

1           **(3) HEARING.** (a) The court shall order a hearing within 21 days after the filing  
2 of a petition under sub. (2), except that the court is not required to order a hearing  
3 if a hearing on a court-ordered protective placement for the individual or on a  
4 petition for court-ordered protective services or transfer of protective placement  
5 with respect to the individual has been held within the previous 6 months.

6           (b) The court may extend the 21-day limitation in par. (a) if requested by the  
7 individual or the individual's guardian, guardian ad litem, or legal counsel.

8           (c) The hearing shall be subject to s. 55.10 (4).

9           **(4) ORDER MODIFICATION FOR INDIVIDUAL UNDER PROTECTIVE PLACEMENT.** After a  
10 hearing under sub. (3) on a petition for modification of an order for protective  
11 placement, the court shall make one of the following orders and shall include in the  
12 order the information relied on as a basis for that order:

13           (a) If the court finds that the individual continues to meet the standards under  
14 s. 55.08 (1) and the individual's protective placement is in the least restrictive  
15 environment that is consistent with the requirements of s. 55.12 (3), (4), and (5), the  
16 court shall order continuation of the protective placement in the facility in which the  
17 individual resides at the time of the hearing.

18           (b) If the court finds that the individual continues to meet the standards under  
19 s. 55.08 (1) and the protective placement of the individual is not in the least  
20 restrictive environment that is consistent with the requirements of s. 55.12 (3), (4),  
21 and (5), the court shall order transfer of the individual to a protective placement that  
22 is in the least restrictive environment consistent with the requirements of s. 55.12  
23 (3), (4), and (5). In lieu of ordering transfer of the individual to a specific facility, the  
24 court may order the county department of the individual's residence to develop or  
25 recommend a protective placement that is in the least restrictive environment

1 consistent with the requirements of s. 55.12 (3), (4), and (5), and arrange for the  
2 individual's transfer to that protective placement within 60 days after the court's  
3 order. The court may extend this time period to permit development of a protective  
4 placement. The court may order protective services along with transfer of protective  
5 placement.

6 (c) If the court finds that the individual no longer meets the standards under  
7 s. 55.08 (1), the court shall terminate the protective placement, as provided in s.  
8 55.17 (3) (c).

9 **(5) ORDER MODIFICATION FOR INDIVIDUAL RECEIVING COURT-ORDERED PROTECTIVE**  
10 **SERVICES.** (a) After a hearing under sub. (3) on a petition for modification of an order  
11 for protective services, other than an order under s. 55.14, the court shall make one  
12 of the following orders and shall include in the order the information relied on as a  
13 basis for that order:

14 1. If the court finds that the individual continues to meet the standards under  
15 s. 55.08 (2) and the current protective services are provided in the least restrictive  
16 manner that is consistent with the requirements of s. 55.12 (3), (4), and (5), the court  
17 shall continue the order for protective services.

18 2. If the court finds that the individual continues to meet the standards under  
19 s. 55.08 (2) and the protective services ordered for the individual are not provided in  
20 the least restrictive manner that is consistent with the requirements of s. 55.12 (3),  
21 (4), and (5), the court shall order protective services that are more consistent with  
22 those requirements. The services shall be provided in the least restrictive manner  
23 consistent with the requirements of s. 55.12 (3), (4), and (5).

1 3. If the court finds that the individual no longer meets the standards for  
2 protective services under s. 55.08 (2), the court shall terminate the order for  
3 protective services, as provided in s. 55.17 (4) (a) 3.

4 (b) After a hearing under sub. (3) on a petition for modification of an order under  
5 s. 55.14, the court shall make one of the orders required under s. 55.19 (3) (e) and  
6 shall include in the order the information relied on as a basis for that order.

NOTE: Revises the limited provisions in current law regarding modification of an order for a protective placement. A petition for modification of an order for protective placement may be filed by an individual subject to a protective placement; the individual's guardian, legal counsel, or guardian ad litem; the DHFS; the county department that placed the individual; a contractual agency; or any interested person. The petition must be served on the individual; the individual's guardian; the individual's legal counsel and guardian ad litem, if any; and the county department. The petition must contain specific allegations, depending on whether the individual is under a protective placement order or court-ordered protective services. A hearing on the petition must be held within 21 days after the filing of the petition, if a hearing on a protective placement petition or transfer has not been held within the previous 6 months. The order must contain specific findings regarding whether the person currently meets the standard for protective placement or court-ordered protective services. If the person continues to meet the standard for protective placement or court-ordered protective services, the court must continue the order or modify the order so that the placement or service are consistent with the person's needs if the person's needs have changed. If the person does not currently meet the standard for protective placement or protective services, the order must require termination of the protective placement or court-ordered protective services. Notice of the order must be provided to the individual; the individual's guardian, guardian ad litem, and legal counsel, if any; and the residential facility, if the person receives services in such a facility. The transfer provisions may be used if the modification sought is transfer of an individual between placement units, between placement facilities, or from a placement unit to a medical facility, and if the petitioner is an entity authorized to initiate such a transfer.

7 **\*-4829/P1.167\* SECTION 167.** 55.17 of the statutes is created to read:

8 **55.17 Termination of an order for protective placement or protective**  
9 **services.**

10 (2) HEARING. A hearing under this section shall comply with s. 55.16 (3).

11 (3) ORDER FOR INDIVIDUAL UNDER PROTECTIVE PLACEMENT. After a hearing under  
12 sub. (2) on a petition for termination of an order for protective placement, the court  
13 shall make one of the following orders and shall include in the order the information  
14 relied on as a basis for that order:

1 (a) If the court finds that the individual continues to meet the standards under  
2 s. 55.08 (1) and the individual's protective placement is in the least restrictive  
3 environment that is consistent with the requirements of s. 55.12 (3), (4), and (5), the  
4 court shall order continuation of the individual's protective placement in the facility  
5 in which he or she resides at the time of the hearing.

6 (b) If the court finds that the individual continues to meet the standards under  
7 s. 55.08 (1) and the protective placement of the individual is not in the least  
8 restrictive environment that is consistent with the requirements of s. 55.12 (3), (4),  
9 and (5), the court shall make an order specified in s. 55.16 (4) (b).

10 (c) If the individual no longer meets the standards under s. 55.08 (1), the court  
11 shall terminate the protective placement. If the protective placement is terminated,  
12 all of the following shall apply:

13 1. The court shall review the needs of the individual with respect to protective  
14 services. If the court determines that the individual meets the standards for  
15 protective services under s. 55.08 (2), the court may order protective services. The  
16 services shall be provided in the least restrictive manner consistent with the  
17 requirements of s. 55.12 (3), (4), and (5).

18 2. If the court determines that the individual does not meet the standards for  
19 protective services under s. 55.08 (2), and the individual is being transferred or  
20 discharged from his or her current residential facility, the county department shall  
21 assist the residential facility with discharge planning for the individual, including  
22 planning for a proper residential living arrangement and the necessary support  
23 services for the individual.

24 3. Any individual whose protective placement is terminated under this  
25 paragraph may reside in his or her current protective placement facility for up to 60

1 days after a determination under subd. 1. or 2. in order to arrange for an alternative  
2 living arrangement. If the protective placement facility has fewer than 16 beds, the  
3 individual may remain in the protective placement facility as long as the  
4 requirements of s. 55.055 are met. Admission by the individual, if an adult, to  
5 another residential facility shall be made under s. 55.055.

6 (4) ORDER FOR INDIVIDUAL RECEIVING COURT-ORDERED PROTECTIVE SERVICES. (a)  
7 After a hearing under sub. (2) on a petition for termination of an order for protective  
8 services, other than an order under s. 55.14, the court shall make one of the following  
9 orders and shall include in the order the information relied on as a basis for that  
10 order:

11 1. If the individual continues to meet the standards under s. 55.08 (2) and the  
12 protective services ordered for the individual are provided in the least restrictive  
13 manner that is consistent with the requirements of s. 55.12 (3), (4), and (5), the court  
14 shall continue the order for protective services.

15 2. If the individual continues to meet the standards under s. 55.08 (2) and the  
16 protective services ordered for the individual are not provided in the least restrictive  
17 manner that is consistent with the requirements of s. 55.12 (3), (4), and (5), the court  
18 shall make an order for protective services as provided in s. 55.16 (5) (a) 2.

19 3. If the individual no longer meets the standards for protective services under  
20 s. 55.08 (2), the court shall terminate the order for protective services.

21 (b) After a hearing under sub. (2) on a petition for termination of an order under  
22 s. 55.14, the court shall make one of the orders required under s. 55.19 (3) (e) and  
23 shall include in the order the information relied on as a basis for that order.

NOTE: Establishes procedures for the termination of a protective placement or  
court order for protective services. The provisions pertaining to who may petition, the  
contents of the petition, service of the petition, and requirement for conducting the

hearing for a modification of protective placement or court-ordered protective services apply to petitions for a termination of placement or services.

The court may make one of the following orders after a hearing on a petition for termination of protective placement or services:

1. If the individual continues to meet the statutory standards for protective placement and the placement is in the least restrictive environment consistent with the person's needs and with the statutory factors, order continuation of the person's protective placement in the same facility.

2. If the individual continues to meet the statutory standards for protective placement but the placement is not in an environment consistent with the person's needs and with the statutory factors, the court shall transfer the person to a facility that is in the least restrictive environment consistent with the person's needs and with the factors. In addition to this option, the court may also order protective services.

3. If the individual no longer meets the statutory standard for protective placement, the court shall terminate the protective placement. If the placement is terminated, the court must either order protective services or ensure the development of a proper living arrangement for the person if the individual is being transferred or discharged from his or her current residential facility. If the person who is the subject of the petition is under an order for protective services, the court may order continuation of the protective services order if the person continues to meet the statutory standard for court-ordered protective services; order that the protective services be provided in a manner more consistent with the person's needs; or terminate the order for protective services if the person no longer meets the standard.

1       \*~~-4829/P1.168~~\* **SECTION 168.** 55.18 of the statutes is created to read:

2       **55.18 Annual review of protective placement.** All of the following shall  
3       be performed with respect to any individual who is subject to an order for protective  
4       placement under s. 55.12 or to an order for protective placement initially issued  
5       under s. 55.06 (9) (a), 2003 stats.:

6           **(1) COUNTY DEPARTMENT PERFORMANCE OF REVIEW.** (a) 1. File a report of the  
7       review with the court that ordered the protective placement. The report shall include  
8       information on all of the following:

9           a. The functional abilities and disabilities of the individual at the time the  
10       review is made, including the needs of the individual for health, social, or  
11       rehabilitation services, and the level of supervision needed.

12           b. The ability of community services to provide adequate support for the  
13       individual's needs.

14           c. The ability of the individual to live in a less restrictive setting.

1 d. Whether sufficient services are available to support the individual and meet  
2 the individual's needs in the community and if so, an estimate of the cost of the  
3 services, including the use of county funds.

4 e. Whether the protective placement order should be terminated or whether the  
5 individual should be placed in another facility with adequate support services that  
6 places fewer restrictions on the individual's personal freedom, is closer to the  
7 individual's home community, or more adequately meets the individual's needs,  
8 including any recommendation that is made during the reporting period by the  
9 county department with respect to termination of the protective placement or  
10 placement of the individual in another facility.

11 f. The comments of the individual and the individual's guardian during the  
12 performance of the review, as summarized by the county department, and the  
13 response of the county department to the comments.

14 g. The comments, if any, of a staff member at the facility in which the individual  
15 is placed that are relevant to the review of the individual's placement.

16 2. File with the court under subd. 1. a petition for annual review by the court  
17 of the protective placement ordered for the individual.

18 3. Provide the report under subd. 1. to the individual and the guardian of the  
19 individual, and to the individual's agent under an activated power of attorney for  
20 health care, if any.

21 (b) If, following an annual review of an individual's status under par. (a), the  
22 individual or the individual's guardian or guardian ad litem requests modification  
23 or termination of the individual's protective placement and a hearing under the  
24 requirements of s. 55.10 (4) is provided, or if a hearing under the requirements of s.  
25 55.10 (4) is provided pursuant to a petition for modification or termination of the

1 protective placement, the county is not required to initiate a subsequent review of  
2 the individual's status under par. (a) until the first day of the 11th month after the  
3 date that the court issues a final order after the hearing.

4 (bm) If the individual is subject to an order for involuntary administration of  
5 psychotropic medication under s. 55.14, the review under par. (a) shall be conducted  
6 simultaneously with the review under s. 55.19.

7 (c) The review under par. (a) may not be conducted by a person who is an  
8 employee of the facility in which the individual resides.

9 (1m) COUNTY AGREEMENT. The county of residence of an individual whose  
10 placement is in a different county may enter into an agreement with that county  
11 under which the county of the individual's placement performs all or part of the  
12 duties of the county of residence under this section.

13 (2) GUARDIAN AD LITEM APPOINTMENT AND REPORT. After a county department has  
14 filed a report with a court under sub. (1) (a) 1., the court shall appoint a guardian ad  
15 litem in accordance with s. 757.48 (1). The guardian ad litem shall do all of the  
16 following:

17 55.18 (2) SECTION #. AM; 55.18 (2) (a), as created by 2005 Wisconsin Act 264,  
18 880.38 (3), and any other relevant reports on the individual's condition and  
19 (b) placement. 54.25 (1) (a)

20 (b) Meet with the individual and contact the individual's guardian and orally  
21 explain to the individual and guardian all of the following:

- 22 1. The procedure for review of protective placement.
- 23 2. The right of the individual to appointment of legal counsel under sub. (3) (c).
- 24 3. The right to an evaluation under sub. (3) (b).
- 25 4. The contents of the report under sub. (1) (a) 1.

1           5. That a change in or termination of protective placement may be ordered by  
2 the court.

3           6. The right to a hearing under sub. (3) (d) and an explanation that the  
4 individual or the individual's guardian may request a hearing that meets the  
5 requirements under s. 55.10 (4).

6           (c) Provide the information required under par. (b) to the individual and to the  
7 individual's guardian in writing.

8           (d) Review the individual's condition, placement, and rights with the  
9 individual's guardian.

10          (e) Ascertain whether the individual wishes to exercise any of his or her rights  
11 under sub. (3) (b), (c), or (d)

12          (f) Within 30 days after appointment, file with the court a written report based  
13 on information obtained under this subsection and any other evaluations or records  
14 of the individual. The report shall discuss whether the individual appears to  
15 continue to meet the standards for protective placement under s. 55.08 (1) and  
16 whether the protective placement is in the least restrictive environment that is  
17 consistent with the individual's needs. The report shall also state whether any of the  
18 following apply:

19           1. An evaluation under sub. (3) (b) is requested by the individual or the  
20 individual's guardian ad litem or guardian.

21           2. The individual or the individual's guardian requests modification or  
22 termination of the protective placement.

23           3. The individual or the individual's guardian requests or the guardian ad litem  
24 recommends that legal counsel be appointed for the individual.

1 4. The individual or the individual's guardian or guardian ad litem requests a  
2 full due process hearing under this section for the individual.

3 (g) Certify to the court that he or she has complied with the requirements of  
4 pars. (a) to (e).

5 55.18 SECTION AM; 55.18 (3)(a), as created by 2005 Wisconsin Act 264  
6 (3) COURT REVIEW OF REPORTS; HEARING ORDER. (a) The court that ordered

7 protective placement for an individual under s. 55.12 shall review the report of the  
8 guardian ad litem under sub. (2) (f), the report filed under sub. (1) (a) 1., and the  
9 report required under s. 880.38 (3). 54.25 (1)(a)

10 (b) The court shall order an evaluation, by a person who is not an employee of  
11 the county department of the physical, mental, and social condition of the individual  
12 and the service needs of the individual that is independent of the review performed  
13 under sub. (1) (a) if any of the following apply:

14 1. The report required under sub. (1) (a) 1. is not timely filed, or the court  
15 determines that the report fails to meet the requirements of sub. (1) (c).

16 2. Following review of the guardian ad litem's report under sub. (2) (f), the court  
17 determines that an independent evaluation for the individual is necessary.

18 3. The individual or the individual's guardian or guardian ad litem so requests.

19 (bm) If an evaluation is ordered under par. (b), it shall be performed at the  
20 expense of the individual or, if the individual is indigent, at the expense of the county  
21 under sub. (1) (a).

22 (br) The court shall order that the county department obtain any other  
23 necessary information with respect to the individual.

24 (c) The court shall order legal counsel for an individual and, if the individual  
25 appears to be indigent, refer him or her to the authority for indigency determinations  
under s. 977.07 (1) if any of the following apply:

1           1. Following review of the guardian ad litem's report under sub. (2) (f), the court  
2 determines that legal counsel for the individual is necessary.

3           2. The individual or the individual's guardian or guardian ad litem so requests.

4           (d) The court shall order either a summary hearing or a hearing under the  
5 requirements of s. 55.10 (4). A summary hearing shall be held on the record, may  
6 be held in court or by other means, including by telephone or videoconference, is not  
7 an evidentiary hearing, and does not require attendance by the individual. The court  
8 shall hold a hearing under the requirements of s. 55.10 (4) if any of the following  
9 apply:

10           1. The individual or the individual's guardian or guardian ad litem so requests.

11           2. The report under sub. (2) (f) indicates that the individual no longer meets the  
12 standards for protective placement under s. 55.08 (1).

13           3. The report under sub. (2) (f) indicates that the current protective placement  
14 is not in the least restrictive environment consistent with the individual's needs.

15           4. The report under sub. (2) (f) indicates that the individual objects to the  
16 current protective placement.

17           (e) Following the hearing under par. (d), the court shall do one of the following:

18           1. If the court finds that the individual continues to meet the standards under  
19 s. 55.08 (1) and the protective placement of the individual is in the least restrictive  
20 environment that is consistent with the requirements of s. 55.12 (3), (4), and (5), the  
21 court shall order the continuation of the protective placement in the facility in which  
22 the individual resides at the time of the hearing. The court shall include in the order  
23 the information relied upon as a basis for the order and shall make findings based  
24 on the standards under s. 55.08 (1) in support of the need for continuation of the  
25 protective placement.

1           2. If the court finds that the individual continues to meet the standards under  
2 s. 55.08 (1) and the protective placement of the individual is not in the least  
3 restrictive environment that is consistent with the requirements of s. 55.12 (3), (4),  
4 and (5), the court shall order transfer of the individual to a protective placement that  
5 is in the least restrictive environment consistent with the requirements of s. 55.12  
6 (3), (4), and (5). In lieu of ordering transfer of the individual to a specific facility, the  
7 court may order the county department of residence to develop or recommend a  
8 protective placement that is in the least restrictive environment consistent with the  
9 requirements of s. 55.12 (3), (4), and (5) and arrange for the individual's transfer to  
10 that protective placement within 60 days after the court's order. The court may  
11 extend this period to permit development of a protective placement. The court may  
12 order protective services as well as a transfer of protective placement. The court  
13 shall include in the order the information relied upon as a basis for the order and  
14 shall make findings based on the standards under s. 55.08 (1) in support of the need  
15 for continued protective placement.

16           3. If the court finds that the individual no longer meets the standards under  
17 s. 55.08 (1), the court shall terminate the protective placement. If the protective  
18 placement is terminated, s. 55.17 (3) (c) 1. to 3. shall apply.

19           (f) The court shall provide a copy of the order made under par. (e) to all of the  
20 following:

- 21           1. The individual.
- 22           2. The individual's guardian, guardian ad litem, and legal counsel, if any, and  
23 the individual's agent under an activated power of attorney for health care, if any.
- 24           3. The facility in which the individual resided when the petition for annual  
25 review was filed.

4. The county department under sub. (1) (a) and, if relevant, sub. (1m).

(4) ESTABLISHMENT OF COUNTY POLICY. The county department shall ensure that no later than 180 days after the effective date of this subsection .... [revisor inserts date], the county establishes a written policy that specifies procedures to be followed in the county that are designed to ensure that annual reviews of all individuals who are subject to orders for protective placement under s. 55.12 or to orders for protective placement initially issued under s. 55.06 (9) (a), 2003 stats., residing in the county are conducted as required by this section. The county department shall maintain a copy of the written policy and shall make the policy available for public inspection.

(5) REPORT BY REGISTER IN PROBATE. By the first January 31 after the effective date of this subsection .... [revisor inserts date], and by every January 31 thereafter, the register in probate of each county shall file with the chief judge of the judicial administrative district a statement indicating whether each report and petition required to be filed by the county department under sub. (1) that year has been filed. If the statement indicates that a required report or petition has not been filed, the statement shall include an explanation of the reasons the report or petition has not been filed.

NOTE: Requires annual court review of all orders for protective placement, as described in detail in the PREFATORY NOTE.

18 \*~~4829/P1.169~~\* SECTION 169. 55.19<sup>(intro.)</sup> of the statutes is ~~created~~ to read:

19 **55.19 Annual review of order authorizing involuntary administration**  
20 **of psychotropic medication.** All of the following shall be performed with respect  
21 to any individual who is subject to an order under s. 55.14 or an order initially issued  
22 under s. 880.33 (4r), 2003 stats., authorizing involuntary administration of  
23 psychotropic medication:

*, as created by 2005 Wisconsin Acts 264 and .... (Senate Bill 391), is repealed and recreated.*

1           (1) COUNTY DEPARTMENT PERFORMANCE OF REVIEW. (a) The county department  
2 of the individual's county of residence shall, except as provided in sub. (1m), review,  
3 in compliance with the requirements of this section, the status of each individual who  
4 is the subject of the order. The review shall include a visit to the individual and a  
5 written evaluation of the physical, mental, and social condition of the individual that  
6 is relevant to the issue of the continued need for the order. The review shall be made  
7 a part of the permanent record of the individual. The county department shall inform  
8 the guardian of the individual of the review at the time the review is made and shall,  
9 before completing a report of the review invite the individual and the guardian to  
10 submit comments or information concerning the individual's need for involuntary  
11 administration of psychotropic medication or other protective services. Not later  
12 than the first day of the 11th month after the initial order is made for an individual,  
13 except as provided in par. (b), and at least annually thereafter, the county  
14 department shall do all of the following:

- 15           1. File a report of the review with the court that issued the order. The report  
16 of the review shall include information on all of the following:           (Senate Bill 391),
- 17           a. Whether the individual continues to meet the standards for protective  
18 services.
- 19           b. Whether the individual is not competent to refuse psychotropic medication,  
20 as defined in s. 55.14 (1) (b).
- 21           c. Whether the individual continues to refuse to take psychotropic medication  
22 voluntarily; and whether attempting to administer psychotropic medication to the  
23 individual voluntarily is not feasible or is not in the best interests of the individual,  
24 including all information required to be specified under s. 55.14 (3) (c).

1 d. Whether the individual's condition for which psychotropic medication has  
2 been prescribed has been improved by psychotropic medication and the individual  
3 has responded positively to psychotropic medication.

4 e. If the petitioner alleged under s. 55.14 (3) (e) 2. that the individual met one  
5 of the dangerousness criteria set forth in s. 51.20 (1) (a) 2. a. to e., whether the  
6 individual continues to meet the criterion.

7 f. The comments of the individual and the individual's guardian during the  
8 performance of the review, as summarized by the county department, and the  
9 response of the county department to the comments.

10 g. The comments, if any, of a staff member at the facility at which the individual  
11 is placed or receives services or at which psychotropic medication is administered to  
12 the individual that are relevant to the review of the continued need for the order.

13 ~~2. File with the court under subd. 1. a petition for annual review by the court  
14 of the order.~~

15 ~~3. Provide the report under subd. 1. to the individual and the guardian of the  
16 individual.~~

17 <sup>SECTION . RC; 55.19 (1) (b), as created by 2005 Wisconsin Act 264</sup>  
<sup>and</sup>  
<sup>....</sup>  
<sup>(Senate</sup>  
<sup>Bill</sup>  
<sup>391),</sup>  
18 (b) If, following an annual review of an individual's status under par. (a), the  
19 individual or the individual's guardian or guardian ad litem requests termination of  
20 the order and a hearing under the requirements of s. 55.10 (4) is provided, or if a  
21 hearing under the requirements of s. 55.10 (4) is provided pursuant to a petition for  
22 modification or termination of the order, the county department is not required to  
23 initiate a subsequent review under par. (a) until the first day of the 11th month after  
the date that the court issues a final order after the hearing.

ⓑ

SECTION . RC; 55.19 (1) (bm), as created by 2005 Wisconsin Acts 264 and

1 55.19(1) (bm) If the individual is subject to a protective placement order, the review  
2 under par. (a) shall be conducted simultaneously with the review under s. 55.18 of  
3 the individual's protective placement.

(Senate Bill 391),

ⓑ

SECTION . RC; 55.19 (1) (c), as created by 2005 Wisconsin Acts 264 and

4 55.19(1) (c) The review under par. (a) may not be conducted by a person who is an  
5 employee of a facility in which the individual resides or from which the individual  
6 receives services.

55.19

SECTION . RC; 55.19 (1m), as created by 2005 Wisconsin Acts 264 and

7 (1m) COUNTY AGREEMENT. The county of residence of an individual who is  
8 subject to an order under s. 55.14 and is provided protective placement in a different  
9 county may enter into an agreement with that county under which the county of the  
10 individual's placement performs all or part of the duties of the county of residence  
11 under this section.

(Senate Bill 391),

~~(2) GUARDIAN AD LITEM APPOINTMENT AND REPORT. After a county department has  
filed a report with a court under sub. (1) (a) 1., the court shall appoint a guardian ad  
litem in accordance with s. 757.48 (1). The guardian ad litem shall do all of the  
following:~~

~~(a) Review the report filed under sub. (1) (a) 1., and any other relevant reports  
on the individual's condition and continued need for the order under s. 55.14.~~

~~(b) Meet with the individual and contact the individual's guardian and orally  
explain to the individual and guardian all of the following:~~

~~1. The procedure for review of an order for involuntary administration of  
psychotropic medication.~~

~~2. The right of the individual to appointment of legal counsel under sub. (3) (c).~~

~~3. The right to an evaluation under sub. (3) (b).~~

~~4. The contents of the report under sub. (1) (a) 1.~~

SECTION 169

SECTION . RC; 55.19(2)(b) 5., as created by 2005 Wisconsin Acts 264 and .... (Senate Bill 391),

1 55.19(2)(b) B

5. That a termination or modification of the order or modification of the treatment plan for involuntary administration of psychotropic medication may be ordered by the court.

4 55.19(2)(b) B

6. The right to a hearing under sub. (3) (d) and an explanation that the individual or the individual's guardian may request a hearing that meets the requirements under s. 55.10 (4).

SECTION . RC; 55.19(2)(c), as created by 2005 Wisconsin Acts 264 and .... (Senate Bill 391),

7 55.19(2)(b) B

(c) Provide the information required under par. (b) to the individual and to the individual's guardian in writing.

(d) Review the individual's condition and rights with the individual's guardian.

(e) Ascertain whether the individual wishes to exercise any of his or her rights under sub. (3) (b), (c), or (d).

(f) Within 30 days after appointment, file with the court a written report based on information obtained under this subsection and any other evaluations or records of the individual. The report shall discuss whether the individual appears to continue to meet the standards for an order under s. 55.14. The report shall also state whether any of the following apply:

1. An evaluation under sub. (3) (b) is requested by the guardian ad litem, the individual, or the individual's guardian.

2. The individual or the individual's guardian requests termination of the order under s. 55.14.

3. The individual or the individual's guardian requests or the guardian ad litem recommends that legal counsel be appointed for the individual.

SECTION . RC; 55.19(2)(f) 4., as created by 2005 Wisconsin Acts

23 24

4. The individual or the individual's guardian or guardian ad litem requests a full due process hearing under this section for the individual.

55.19(2)(f) B

264 and .... (Senate Bill 391)

Ⓟ

SECTION . RC; 55.19(2)(g), as created by 2005 Wisconsin Acts 264 and

1 55.19(2) (g). Certify to the court that he or she has complied with the requirements of  
2 pars. (a) to (e). (Senate Bill 391)

3 (3) COURT REVIEW OF REPORTS; HEARING; ORDER. (a) The court that issued the  
4 order under s. 55.14 shall review the report of the guardian ad litem under sub. (2)  
5 (f) and the report filed under sub. (1) (a) 1.

6 55.19(3) SECTION . RC; 55.19(3)(b) (intro), as created by 2005 Wisconsin Acts 264 and  
7 (b) The court shall order an evaluation, by a person who is not an employee of  
8 the county department, of the physical, mental, and social condition of the individual  
9 that is relevant to the issue of the continued need for the order under s. 55.14 and  
10 that is independent of the review performed under sub. (1) (a) if any of the following  
apply: (Senate Bill 391)

11 1. The report required under sub. (1) (a) 1. is not timely filed, or the court  
12 determines that the report fails to meet the requirements of sub. (1) (c).

13 2. Following review of the guardian ad litem's report under sub. (2) (f), the court  
14 determines that an independent evaluation for the individual is necessary.

15 3. The individual or the individual's guardian or guardian ad litem so requests.

16 (bm) If an evaluation is ordered under par. (b), it shall be performed at the  
17 expense of the individual or, if the individual is indigent, at the expense of the county  
18 under sub. (1) (a).

19 (br) The court shall order that the county department obtain any other  
20 necessary information with respect to the individual.

21 (g) The court shall order legal counsel for an individual and, if the individual  
22 appears to be indigent, refer him or her to the authority for indigency determinations  
23 under s. 977.07 (1) if any of the following apply:

24 1. Following review of the guardian ad litem's report under sub. (2) (f), the court  
25 determines that legal counsel for the individual is necessary.

1 <sup>(B)</sup> 2. The individual or the individual's guardian or guardian ad litem so requests,  
 2 <sup>SECTION . RC; 55.19 (3) (d) (intro.), as created by 2005 Wisconsin</sup>  
 3 (d) The court shall order either a summary hearing or a hearing under the Acts  
 4 requirements of s. 55.10 (4). A summary hearing shall be held on the record, may 264  
 5 be held in court or by other means, including by telephone or videoconference, is not and  
 6 an evidentiary hearing, and does not require attendance by the individual. The court (Senate  
 7 shall hold a hearing under the requirements of s. 55.10 (4) if any of the following Bill 391)

8 1. The individual or the individual's guardian or guardian ad litem so requests.  
 9 2. The report under sub. (2) (f) indicates that the individual no longer meets the  
 10 standards for an order under s. 55.14 (8).

11 3. The report under sub. (2) (f) indicates that the individual objects to the order.  
 12 (e) Following the hearing under par. (d), the court shall do one of the following:

13 1. If the court finds that the individual continues to meet the standards for an  
 14 order under s. 55.14 (8), the court shall order the continuation of the order. The court  
 15 shall include in the order the information relied upon as a basis for the order and  
 16 shall make findings based on the requirements for allegations of a petition under s.  
 17 55.14 (3) in support of the need for continuation of the order.

18 2. If the court finds that the individual continues to meet the standards for an  
 19 order under s. 55.14 (8) but that modification of the order or the treatment plan would  
 20 be in the best interests of the individual, the court shall modify the order, order  
 21 modifications to the individual's treatment plan, or both. Any modifications to the  
 22 treatment plan are subject to the approval of the guardian. The court shall include  
 23 in the order the information relied upon as a basis for its order and shall make  
 24 findings based on the requirements for allegations of a petition under s. 55.14 (3) in

1 support of the need for authorizing the guardian to consent to involuntary  
2 administration of psychotropic medication.

*SECTION RC; 55.19(3)(e) 3., as created by 2005 Wisconsin Act 264*

3 3. If the court finds that the individual no longer meets the standards for an  
4 order under s. 55.14 (8), the court shall terminate the order. If the order is  
5 terminated, the court shall review the needs of the individual with respect to other  
6 protective services. If the court determines that the individual meets the standards  
7 ~~for other protective services~~ *for other protective services* under s. 55.08 (2) that are not currently being provided  
8 to the individual, the court may order those protective services for the individual.

*(Senate Bill 391)*

9 (f) The court shall provide a copy of the order made under par. (e) to all of the  
10 following:

- 11 1. The individual.
- 12 2. The individual's guardian, guardian ad litem, and legal counsel, if any.
- 13 3. The facility in which the individual resided, if any, when the petition for  
14 annual review was filed.
- 15 4. The county department under sub. (1) (a) and, if relevant, sub. (1m).

NOTE: Requires annual court review of all orders authorizing involuntary administration of psychotropic medication, as described in detail in the PREFATORY NOTE.

16 ~~\*-4830/P2.122\* SECTION 122. 55.19 of the statutes is created to read:~~

17 ~~**55.19 Annual review of order authorizing involuntary administration**~~  
18 ~~**of psychotropic medication.**~~ In addition to or in conjunction with the annual  
19 review required under s. 55.06 (10), all of the following shall be performed with  
20 respect to any individual who is subject to an order under s. 55.14 or an order initially  
21 issued under s. 880.33 (4r), 2003 stats., authorizing involuntary administration of  
22 psychotropic medication:

1           (1) COUNTY DEPARTMENT PERFORMANCE OF REVIEW. (a) The county department  
2 of the individual's county of residence shall, except as provided in sub. (1m), review,  
3 in compliance with the requirements of this section, the status of each individual who  
4 is the subject of the order. The review shall include a visit to the individual and a  
5 written evaluation of the physical, mental, and social condition of the individual that  
6 is relevant to the issue of the continued need for the order. The review shall be made  
7 a part of the permanent record of the individual. The county department shall inform  
8 the guardian of the individual of the review at the time the review is made and shall  
9 invite the individual and the guardian to submit comments or information  
10 concerning the individual's need for involuntary administration of psychotropic  
11 medication or other protective services before completing a report of the review. Not  
12 later than the first day of the 11th month after the initial order is made for an  
13 individual, except as provided in par. (b), and at least annually thereafter, the county  
14 department shall do all of the following:

- 15           1. File a report of the review with the court that issued the order.
- 16           2. File with the court under subd. 1. a petition for annual review by the court  
17 of the order.
- 18           3. Provide the report under subd. 1. to the individual and the guardian of the  
19 individual.

20           (b) If, in an annual review of an individual's status under par. (a), the individual  
21 or the individual's guardian or guardian ad litem requests termination of the order  
22 and a full due process hearing is provided, or if a full due process hearing is provided  
23 under a petition for modification or termination of the order, the county department  
24 is not required to initiate a subsequent review under par. (a) until the first day of the

1 11th month after the date that the court issues a final order after the full due process  
2 hearing.

3 (bm) If the individual is subject to a protective placement order, the review  
4 under par. (a) shall be conducted simultaneously with any review of the individual's  
5 protective placement.

6 (c) The review under par. (a) may not be conducted by a person who is an  
7 employee of a facility in which the individual resides or from which the individual  
8 receives services. The report of the review shall include information on all of the  
9 following:

10 1. Whether the individual continues to meet the standards for protective  
11 services.

12 2. Whether the individual is not competent to refuse psychotropic medication,  
13 as defined in s. 55.14 (1) (b).

14 3. Whether the individual continues to refuse to take psychotropic medication  
15 voluntarily or attempting to administer psychotropic medication to the individual  
16 voluntarily is not feasible or is not in the best interests of the individual, as specified  
17 in s. 55.14 (3) (c).

18 4. Whether the individual's condition for which psychotropic medication has  
19 been prescribed has been improved by psychotropic medication and the individual  
20 has responded positively to psychotropic medication.

21 5. If the petitioner alleged under s. 55.14 (3) (e) 2. that the individual meet one  
22 of the dangerousness criteria set forth in s. 51.20 (1) (a) 2. a. to e., whether the  
23 individual continues to meet the criterion.

1 6. The comments of the individual and the individual's guardian during the  
2 performance of the review, as summarized by the county department, and the  
3 response of the county department to the comments.

4 7. The comments, if any, of a staff member at the facility at which the individual  
5 is placed or receives services or at which psychotropic medication is administered to  
6 the individual that are relevant to the review of the continued need for the order.

7 **(1m) COUNTY AGREEMENT.** The county of residence of an individual who is  
8 subject to an order under s. 55.14 and is protectively placed in a different county may  
9 enter into an agreement with that county under which the county of the individual's  
10 placement performs all or part of the duties of the county of residence under this  
11 section.

12 **(2) GUARDIAN AD LITEM APPOINTMENT AND REPORT.** After a county department has  
13 filed a report with a court under sub. (1) (a) 1., the court shall appoint a guardian ad  
14 litem in accordance with s. 757.48 (1). The guardian ad litem shall do all of the  
15 following:

16 (a) Review the report filed under sub. (1) (a) 1. and any other relevant reports  
17 on the individual's condition and continued need for the order under s. 55.14.

18 (b) Meet with the individual and contact the individual's guardian and orally  
19 explain to the individual and guardian all of the following:

20 1. The procedure for review of an order for involuntary administration of  
21 psychotropic medication.

22 2. The right of the individual to appointment of legal counsel under sub. (3) (c).

23 3. That the court may under sub. (3) (b) ~~the~~ order performance of an evaluation.

24 4. The contents of the report under sub. (1) (a) 1. ✓

SECTION . RC; 55.14(2)(b) 3., as created by 2005 Wisconsin Acts 264 and  
(Senate Bill 391)

1           5. That a termination of the order for involuntary administration of  
2 psychotropic medication may be ordered by the court.

3           6. The right to a full due process hearing under sub. (3) (d).

4           (c) Provide the information required under par. (b) to the individual in writing.

5           (d) Review the individual's condition and rights with the individual's guardian.

6           (e) Ascertain whether the individual wishes to exercise any of his or her rights  
7 under sub. (3) (b), (c), or (d).

8           (f) Within 30 days after appointment, file with the court a written report based  
9 on information obtained under this subsection and any other evaluations or records  
10 of the individual. The report shall discuss whether the individual appears to  
11 continue to meet the standards for an order under s. 55.14. The report shall also state  
12 whether any of the following apply:

13           1. An evaluation under sub. (3) (b) is requested by the guardian ad litem, the  
14 individual, or the individual's guardian.

15           2. The individual or the individual's guardian requests termination of the order  
16 under s. 55.14.

17           3. The individual or the individual's guardian requests or the guardian ad litem  
18 recommends that legal counsel be appointed for the individual.

19           4. The individual or his or her guardian or guardian ad litem requests a full due  
20 process hearing under this section for the individual.

21           (g) Certify to the court that he or she has complied with the requirements of  
22 pars. (b), (c), and (d).

23           **(3) COURT REVIEW OF REPORTS; HEARING; ORDER.** (a) The court that issued the  
24 order under s. 55.14 shall review the report of the guardian ad litem under sub. (2)  
25 (f) and the report filed under sub. (1) (a) 1.

(b) The court shall order performance, by a person who is not an employee of the county department, of an evaluation of the physical, mental, and social condition of the individual that is relevant to the issue of the continued need for the order under s. 55.14 that is independent of the review performed under sub. (1) (a) if any of the following apply:

1. The report required under sub. (1) (a) 1. is not timely filed, or the court determines that the report fails to meet the requirements of sub. (1) (c).

2. Following review of the guardian ad litem's report under sub. (2) (f), the court determines that an independent evaluation for the individual is necessary.

3. The individual or the individual's guardian or guardian ad litem so requests.

*SECTION . RC ; 55.19 (3) (bm), as created by 2005 Wisconsin Acts 264 and*

(11) 55.19(3) (bm) If an evaluation is ordered under par. (b), it shall be performed at the expense of the individual or, if the individual is indigent, at the expense of the county of residence under sub. (1) (a).

*and  
...  
(Senate  
Bill 391)*

*SECTION . RC ; 55.19 (3) (br), as created by 2005 Wisconsin Acts 264 and*

(14) 55.19(3) (br) The court may order that the county department obtain any other necessary information with respect to the individual.

*(Senate  
Bill 391)*

(c) The court shall order legal counsel for an individual and, if the individual appears to be indigent, refer him or her to the authority for indigency determinations under s. 977.07 (1) if any of the following apply:

1. Following review of the guardian ad litem's report under sub. (2) (f), the court determines that legal counsel for the individual is necessary.

2. The individual or the individual's guardian or guardian ad litem so requests.

(d) The court shall order either a summary hearing or a full due process hearing. A summary hearing may be held in court or may be held by other means including by telephone or video conference. The court shall hold a full due process hearing if any of the following apply:

- 1            1. The individual or the individual's guardian or guardian ad litem so requests.
- 2            2. The report under sub. (2) (f) indicates that the individual no longer meets the
- 3 standards for an order under s. 55.14 (8).
- 4            3. The report under sub. (2) (f) indicates that the individual objects to the order.
- 5            (e) Following the hearing under par. (d), the court shall do one of the following:

*SECTION . RC; 55.19 (3)(e) 1., as created by 2005 Wisconsin Acts 264*

- 6            1. If the court finds that the individual continues to meet the standards for an
- 7            order under s. 55.14 (8), the court shall order the continuation of the order. The court
- 8 shall include in the decision the information relied upon as a basis for continuation
- 9 of the order and shall make findings based on the requirements for allegations of a
- 10 petition under s. 55.14 (3) in support of the need for continuation of the order.

⑥  
55.19  
(3)(e)  
B

and  
...  
(Senate  
Bill  
391)

*SECTION . RC; 55.19 (3) (e) 2., as created by 2005 Wisconsin Acts 264*

- 11           2. If the court finds that the individual continues to meet the standards for an
- 12 order under s. 55.14 (8) but that modification of the order or the treatment plan would
- 13 be in the best interests of the individual, the court shall modify the order, order
- 14 modifications to the individual's treatment plan, or both. Any modifications to the
- 15 treatment plan are subject to the approval of the guardian. The court shall include
- 16 in the decision the information relied upon as a basis for continuation of the order
- 17 and shall make findings based on the requirements for allegations of a petition under
- 18 s. 55.14 (3) in support of the need for authorizing the guardian to consent to
- 19 involuntary administration of psychotropic medication.

⑥  
55.19 (3)  
(e)  
B

and  
...  
(Senate  
Bill  
391)

- 20           3. If the court finds that the individual no longer meets the standards for an
- 21 order under s. 55.14 (8), the court shall terminate the order. If the order is
- 22 terminated, the court shall review the needs of the individual with respect to other
- 23 protective services. If the court determines that the individual meets the standards
- 24 for other protective services under this chapter that are not currently being provided
- 25 to the individual, the court may order those protective services for the individual.

1 (f) The court shall provide a copy of the order made under par. (e) to all of the  
2 following:

3 1. The individual.

4 2. The individual's guardian, guardian ad litem, and legal counsel, if any.

5 3. The facility in which the individual resided, if any, when the petition for  
6 annual review was filed.

7 4. The county department under sub. (1) (a) and, if relevant, sub. (1m).

8 ~~\*-4830/P2.123\* SECTION 123. 55.195 (7) of the statutes is created to read:~~

9 ~~55.195 (7) Provide a summary written report to the court.~~

10 ~~\*-4830/P2.124\* SECTION 124. 55.195 (9) of the statutes is created to read:~~

11 ~~55.195 (9) Attend the hearing.~~

12 ~~\*-4830/P2.125\* SECTION 125. 58.05 (2) of the statutes is amended to read:~~

13 ~~58.05 (2) Any person who is mentally ill or retarded developmentally disabled~~  
14 ~~may, upon the written request of his or her guardian, be committed to any such~~  
15 ~~hospital or institution in the manner persons who are adjudged mentally adjudicated~~  
16 ~~incompetent are committed to the state hospitals; but the county in which such the~~  
17 ~~person resides shall be liable for his or her support, maintenance, and treatment only~~  
18 ~~when he or she has been committed upon the request of the county board, and such~~  
19 ~~the hospital or institution ~~shall not be~~ is not required to keep, care for, or treat any~~  
20 ~~person who is mentally ill or retarded developmentally disabled longer than his or~~  
21 ~~her guardian or, friends, or the county from which he or she shall have been~~  
22 ~~committed shall defray the expenses of his or her care and treatment. Any person~~  
23 ~~may voluntarily place himself or herself in such hospital, asylum, or institution for~~  
24 ~~care and treatment.~~

25 ~~\*-4830/P2.126\* SECTION 126. 66.0915 (1) of the statutes is amended to read:~~

1           66.0915 (1) PRIVATE VIADUCTS IN CITIES, VILLAGES AND TOWNS. The privilege of  
2     erecting a viaduct above a public street, road, or alley, for the purpose of connecting  
3     buildings on each side, may be granted by the city council, village board, or town  
4     board upon the written petition of the owners of all the frontage of the lots and lands  
5     abutting the portion sought to be connected, and the owners of more than one-half  
6     of the frontage of the lots and lands abutting upon that portion of the remainder that  
7     lies within 2,650 feet from the ends of the portion proposed to be connected. If a lot  
8     or land is owned by the state, or by a county, city, village, or town, or by a minor or  
9     individual adjudicated incompetent person, or the title to the lot or land is held in  
10    trust, the petition may be signed by the governor, the chairperson of the county  
11    board, the mayor of the city, the president of the board of trustees of the village, the  
12    chairperson of the town board, the guardian of the minor or individual adjudicated  
13    incompetent person, or the trustee, respectively, and the signature of a private  
14    corporation may be made by its president, secretary, or other principal officer or  
15    managing agent. Written notice stating when and where the petition will be acted  
16    upon, and describing the location of the proposed viaduct, shall be given by the city  
17    council, village board, or town board by publication of a class 3 notice, under ch. 985.

18           \*~~4830/P2.127~~\* SECTION 127. 66.0915 (2) of the statutes is amended to read:

19           66.0915 (2) REMOVAL OF PRIVATE VIADUCTS. A viaduct in a city, village, or town  
20    may be discontinued by the city council, village board, or town board, upon written  
21    petition of the owners of more than one-half of the frontage of the lots and lands  
22    abutting on the street or road approaching on each end of the viaduct, which lies  
23    within 2,650 feet from the ends of the viaduct. If a lot or land is owned by the state,  
24    or by a county, city, village, or town, or by a minor or individual adjudicated  
25    incompetent person, or the title to the lot or land is held in trust, the petition may

1 be signed by the governor, the chairperson of the county board, the mayor of the city,  
2 the president of the board of trustees of the village, the chairperson of the town board,  
3 the guardian of the minor or individual adjudicated incompetent person, or the  
4 trustee, respectively, and the signature of a private corporation may be made by its  
5 president, secretary, or other principal officer or managing agent. Written notice  
6 stating when and where the petition will be acted upon, and stating what viaduct is  
7 proposed to be discontinued, shall be given by the city council, village board, or town  
8 board by publication of a class 1 notice, under ch. 985, not less than one year before  
9 the day fixed for the hearing and a class 3 notice, under ch. 985, within the 30 days  
10 before the date of the hearing.

11 **\*-4830/P2.128\* SECTION 128.** 71.07 (3m) (a) 1. e. of the statutes is amended  
12 to read:

13 71.07 (3m) (a) 1. e. For purposes of filing a claim under this subsection, when  
14 a guardian has been appointed ~~under ch. 880~~ in this state for a ward who owns the  
15 farmland, the claimant shall be the guardian on behalf of the ward.

16 **\*-4830/P2.129\* SECTION 129.** 71.28 (2m) (a) 1. e. of the statutes is amended  
17 to read:

18 71.28 (2m) (a) 1. e. For purposes of filing a claim under this subsection, when  
19 a guardian has been appointed ~~under ch. 880~~ in this state for a ward who owns the  
20 farmland, the claimant shall be the guardian on behalf of the ward.

21 **\*-4830/P2.130\* SECTION 130.** 71.47 (2m) (a) 1. e. of the statutes is amended  
22 to read:

23 71.47 (2m) (a) 1. e. For purposes of filing a claim under this subsection, when  
24 a guardian has been appointed ~~under ch. 880~~ in this state for a ward who owns the  
25 farmland, the claimant shall be the guardian on behalf of the ward.