible, fulfills any applicable cost-sharing requirements and meets any  
18 of the following criteria:

19 ~~\*-4829/P1.19\*~~ SECTION 19. 46.286 (3) (a) (intro.) of the statutes is amended to  
20 read:

21 46.286 (3) (a) (intro.) Subject to pars. (c) and (d), a person is entitled to and may  
22 receive the family care benefit through enrollment in a care management  
23 organization if he or she is at least 18 years of age, has a physical disability, as defined  
24 in s. 15.197 (4) (a) 2., a developmental disability, as defined in s. 51.01 (5) (a), or  
25 ~~infirmities of aging~~ degenerative brain disorder, as defined in s. 55.01 (3) (1v), is

*, as affected by 2005 Wisconsin Acts 264 and ... (Assembly Bill 539),*

*repealed and recreated*

1 ~~financially eligible, fulfills any applicable cost-sharing requirements and meets any~~  
2 ~~of the following criteria:~~

3 **\*-4828/P1.9\* SECTION 9.** 46.286 (3) (a) 3. of the statutes is amended to read:

4 46.286 (3) (a) 3. Is functionally eligible at the intermediate level and is

5 determined by an ~~elder-adult-at-risk~~ agency under s. 46.90 (2) or ~~specified in s.~~

6 ~~55.01 (1t)~~ an adult-at-risk agency designated under s. 55.02 to be in need of

7 protective services ~~under s. 55.05~~ or protective placement under ~~s. 55.06~~. *ch. 55*

8 **\*-4829/P1.20\* SECTION 20.** 46.286 (3) (a) 3. of the statutes is amended to read:

9 46.286 (3) (a) 3. Is functionally eligible at the intermediate level and is

10 determined by an agency under s. 46.90 (2) or specified by a county protective

11 services agency, as defined in s. 55.01 (1t), to be in need of protective services under

12 s. 55.05 or protective placement under s. 55.06 ch. 55.

13 **\*-4829/P1.21\* SECTION 21.** 46.2895 (10) of the statutes is amended to read:

14 46.2895 (10) EXCHANGE OF INFORMATION. Notwithstanding sub. (9) and ss. 48.78

15 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), ~~55.06 (17) (e)~~ 55.22 (3), 146.82, 252.11

16 (7), 253.07 (3) (c) and 938.78 (2) (a), a family care district acting under this section

17 may exchange confidential information about a client, as defined in s. 46.287 (1),

18 without the informed consent of the client, under s. 46.21 (2m) (c), 46.215 (1m), 46.22

19 (1) (dm), 46.23 (3) (e), 46.283 (7), 46.284 (7), 51.42 (3) (e) or 51.437 (4r) (b) in the

20 jurisdiction of the family care district, if necessary to enable the family care district

21 to perform its duties or to coordinate the delivery of services to the client.

22 **\*-4828/P1.10\* SECTION 10.** 46.90 (1) (a) of the statutes is repealed and  
23 recreated to read:

24 46.90 (1) (a) "Abuse" means any of the following:

25 1. Physical abuse.

1 2. Emotional abuse.

2 3. Sexual abuse.

3 4. Treatment without consent.

4 5. Unreasonable confinement or restraint.

5 ~~\*-4828/P1.11\* SECTION 11. 46.90 (1) (aj) of the statutes is created to read:~~

6 ~~46.90 (1) (aj) “Bodily harm” means physical pain or injury, illness, or any~~  
7 ~~impairment of physical condition.~~

8 ~~\*-4828/P1.12\* SECTION 12. 46.90 (1) (an) of the statutes is created to read:~~

9 ~~46.90 (1) (an) “Caregiver” means a person who has assumed responsibility for~~  
10 ~~all or a portion of an individual’s care voluntarily, by contract, or by agreement,~~  
11 ~~including a person acting or claiming to act as a legal guardian.~~

12 ~~\*-4828/P1.13\* SECTION 13. 46.90 (1) (b) of the statutes is repealed.~~

13 ~~\*-4828/P1.14\* SECTION 14. 46.90 (1) (br) of the statutes is created to read:~~

14 ~~46.90 (1) (br) “Elder adult at risk” means any person age 60 or older who has~~  
15 ~~experienced, is currently experiencing, or is at risk of experiencing abuse, neglect,~~  
16 ~~self-neglect, or financial exploitation.~~

17 ~~\*-4828/P1.15\* SECTION 15. 46.90 (1) (bt) of the statutes is created to read:~~

18 ~~46.90 (1) (bt) “Elder-adult-at-risk agency” means the agency designated by~~  
19 ~~the county board of supervisors under sub. (2) to receive, respond to, and investigate~~  
20 ~~reports of abuse, neglect, self-neglect, and financial exploitation under sub. (4).~~

21 ~~\*-4828/P1.16\* SECTION 16. 46.90 (1) (c) of the statutes is repealed.~~

22 ~~\*-4829/P1.22\* SECTION 22. 46.90 (1) (c) of the statutes is amended to read:~~

23 ~~46.90 (1) (c) “Elder person” means a person who is age 60 or older or who is~~  
24 ~~subject to the infirmities of aging degenerative brain disorder.~~

25 ~~\*-4828/P1.17\* SECTION 17. 46.90 (1) (cm) of the statutes is created to read:~~

1           46.90 (1) (cm) “Emotional abuse” means language or behavior that serves no  
2 legitimate purpose and is intended to be intimidating, humiliating, threatening,  
3 frightening, or otherwise harassing, and that does or reasonably could intimidate,  
4 humiliate, threaten, frighten, or otherwise harass the individual to whom the  
5 conduct or language is directed.

6           \*~~4829/P1.23~~\* SECTION 23. 46.90 (1) (d) of the statutes is renumbered 46.90  
7 (1) (bg) and amended to read:

8           46.90 (1) (bg) “~~Infirmities of aging~~ Degenerative brain disorder” has the  
9 meaning provided under s. 55.01 (3) (1v).

NOTE: SECTIONS 18, 19, 22 and 23 delete the term “infirmities of aging” and replace  
it with the more up-to-date term “degenerative brain disorder”.

10           \*~~4828/P1.18~~\* SECTION 18. 46.90 (1) (d) of the statutes is repealed.

11           \*~~4828/P1.19~~\* SECTION 19. 46.90 (1) (e) of the statutes is repealed.

12           \*~~4828/P1.20~~\* SECTION 20. 46.90 (1) (ed) of the statutes is created to read:

13           46.90 (1) (ed) “Financial exploitation” means any of the following:

14           1. Obtaining an individual’s money or property by deceiving or enticing the  
15 individual, or by forcing, compelling, or coercing the individual to give, sell at less  
16 than fair market value, or in other ways convey money or property against his or her  
17 will without his or her informed consent.

18           2. Theft, as prohibited in s. 943.20.

19           3. The substantial failure or neglect of a fiscal agent to fulfill his or her  
20 responsibilities.

21           4. Unauthorized use of an individual’s personal identifying information or  
22 documents, as prohibited in s. 943.201.

1 5. Unauthorized use of an entity's identifying information or documents, as  
2 prohibited in s. 943.203.

3 6. Forgery, as prohibited in s. 943.38.

4 7. Financial transaction card crimes, as prohibited in s. 943.41.

5 \*-4828/P1.21\* SECTION 21. 46.90 (1) (eg) of the statutes is created to read:

6 46.90 (1) (eg) "Fiscal agent" includes any of the following:

7 46.90 (1) (eg) SECTION #. AM; 46.90 (1) (eg) 1., as created by 2005 Wisconsin Act... (Assembly Bill 539),

8 46.90 (1) (eg) SECTION #. AM; 46.90 (1) (eg) 2., as created by 2005 Wisconsin Act... (Assembly Bill 539),

9 3. An agent under a financial power of attorney under s. 243.07.

10 46.90 (1) (eg) 4. A representative payee under 20 CFR 416.635.

11 46.90 (1) (eg) 5. A conservatorship under the U.S. department of veterans affairs.

12 \*-4828/P1.22\* SECTION 22. 46.90 (1) (er) of the statutes is created to read:

13 46.90 (1) (er) "Investigative agency" means a law enforcement or a city, town,  
14 village, county, or state governmental agency or unit with functions relating to  
15 protecting health, welfare, safety, or property, including an agency concerned with  
16 animal protection, public health, building code enforcement, consumer protection,  
17 or insurance or financial institution regulation.

18 \*-4828/P1.23\* SECTION 23. 46.90 (1) (f) of the statutes is repealed and  
19 recreated to read:

20 46.90 (1) (f) "Neglect" means the failure of a caregiver, as evidenced by an act,  
21 omission, or course of conduct, to endeavor to secure or maintain adequate care,  
22 services, or supervision for an individual, including food, clothing, shelter, or  
23 physical or mental health care, and creating significant risk or danger to the  
24 individual's physical or mental health. "Neglect" does not include a decision that is  
25 made to not seek medical care for an individual, if that decision is consistent with the

1 individual's previously executed declaration or do-not-resuscitate order under ch.  
2 154, a power of attorney for health care under ch. 155, or as otherwise authorized by  
3 law.

4 **\*-4828/P1.24\* SECTION 24.** 46.90 (1) (fg) of the statutes is created to read:

5 46.90 (1) (fg) "Physical abuse" means the intentional or reckless infliction of  
6 bodily harm.

7 **\*-4828/P1.25\* SECTION 25.** 46.90 (1) (g) of the statutes is amended to read:

8 46.90 (1) (g) "Self-neglect" means a significant danger to an elder person's  
9 individual's physical or mental health because the ~~elder person~~ individual is  
10 responsible for his or her own care but ~~is unable~~ fails to ~~provide~~ obtain adequate care,  
11 including food, shelter, clothing, or medical or dental care.

12 **\*-4828/P1.26\* SECTION 26.** 46.90 (1) (gd) of the statutes is created to read:

13 46.90 (1) (gd) "Sexual abuse" means a violation of s. 940.225 (1), (2), (3), or (3m).

14 **\*-4828/P1.27\* SECTION 27.** 46.90 (1) (gf) of the statutes is created to read:

15 46.90 (1) (gf) "State governmental agency" has the meaning given for "agency"  
16 in s. 16.417 (1) (a).

17 **\*-4828/P1.28\* SECTION 28.** 46.90 (1) (gr) of the statutes is created to read:

18 46.90 (1) (gr) "State official" means any law enforcement officer employed by  
19 the state or an employee of one of the following:

20 1. The department of health and family services.

21 2. The department of justice.

22 3. The department of regulation and licensing.

23 4. The board on aging and long-term care.

24 5. A state governmental agency other than those specified in subds. 1. to 4. with  
25 functions relating to protecting health and safety.

1           \*~~4828/P1.29~~\* SECTION 29. 46.90 (1) (h) of the statutes is created to read:

2           46.90 (1) (h) “Treatment without consent” means the administration of  
3 medication to an individual who has not provided informed consent, or the  
4 performance of psychosurgery, electroconvulsive therapy, or experimental research  
5 on an individual who has not provided informed consent, with the knowledge that  
6 no lawful authority exists for the administration or performance.

7           \*~~4828/P1.30~~\* SECTION 30. 46.90 (1) (i) of the statutes is created to read:

8           46.90 (1) (i) “Unreasonable confinement or restraint” includes the intentional  
9 and unreasonable confinement of an individual in a locked room, involuntary  
10 separation of an individual from his or her living area, use on an individual of  
11 physical restraining devices, or the provision of unnecessary or excessive medication  
12 to an individual, but does not include the use of these methods or devices in entities  
13 regulated by the department if the methods or devices are employed in conformance  
14 with state and federal standards governing confinement and restraint.

15           \*~~4828/P1.31~~\* SECTION 31. 46.90 (2) of the statutes is amended to read:

16           46.90 (2) COUNTY ELDER-ADULT-AT-RISK AGENCY DESIGNATION. Each county  
17 board shall designate an agency in the county as the county elder-adult-at-risk  
18 agency for the purposes of this section.

19           \*~~4828/P1.32~~\* SECTION 32. 46.90 (3) (title) of the statutes is amended to read:

20           46.90 (3) (title) COUNTY ELDER-ADULT-AT-RISK AGENCY DUTIES.

21           \*~~4828/P1.33~~\* SECTION 33. 46.90 (3) (a), (b) and (c) of the statutes are amended  
22 to read:

23           46.90 (3) (a) Each county elder-adult-at-risk agency shall develop a policy for  
24 notifying other investigative agencies, including law enforcement officials in  
25 appropriate cases, and shall establish an elder abuse reporting system to carry out

1 the purposes of this section. Each county ~~elder-adult-at-risk~~ agency shall enter into  
2 a memorandum of understanding regarding the operation of the system with the  
3 county department under s. 46.215 or 46.22 and with any private or public agency,  
4 including a county department under s. 51.42 or 51.437, within the county that is  
5 participating in the elder abuse reporting system. The memorandum of  
6 understanding shall, at a minimum, identify the agencies that are responsible for the  
7 investigation of reports of abuse, ~~material abuse~~ financial exploitation, neglect, or  
8 self-neglect ~~of elder adults at risk~~ and for the provision of specific direct services.

9 (b) Each county ~~elder-adult-at-risk~~ agency shall receive reports of abuse,  
10 ~~material abuse~~ financial exploitation, neglect, or self-neglect of elder ~~persons~~ adults  
11 at risk.

12 (c) Each county ~~elder-adult-at-risk~~ agency shall publicize the existence of an  
13 elder abuse reporting system in the county and shall provide a publicized telephone  
14 number ~~which~~ that can be used by persons wishing to report suspected cases of  
15 abuse, ~~material abuse~~ financial exploitation, neglect, or self-neglect ~~of elder adults~~  
16 at risk. Each elder-adult-at-risk agency shall also provide a telephone number that  
17 can be used to make reports after the elder-adult-at-risk agency's regular business  
18 hours.

19 \*~~4828/P1.34~~\* SECTION 34. 46.90 (4) (a) 1. of the statutes is renumbered 46.90  
20 (4) (ar) and amended to read:

21 46.90 (4) (ar) Any person, including an attorney or a person working under the  
22 supervision of an attorney, may report to the county agency or to any state official,  
23 including any representative of the office of the long-term care ombudsman under  
24 s. 16.009 (4), department, the elder-adult-at-risk agency, a state or local law  
25 enforcement agency, the department, or the board on aging and long-term care that

1 he or she believes that abuse, ~~material abuse or~~ financial exploitation, neglect, or  
2 self-neglect of an elder adult at risk has occurred if the person is aware of facts or  
3 circumstances that would lead a reasonable person to believe or suspect that abuse,  
4 ~~material abuse or~~ financial exploitation, neglect, or self-neglect of an elder adult at  
5 risk has occurred. The person shall indicate the facts and circumstances of the  
6 situation as part of the report.

7 \*~~4828/P1.35~~\* SECTION 35. 46.90 (4) (a) 2. of the statutes is repealed.

8 \*~~4828/P1.36~~\* SECTION 36. 46.90 (4) (ab) of the statutes is created to read:

9 46.90 (4) (ab) The following persons shall file reports as specified in par. (ad):

10 1. An employee of any entity that is licensed, certified, or approved by or  
11 registered with the department.

12 3. A health care provider, as defined in s. 155.01 (7).

13 4. A social worker, professional counselor, or marriage and family therapist  
14 certified under ch. 457.

15 \*~~4828/P1.37~~\* SECTION 37. 46.90 (4) (ad) of the statutes is created to read:

16 46.90 (4) (ad) Except as provided in par. (ae), a person specified in par. (ab) who  
17 has seen an elder adult at risk in the course of the person's professional duties shall  
18 file a report with the county department, the elder-adult-at-risk agency, a state or  
19 local law enforcement agency, the department, or the board on aging and long-term  
20 care if the elder adult at risk has requested the person to make the report, or if the  
21 person has reasonable cause to believe that any of the following situations exist:

22 1. The elder adult at risk is at imminent risk of serious bodily harm, death,  
23 sexual assault, or significant property loss and is unable to make an informed  
24 judgment about whether to report the risk.

1           2. An elder adult at risk other than the subject of the report is at risk of serious  
2           bodily harm, death, sexual assault, or significant property loss inflicted by a  
3           suspected perpetrator.

4           \*~~4828/P1.38~~\* SECTION 38. 46.90 (4) (ae) of the statutes is created to read:

5           46.90 (4) (ae) A person specified in par. (ab) to whom any of the following applies  
6           is not required to file a report as provided in par. (ad):

7           1. If the person believes that filing a report would not be in the best interest  
8           of the elder adult at risk. If the person so believes, the person shall document the  
9           reasons for this belief in the case file that the person maintains on the elder adult  
10          at risk.

11          2. If a health care provider provides treatment by spiritual means through  
12          prayer for healing in lieu of medical care in accordance with his or her religious  
13          tradition and his or her communications with patients are required by his or her  
14          religious denomination to be held confidential.

15          \*~~4828/P1.39~~\* SECTION 39. 46.90 (4) (b) 1. b. of the statutes is amended to read:

16          46.90 (4) (b) 1. b. No person may discharge or otherwise retaliate or  
17          discriminate against any person individual on whose behalf another person has  
18          reported in good faith under this subsection.

19          \*~~4828/P1.40~~\* SECTION 40. 46.90 (4) (b) 1. c. of the statutes is renumbered  
20          46.90 (9) (d) and amended to read:

21          46.90 (9) (d) Any person who violates ~~this subdivision~~ sub. (4) (b) 1. may be  
22          fined not more than ~~\$1,000~~ \$10,000 or imprisoned for not more than 6 months or  
23          both.

24          \*~~4828/P1.41~~\* SECTION 41. 46.90 (4) (b) 1. cm. of the statutes is created to read:

1           46.90 (4) (b) 1. cm. Any discharge of a person or act of retaliation or  
2 discrimination that is taken against a person who makes a report under this  
3 subsection, within 120 days after the report is made, establishes a rebuttable  
4 presumption that the discharge or act is made in response to the report. This  
5 presumption may be rebutted by a preponderance of evidence that the discharge or  
6 act was not made in response to the report.

7           \*~~4828/P1.42~~\* SECTION 42. 46.90 (4) (b) 2. c. of the statutes is amended to read:

8           46.90 (4) (b) 2. c. Any person not described in subd. 2. b. who is retaliated or  
9 discriminated against in violation of subd. 1. a. or b. may commence an action in  
10 circuit court for damages incurred as a result of the violation.

11           \*~~4828/P1.43~~\* SECTION 43. 46.90 (4) (c) of the statutes is amended to read:

12           46.90 (4) (c) No person may be held civilly or criminally liable or be found guilty  
13 of unprofessional conduct for reporting in good faith under this subsection and  
14 within the scope of his or her authority, or for filing a report with an agency not listed  
15 in par. (ad) (intro.) or (ar) if the person had a good faith belief that the report was filed  
16 correctly with one of the listed agencies.

17           \*~~4828/P1.44~~\* SECTION 44. 46.90 (4) (d) of the statutes is amended to read:

18           46.90 (4) (d) If a report under par. (a) (ad) or (ar) is made to a state official, the  
19 state official shall refer the report to the appropriate ~~county~~ elder-adult-at-risk  
20 agency. The requirement under this paragraph does not apply to an employee of the  
21 board on aging and long-term care who determines that his or her referral would be  
22 in violation of 42 USC 3058g (d).

23           \*~~4828/P1.45~~\* SECTION 45. 46.90 (4) (e) of the statutes is created to read:

24           46.90 (4) (e) Any person making a report under this subsection is presumed to  
25 have reported in good faith.