



ASSEMBLY BILL 785

1 **SECTION 18.** 46.286 (1) (intro.) of the statutes is amended to read:

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

7 **SECTION 19.** 46.286 (3) (a) (intro.) of the statutes is amended to read:

8 46.286 (3) (a) (intro.) Subject to pars. (c) and (d), a person is entitled to and may
9 receive the family care benefit through enrollment in a care management
10 organization if he or she is at least 18 years of age, has a physical disability, as defined
11 in s. 15.197 (4) (a) 2., a developmental disability, as defined in s. 51.01 (5) (a), or
12 ~~infirmities of aging~~ degenerative brain disorder, as defined in s. 55.01 (3) (1v), is
13 financially eligible, fulfills any applicable cost-sharing requirements and meets any
14 of the following criteria:

15 **SECTION 20.** 46.286 (3) (a) 3. of the statutes is amended to read:

16 46.286 (3) (a) 3. Is functionally eligible at the intermediate level and is
17 determined by an agency under s. 46.90 (2) or specified by a county protective
18 services agency, as defined in s. 55.01 (1t), to be in need of protective services under
19 ~~s. 55.05~~ or protective placement under s. 55.06 ch. 55.

20 **SECTION 21.** 46.2895 (10) of the statutes is amended to read:

21 46.2895 (10) **EXCHANGE OF INFORMATION.** Notwithstanding sub. (9) and ss. 48.78
22 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), ~~55.06 (17) (e)~~ 55.22 (3), 146.82, 252.11
23 (7), 253.07 (3) (c) and 938.78 (2) (a), a family care district acting under this section
24 may exchange confidential information about a client, as defined in s. 46.287 (1),
25 without the informed consent of the client, under s. 46.21 (2m) (c), 46.215 (1m), 46.22

ASSEMBLY BILL 785**SECTION 21**

1 (1) (dm), 46.23 (3) (e), 46.283 (7), 46.284 (7), 51.42 (3) (e) or 51.437 (4r) (b) in the
2 jurisdiction of the family care district, if necessary to enable the family care district
3 to perform its duties or to coordinate the delivery of services to the client.

4 **SECTION 22.** 46.90 (1) (c) of the statutes is amended to read:

5 46.90 (1) (c) “Elder person” means a person who is age 60 or older or who is
6 subject to the ~~infirmities of aging~~ degenerative brain disorder.

7 **SECTION 23.** 46.90 (1) (d) of the statutes is renumbered 46.90 (1) (bg) and
8 amended to read:

9 46.90 (1) (bg) “~~Infirmities of aging~~ Degenerative brain disorder” has the
10 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”.

11 **SECTION 24.** 49.001 (5m) of the statutes is amended to read:

12 49.001 (5m) “Prisoner” means any person who is either arrested, incarcerated,
13 imprisoned or otherwise detained in excess of 12 hours by any law enforcement
14 agency of this state, except when detention is pursuant to s. 51.15, 51.20, 51.45 (11)
15 (b) or ~~55.06 (11) (a), 55.13, or 55.135~~ or ch. 980. “Prisoner” does not include any person
16 who is serving a sentence of detention under s. 973.03 (4) unless the person is in the
17 county jail under s. 973.03 (4) (c).

NOTE: Changes a cross-reference to emergency detention, the provisions of which
are renumbered in this bill.

18 **SECTION 25.** 49.001 (8) of the statutes is amended to read:

19 49.001 (8) “Voluntary” means according to a person’s individual’s free choice,
20 if competent, or, if incompetent, by choice of a guardian if incompetent, unless the
21 individual is subject to a court-ordered placement under ch. 55, is placed by an
22 agency having a court-ordered involuntary commitment of the individual under ch.

ASSEMBLY BILL 785

1 51, or is involuntarily committed to the department of corrections or to the
2 department under ch. 971 or 980.

NOTE: Amends the definition of “voluntary” in ch. 49.

3 **SECTION 26.** 49.43 (10v) of the statutes is created to read:

4 49.43 (10v) “Serious and persistent mental illness” has the meaning given in
5 s. 51.01 (14t).

6 **SECTION 27.** 49.45 (6m) (i) 2. of the statutes is amended to read:

7 49.45 (6m) (i) 2. Payment for personal or residential care is available for a
8 person in a facility certified under 42 USC 1396 to 1396p only if the person entered
9 a facility before the date specified in subd. 1. and has continuously resided in a
10 facility since the date specified in subd. 1. If the person has a primary diagnosis of
11 developmental disabilities or ~~chronic~~ serious and persistent mental illness, payment
12 for personal or residential care is available only if the person entered a facility on or
13 before November 1, 1983.

14 **SECTION 28.** 49.45 (25) (am) 2. of the statutes is amended to read:

15 49.45 (25) (am) 2. Has a ~~chronic~~ serious and persistent mental illness, as
16 defined under s. 51.01 (3g).

NOTE: SECTIONS 26 to 28 change the term “chronic mental illness” to “serious and persistent mental illness”, which is the more up-to-date term.

17 **SECTION 29.** 49.45 (30m) (b) of the statutes is amended to read:

18 49.45 (30m) (b) No payment under this section may be made for services
19 specified under par. (a) or (am) unless the individual who receives the services is
20 protectively placed provided protective placement under s. 55.06 (9) (a), 2003 stats.,
21 or s. 55.12, is provided emergency protective services under s. 55.05 (4), 2003 stats.,
22 or s. 55.13, or is placed under provided an emergency protective placement under s.

ASSEMBLY BILL 785

SECTION 29

1 55.06 (11) (a), 2003 stats., or s. 55.135 or a temporary protective placement under s.
2 55.06 (11) (c), 2003 stats., or s. 55.135 (5) or 55.055 (5).

NOTE: Changes cross-references to protective placement and emergency protective placement proceedings, the provisions of which are renumbered in the draft.

3 **SECTION 30.** 49.45 (30m) (c) 2. of the statutes is amended to read:

4 49.45 **(30m)** (c) 2. For an individual who was ~~protectively placed~~ provided
5 protective placement under ch. 55 at any time, any annual review that is conducted
6 under s. ~~55.06 (10) (a) 1.~~ 55.18 (1) (a) (intro.) after April 30, 2005, complies with the
7 requirements of s. ~~55.06 (10) (a) 2~~ 55.18 (1) (ar).

NOTE: Changes cross-references to annual review of protective placement, the provisions of which are renumbered in the draft.

8 **SECTION 31.** 50.02 (2) (ad) of the statutes is created to read:

9 50.02 **(2)** (ad) The department shall promulgate rules that require each facility
10 licensed under this subchapter to provide information necessary for the department
11 to assess the facility's compliance with s. 55.14.

NOTE: Requires the DHFS to promulgate rules that require community-based residential facilities, nursing homes, adult family homes, and residential care apartment complexes to provide DHFS information necessary for DHFS to determine if those facilities are in compliance with the provisions relating to involuntary administration of psychotropic medication created by the bill.

12 **SECTION 32.** 50.03 (5m) (c) of the statutes is amended to read:

13 50.03 **(5m)** (c) *Relocation.* The department shall offer removal and relocation
14 assistance to residents removed under this section, including information on
15 available alternative placements. Residents shall be involved in planning the
16 removal and shall choose among the available alternative placements, except that
17 where an emergency situation makes prior resident involvement impossible the
18 department may make a temporary placement until a final placement can be
19 arranged. Residents may choose their final alternative placement and shall be given
20 assistance in transferring to such place. No resident may be forced to remain in a

ASSEMBLY BILL 785

1 temporary or permanent placement except pursuant to ~~the procedures provided~~
2 under s. 55.06, 2003 stats., or an order under s. 55.12 for protective placement. Where
3 the department makes or participates in making the relocation decision,
4 consideration shall be given to proximity to residents' relatives and friends.

5 **SECTION 33.** 50.06 (2) (c) of the statutes is amended to read:

6 50.06 (2) (c) A petition for guardianship for the individual under s. 880.07 and
7 a petition under s. 55.075 for protective placement of the individual ~~under s. 55.06~~
8 ~~(2)~~ are filed prior to the proposed admission.

NOTE: Changes a cross-reference to the petition for protective placement, the provisions of which are renumbered in the draft.

9 **SECTION 34.** 50.06 (2) (d) of the statutes is created to read:

10 50.06 (2) (d) The incapacitated individual does not verbally object to or
11 otherwise actively protest the admission. If he or she makes such an objection or
12 protest, he or she may be admitted to the facility, but the person in charge of the
13 facility shall immediately notify the county department under s. 55.02 (2) for the
14 county in which the individual is living or the agency with which the county
15 department contracts. Representatives of the county department or agency shall
16 visit the individual as soon as possible, but not later than 72 hours after notification,
17 and do all of the following:

18 1. Determine whether the protest persists or has been voluntarily withdrawn
19 and consult with the person who consented to the admission regarding the reasons
20 for the admission.

21 2. Attempt to have the incapacitated individual released within 72 hours if the
22 protest is not withdrawn and the individual does not satisfy all of the criteria under

ASSEMBLY BILL 785**SECTION 34**

1 s. 55.08 (1) or 55.135 (1), and provide assistance in identifying appropriate
2 alternative living arrangements.

3 3. Comply with s. 55.135 if the requirements of s. 55.135 (1) are met and
4 emergency protective placement in that facility or another facility is necessary or file
5 a petition for protective placement under s. 55.075. The court, with the permission
6 of the facility, may order the incapacitated individual to remain in the facility
7 pending the outcome of the protective placement proceedings.

NOTE: Creates a new provision in the statute relating to admissions of
incapacitated persons to facilities such as nursing homes and community-based
residential facilities. Currently, such admissions directly from a hospital to a facility may
be made if certain specified persons consent to the admission, if the incapacitated person
does not have a valid power of attorney for health care and has not been adjudicated
incompetent under ch. 880, if certain conditions apply. This SECTION adds another
condition, which requires that the incapacitated individual does not verbally object to or
otherwise actively protest the admission. This SECTION also sets out what procedure must
be followed if the person objects to or protests the admission.

8 **SECTION 35.** 51.01 (2g) (b) of the statutes is amended to read:

9 51.01 (2g) (b) “Brain injury” does not include alcoholism, Alzheimer’s disease
10 as specified under s. 46.87 (1) (a) or ~~the infirmities of aging~~ degenerative brain
11 disorder, as specified under ~~s. 55.01 (3)~~ defined in s. 55.01 (1v).

12 **SECTION 36.** 51.01 (3g) of the statutes is renumbered 51.01 (14t) and amended
13 to read:

14 51.01 (14t) “Chronic Serious and persistent mental illness” means a mental
15 illness ~~which that~~ is severe in degree and persistent in duration, ~~which that~~ causes
16 a substantially diminished level of functioning in the primary aspects of daily living
17 and an inability to cope with the ordinary demands of life, ~~which that~~ may lead to
18 an inability to maintain stable adjustment and independent functioning without
19 long-term treatment and support, and ~~which that~~ may be of lifelong duration.
20 “Chronic Serious and persistent mental illness” includes schizophrenia as well as a

ASSEMBLY BILL 785

1 wide spectrum of psychotic and other severely disabling psychiatric diagnostic
2 categories, but does not include ~~infirmities of aging~~ degenerative brain disorder, as
3 defined in s. 55.01 (1v), or a primary diagnosis of ~~mental retardation~~ a developmental
4 disability or of alcohol or drug dependence.

5 SECTION 37. 51.01 (3s) of the statutes is amended to read:

6 51.01 (3s) “Community support program” means a coordinated care and
7 treatment system ~~which~~ that provides a network of services through an identified
8 treatment program and staff to ensure ongoing therapeutic involvement and
9 individualized treatment in the community for ~~persons~~ individuals with ~~chronic~~
10 serious and persistent mental illness.

11 SECTION 38. 51.01 (5) (a) of the statutes is amended to read:

12 51.01 (5) (a) “Developmental disability” means a disability attributable to
13 brain injury, cerebral palsy, epilepsy, autism, Prader-Willi syndrome, mental
14 retardation, or another neurological condition closely related to mental retardation
15 or requiring treatment similar to that required for mental retardation, which has
16 continued or can be expected to continue indefinitely and constitutes a substantial
17 handicap to the afflicted individual. “Developmental disability” does not include
18 ~~senility which~~ ^{INS. 1-1} that is primarily caused by the process of aging or the infirmities of
19 aging degenerative brain disorder, as defined in s. 55.01 (1v).

NOTE: SECTIONS 35 to 38 revise the terms “chronic mental illness”, “mental
retardation”, and “infirmities of aging” to “serious and persistent mental illness”,
“developmental disability”, and “degenerative brain disorder”.

20 SECTION 39. 51.03 (3) (a) 6. of the statutes is amended to read:

21 51.03 (3) (a) 6. The number of ~~persons~~ individuals for whom guardians are
22 appointed under s. 55.14 or s. 880.33 (4m), 2003 stats.

23 ~~SECTION 40. 51.10 (4m) (a) (intro.) of the statutes is amended to read:~~ (2-1)

ASSEMBLY BILL 785

SECTION 40

1 51.10 (4m) (a) (intro.) An adult who meets the criteria for voluntary admission
 2 under sub. (4) and whose admission is approved under sub. (1) or (2) may also be
 3 admitted to an inpatient treatment facility if:

INSERT 2-1

NOTE: Deletes the requirement that the voluntary admission of an adult to an inpatient treatment facility who does not indicate a desire to leave the facility be approved by the treatment director of the treatment facility or the director of a center for the developmentally disabled and the county department.

Strike Note

4 **SECTION 41.** 51.10 (8) of the statutes is amended to read:

5 51.10 (8) An adult for whom, because of incompetency, a guardian of the person
 6 has been appointed under ch. 880 ~~because of the subject's incompetency~~ may be
 7 voluntarily admitted to an inpatient treatment facility ~~under this section~~ only if the
 8 guardian consents after the requirements of sub. (4m) (a) 1. are satisfied or if the
 9 guardian and the ward consent to such the admission under this section.

NOTE: Provides that the guardian of an incompetent adult may provide consent to the voluntary admission of the ward to an inpatient treatment facility, in cases where the ward does not indicate a desire to leave the facility, if the procedures for voluntary admission in ch. 51 are followed.

10 **SECTION 42.** 51.15 (1) (a) 4. of the statutes is amended to read:

11 51.15 (1) (a) 4. Behavior manifested by a recent act or omission that, due to
 12 mental illness or drug dependency, he or she is unable to satisfy basic needs for
 13 nourishment, medical care, shelter, or safety without prompt and adequate
 14 treatment so that a substantial probability exists that death, serious physical injury,
 15 serious physical debilitation, or serious physical disease will imminently ensue
 16 unless the individual receives prompt and adequate treatment for this mental illness
 17 or drug dependency. No substantial probability of harm under this subdivision exists
 18 if reasonable provision for the individual's treatment and protection is available in
 19 the community and there is a reasonable probability that the individual will avail
 20 himself or herself of these services, if the individual can receive protective placement

ASSEMBLY BILL 785

1 ~~under s. 55.06~~ may be provided protective placement or protective services under ch.
2 55, or, in the case of a minor, if the individual is appropriate for services or placement
3 under s. 48.13 (4) or (11) or 938.13 (4). The individual's status as a minor does not
4 automatically establish a substantial probability of death, serious physical injury,
5 serious physical debilitation or serious disease under this subdivision. Food, shelter
6 or other care provided to an individual who is substantially incapable of providing
7 the care for himself or herself, by any person other than a treatment facility, does not
8 constitute reasonable provision for the individual's treatment or protection available
9 in the community under this subdivision.

10 **SECTION 43.** 51.15 (5) of the statutes is amended to read:

11 51.15 (5) DETENTION PROCEDURE; OTHER COUNTIES. In counties having a
12 population of less than 500,000, the law enforcement officer or other person
13 authorized to take a child into custody under ch. 48 or to take a juvenile into custody
14 under ch. 938 shall sign a statement of emergency detention that shall provide
15 detailed specific information concerning the recent overt act, attempt, or threat to
16 act or omission on which the belief under sub. (1) is based and the names of persons
17 observing or reporting the recent overt act, attempt, or threat to act or omission. The
18 law enforcement officer or other person is not required to designate in the statement
19 whether the subject individual is mentally ill, developmentally disabled, or drug
20 dependent, but shall allege that he or she has cause to believe that the individual
21 evidences one or more of these conditions. The statement of emergency detention
22 shall be filed by the officer or other person with the detention facility at the time of
23 admission, and with the court immediately thereafter. The filing of the statement
24 has the same effect as a petition for commitment under s. 51.20. When, upon the
25 advice of the treatment staff, the director of a facility specified in sub. (2) determines

ASSEMBLY BILL 785**SECTION 43**

1 that the grounds for detention no longer exist, he or she shall discharge the
2 individual detained under this section. Unless a hearing is held under s. 51.20 (7)
3 or ~~55.06 (11) (b)~~ 55.135, the subject individual may not be detained by the law
4 enforcement officer or other person and the facility for more than a total of 72 hours,
5 exclusive of Saturdays, Sundays, and legal holidays.

6 **SECTION 44.** 51.20 (1) (a) 2. c. of the statutes is amended to read:

7 51.20 (1) (a) 2. c. Evidences such impaired judgment, manifested by evidence
8 of a pattern of recent acts or omissions, that there is a substantial probability of
9 physical impairment or injury to himself or herself. The probability of physical
10 impairment or injury is not substantial under this subd. 2. c. if reasonable provision
11 for the subject individual's protection is available in the community and there is a
12 reasonable probability that the individual will avail himself or herself of these
13 services, if the individual is ~~appropriate for protective placement under s. 55.06~~ may
14 be provided protective placement or protective services under ch. 55, or, in the case
15 of a minor, if the individual is appropriate for services or placement under s. 48.13
16 (4) or (11) or 938.13 (4). The subject individual's status as a minor does not
17 automatically establish a substantial probability of physical impairment or injury
18 under this subd. 2. c. Food, shelter or other care provided to an individual who is
19 substantially incapable of obtaining the care for himself or herself, by a person other
20 than a treatment facility, does not constitute reasonable provision for the subject
21 individual's protection available in the community under this subd. 2. c.

22 **SECTION 45.** 51.20 (1) (a) 2. d. of the statutes is amended to read:

23 51.20 (1) (a) 2. d. Evidences behavior manifested by recent acts or omissions
24 that, due to mental illness, he or she is unable to satisfy basic needs for nourishment,
25 medical care, shelter or safety without prompt and adequate treatment so that a

ASSEMBLY BILL 785

1 substantial probability exists that death, serious physical injury, serious physical
2 debilitation, or serious physical disease will imminently ensue unless the individual
3 receives prompt and adequate treatment for this mental illness. No substantial
4 probability of harm under this subd. 2. d. exists if reasonable provision for the
5 individual's treatment and protection is available in the community and there is a
6 reasonable probability that the individual will avail himself or herself of these
7 services, if the individual ~~is appropriate for protective placement under s. 55.06~~ may
8 be provided protective placement or protective services under ch. 55, or, in the case
9 of a minor, if the individual is appropriate for services or placement under s. 48.13
10 (4) or (11) or 938.13 (4). The individual's status as a minor does not automatically
11 establish a substantial probability of death, serious physical injury, serious physical
12 debilitation or serious disease under this subd. 2. d. Food, shelter or other care
13 provided to an individual who is substantially incapable of obtaining the care for
14 himself or herself, by any person other than a treatment facility, does not constitute
15 reasonable provision for the individual's treatment or protection available in the
16 community under this subd. 2. d.

17 **SECTION 46.** 51.20 (1) (a) 2. e. of the statutes is amended to read:

18 51.20 (1) (a) 2. e. For an individual, other than an individual who is alleged to
19 be drug dependent or developmentally disabled, after the advantages and
20 disadvantages of and alternatives to accepting a particular medication or treatment
21 have been explained to him or her and because of mental illness, evidences either
22 incapability of expressing an understanding of the advantages and disadvantages of
23 accepting medication or treatment and the alternatives, or substantial incapability
24 of applying an understanding of the advantages, disadvantages, and alternatives to
25 his or her mental illness in order to make an informed choice as to whether to accept

ASSEMBLY BILL 785**SECTION 46**

1 or refuse medication or treatment; and evidences a substantial probability, as
2 demonstrated by both the individual's treatment history and his or her recent acts
3 or omissions, that the individual needs care or treatment to prevent further
4 disability or deterioration and a substantial probability that he or she will, if left
5 untreated, lack services necessary for his or her health or safety and suffer severe
6 mental, emotional, or physical harm that will result in the loss of the individual's
7 ability to function independently in the community or the loss of cognitive or
8 volitional control over his or her thoughts or actions. The probability of suffering
9 severe mental, emotional, or physical harm is not substantial under this subd. 2. e.
10 if reasonable provision for the individual's care or treatment is available in the
11 community and there is a reasonable probability that the individual will avail
12 himself or herself of these services or if the individual ~~is appropriate for protective~~
13 ~~placement under s. 55.06~~ may be provided protective placement or protective
14 services under ch. 55. Food, shelter, or other care that is provided to an individual
15 who is substantially incapable of obtaining food, shelter, or other care for himself or
16 herself by any person other than a treatment facility does not constitute reasonable
17 provision for the individual's care or treatment in the community under this subd.
18 2. e. The individual's status as a minor does not automatically establish a substantial
19 probability of suffering severe mental, emotional, or physical harm under this subd.
20 2. e.

21 **SECTION 47.** 51.20 (1) (am) of the statutes is amended to read:

22 51.20 (1) (am) If the individual has been the subject of inpatient treatment for
23 mental illness, developmental disability, or drug dependency immediately prior to
24 commencement of the proceedings as a result of a voluntary admission or, a
25 commitment or protective placement ordered by a court under this section or s. 55.06,

ASSEMBLY BILL 785

1 2003 stats., or s. 971.17, or ch. 975, or a protective placement or protective services
2 ordered under s. 55.12, or if the individual has been the subject of outpatient
3 treatment for mental illness, developmental disability, or drug dependency
4 immediately prior to commencement of the proceedings as a result of a commitment
5 ordered by a court under this section ~~or~~, s. 971.17, or ch. 975, the requirements of a
6 recent overt act, attempt or threat to act under par. (a) 2. a. or b., ~~a~~ pattern of recent
7 acts or omissions under par. (a) 2. c. or e., or recent behavior under par. (a) 2. d. may
8 be satisfied by a showing that there is a substantial likelihood, based on the subject
9 individual's treatment record, that the individual would be a proper subject for
10 commitment if treatment were withdrawn. If the individual has been admitted
11 voluntarily to an inpatient treatment facility for not more than 30 days prior to the
12 commencement of the proceedings and remains under voluntary admission at the
13 time of commencement, the requirements of a specific recent overt act, attempt or
14 threat to act, or pattern of recent acts or omissions may be satisfied by a showing of
15 an act, attempt or threat to act, or ~~a~~ pattern of acts or omissions which took place
16 immediately previous to the voluntary admission. If the individual is committed
17 under s. 971.14 (2) or (5) at the time proceedings are commenced, or has been
18 discharged from the commitment immediately prior to the commencement of
19 proceedings, acts, attempts, threats, omissions, or behavior of the subject individual
20 during or subsequent to the time of the offense shall be deemed recent for purposes
21 of par. (a) 2.

22 **SECTION 48.** 51.20 (1m) of the statutes is amended to read:

23 **51.20 (1m) ALTERNATE GROUNDS FOR COMMITMENT.** For purposes of subs. (2) to
24 (9), the requirement of finding probable cause to believe the allegations in sub. (1)
25 (a) or (am) may be satisfied by finding probable cause to believe that the individual

ASSEMBLY BILL 785**SECTION 48**

1 satisfies sub. (1) (a) 1. and evidences such impaired judgment, manifested by
2 evidence of a recent act or omission, that there is a substantial probability of physical
3 impairment or injury to himself or herself. The probability of physical impairment
4 or injury may not be deemed substantial under this subsection if reasonable
5 provision for the individual's protection is available in the community and there is
6 a reasonable probability that the individual will avail himself or herself of the
7 services or if the individual is ~~appropriate for protective placement under s. 55.06~~
8 may be provided protective placement or protective services under ch. 55. The
9 individual's status as a minor does not automatically establish a substantial
10 probability of physical impairment or injury under this subsection. Food, shelter or
11 other care provided to an individual who is substantially incapable of obtaining the
12 care for himself or herself, by any person other than a treatment facility, does not
13 constitute reasonable provision for the individual's protection available in the
14 community under this subsection.

NOTE: SECTIONS 42 and 44 to 48 amend various standards in current law relating to emergency detention and involuntary commitment for treatment, by providing that a showing of a substantial probability of harm to the person does not exist if the person may be provided protective placement or protective services under ch. 55.

15 **SECTION 49.** 51.20 (7) (d) 1. (intro.) of the statutes is amended to read:

16 51.20 (7) (d) 1. (intro.) If the court determines after hearing that there is
17 probable cause to believe that the subject individual is a fit subject for guardianship
18 and protective placement or services, the court may, without further notice, appoint
19 a temporary guardian for the subject individual and order temporary protective
20 placement or services under ch. 55 for a period not to exceed 30 days, and shall
21 proceed as if petition had been made for guardianship and protective placement or
22 services. If the court orders only temporary protective services for a subject
23 individual under this paragraph, the individual shall be provided care only on an

ASSEMBLY BILL 785

1 outpatient basis. The court may order psychotropic medication as a temporary
2 protective service under this paragraph if it finds that there is probable cause to
3 believe that the allegations under s. 880.07 (1m) (e) and (em) 55.14 (3) (e) apply, that
4 the individual is not competent to refuse psychotropic medication and that the
5 medication ordered will have therapeutic value and will not unreasonably impair the
6 ability of the individual to prepare for and participate in subsequent legal
7 proceedings. An individual is not competent to refuse psychotropic medication if,
8 because of ~~chronic~~ serious and persistent mental illness, and after the advantages
9 and disadvantages of and alternatives to accepting the particular psychotropic
10 medication have been explained to the individual, one of the following is true:

11 **SECTION 50.** 51.20 (7) (d) 1. b. of the statutes is amended to read:

12 51.20 (7) (d) 1. b. The individual is substantially incapable of applying an
13 understanding of the advantages, disadvantages and alternatives to his or her
14 ~~chronic~~ serious and persistent mental illness in order to make an informed choice as
15 to whether to accept or refuse psychotropic medication.

16 **SECTION 51.** 51.35 (4m) (intro.) of the statutes is amended to read:

17 51.35 (4m) **TRANSFER OR DISCHARGE OF PERSONS WITH ~~CHRONIC~~ SERIOUS AND**
18 **PERSISTENT MENTAL ILLNESS.** (intro.) The department or county department under s.
19 51.42 or any person authorized to discharge or transfer patients under this section
20 shall, prior to the discharge of a patient with ~~chronic~~ serious and persistent mental
21 illness from an inpatient facility, or prior to the transfer of a patient with ~~chronic~~
22 serious and persistent mental illness from inpatient to outpatient status, with the
23 patient's permission if the patient is a voluntary patient, do all of the following:

NOTE: SECTIONS 49 to 51 revise the term "chronic mental illness" to "serious and persistent mental illness".

ASSEMBLY BILL 785**SECTION 52**

1 **SECTION 52.** 51.39 of the statutes is amended to read:

2 **51.39 Resident patients on unauthorized absence.** If any patient who is
3 admitted, transferred, or placed under s. 55.06, 2003 stats., or s. 51.13, 51.15, 51.20,
4 51.35 (3), 51.37, or 51.45 (11) (b), (12) or (13) or 55.06 or ch. 55, 971, 975, or 980 or
5 ~~transferred under s. 51.35 (3) or 51.37~~ is on unauthorized absence from a treatment
6 facility, the sheriff or any other law enforcement agency in the county in which the
7 patient is found or in which it is believed the patient may be present, upon the
8 request of the director, shall take charge of and return the patient to the facility. The
9 costs incident to the return shall be paid out of the facility's operating funds and be
10 charged back to the patient's county of residence.

NOTE: Changes various cross-references regarding protective placement and transfer of a person who is protectively placed.

11 **SECTION 53.** 51.40 (2) (intro.) of the statutes is amended to read:

12 **51.40 (2) DETERMINATION OF RESIDENCE.** (intro.) For purposes of determining
13 responsibility for funding the provision of services under chs. 46, 51 and 55, the
14 county of residence of individuals aged 18 or older with developmental disability or
15 chronic serious and persistent mental illness in state facilities or nursing homes
16 shall be determined as follows:

NOTE: Revises the term "chronic mental illness" to "serious and persistent mental illness".

17 **SECTION 54.** 51.40 (2) (a) 1. of the statutes is amended to read:

18 **51.40 (2) (a) 1.** 'Commitment or ~~protection~~ protective placement.' If an
19 individual is under a court order of commitment under this chapter or protective
20 placement under s. 55.06, 2003 stats., or s. 55.12, the individual remains a resident
21 of the county in which he or she has residence at the time the commitment or

ASSEMBLY BILL 785

1 protective placement is made. If the court makes no specific finding of a county of
2 residence, the individual is a resident of the county in which the court is located.

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

3 **SECTION 55.** 51.40 (2) (a) 2. of the statutes is amended to read:

4 51.40 (2) (a) 2. 'Placement by a county.' Except for the provision of emergency
5 services under s. 51.15, 51.42 (1) (b), 51.437 (4) (c), or 51.45 (11) and (12), emergency
6 protective services under s. 55.13, or 55.06 (11) emergency protective placement
7 under s. 55.135, if a county department or an agency of a county department
8 arranges or makes placement of the individual into a state facility or nursing home,
9 the individual is a resident of the county of that county department. Any agency of
10 the county department is deemed to be acting on behalf of the county department in
11 arranging or making placement.

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

12 **SECTION 56.** 51.42 (1) (b) of the statutes is amended to read:

13 51.42 (1) (b) *County liability.* The county board of supervisors has the primary
14 responsibility for the well-being, treatment and care of the mentally ill,
15 developmentally disabled, alcoholic and other drug dependent citizens residing
16 within its county and for ensuring that those individuals in need of such emergency
17 services found within its county receive immediate emergency services. This
18 primary responsibility is limited to the programs, services and resources that the
19 county board of supervisors is reasonably able to provide within the limits of
20 available state and federal funds and of county funds required to be appropriated to
21 match state funds. County liability for care and services purchased through or
22 provided by a county department of community programs established under this

ASSEMBLY BILL 785**SECTION 56**

1 section shall be based upon the client's county of residence except for emergency
2 services for which liability shall be placed with the county in which the individual
3 is found. For the purpose of establishing county liability, "emergency services"
4 includes those services provided under the authority of s. 55.05 (4), 2003 stats., or
5 s. 55.06 (11) (a), 2003 stats., or s. 51.15, 51.45 (11) (a) or (b) or (12), ~~55.05 (4) or 55.06~~
6 (11) (a) 55.13, or 55.135 for not more than 72 hours. Nothing in this paragraph
7 prevents recovery of liability under s. 46.10 or any other statute creating liability
8 upon the individual receiving a service or any other designated responsible party, or
9 prevents reimbursement by the department of health and family services for the
10 actual cost of all care and services from the appropriation under s. 20.435 (7) (da),
11 as provided in s. 51.22 (3).

NOTE: Changes cross-references to emergency protective services, the provisions
of which are renumbered in this bill.

12 **SECTION 57.** 51.42 (3) (ar) 4. d. of the statutes is amended to read:

13 51.42 (3) (ar) 4. d. Related research and staff in-service training, including
14 periodic training on emergency detention procedures under s. 51.15, emergency
15 protective services under s. 55.13, and emergency protective placement procedures
16 under s. ~~55.06 (11)~~ 55.135, for ~~individuals~~ persons within the jurisdiction of the
17 county department of community programs who are authorized to take ~~persons~~
18 individuals into custody under ss. 51.15 and ~~55.06 (11)~~ 55.135. In developing
19 in-service training on emergency detention and emergency protective placement
20 procedures, the county department of community programs shall consult the county
21 department of developmental disabilities services under s. 51.437 in counties where
22 these departments are separate.

NOTE: Changes cross-references to emergency protective services and emergency
protective placement, the provisions of which are renumbered in this bill.

ASSEMBLY BILL 785

1 **SECTION 58.** 51.42 (3) (e) of the statutes is amended to read:

2 51.42 (3) (e) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78
3 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), ~~55.06 (17) (e)~~ 55.22 (3), 146.82, 252.11
4 (7), 253.07 (3) (c) and 938.78 (2) (a), any subunit of a county department of community
5 programs acting under this section may exchange confidential information about a
6 client, without the informed consent of the client, with any other subunit of the same
7 county department of community programs, with a resource center, care
8 management organization or family care district, or with any person providing
9 services to the client under a purchase of services contract with the county
10 department of community programs or with a resource center, care management
11 organization or family care district, if necessary to enable an employee or service
12 provider to perform his or her duties, or to enable the county department of
13 community programs to coordinate the delivery of services to the client.

NOTE: Changes a cross-reference to access to records in protective placement and services cases, the provisions of which are renumbered in this bill.

14 **SECTION 59.** 51.421 (1) of the statutes is amended to read:

15 51.421 (1) **PURPOSE.** In order to provide the least restrictive and most
16 appropriate care and treatment for persons with chronic serious and persistent
17 mental illness, community support programs should be available in all parts of the
18 state. In order to integrate community support programs with other long-term care
19 programs, community support programs shall be coordinated, to the greatest extent
20 possible, with the community options program under s. 46.27, with the protective
21 services system in a county, with the medical assistance program under subch. IV of
22 ch. 49 and with other care and treatment programs for persons with chronic serious
23 and persistent mental illness.

ASSEMBLY BILL 785**SECTION 60**

1 **SECTION 60.** 51.421 (2) of the statutes is amended to read:

2 51.421 (2) SERVICES. If funds are provided, and within the limits of the
3 availability of funds provided under s. 51.423 (2), each county department under s.
4 51.42 shall establish a community support program. Each community support
5 program shall use a coordinated case management system and shall provide or
6 assure access to services for persons with chronic serious and persistent mental
7 illness who reside within the community. Services provided or coordinated through
8 a community support program shall include assessment, diagnosis, identification of
9 persons in need of services, case management, crisis intervention, psychiatric
10 treatment including medication supervision, counseling and psychotherapy,
11 activities of daily living, psychosocial rehabilitation which may include services
12 provided by day treatment programs, client advocacy including assistance in
13 applying for any financial support for which the client may be eligible, residential
14 services and recreational activities. Services shall be provided to an individual based
15 upon his or her treatment and psychosocial rehabilitation needs.

16 **SECTION 61.** 51.421 (3) (c) of the statutes is amended to read:

17 51.421 (3) (c) Monitor the establishment and the continuing operation of
18 community support programs and ensure that community support programs comply
19 with the standards promulgated by rule. The department shall ensure that the
20 persons monitoring community support programs to determine compliance with the
21 standards are persons who are knowledgeable about treatment programs for persons
22 with chronic serious and persistent mental illness.

NOTE: SECTIONS 59 to 61 revise the term "chronic mental illness" to "serious and persistent mental illness".

23 **SECTION 62.** 51.437 (4) (c) of the statutes is amended to read:

ASSEMBLY BILL 785

1 51.437 (4) (c) County liability for care and services purchased through or
2 provided by a county department of developmental disabilities services established
3 under this section shall be based upon the client's county of residence except for
4 emergency services for which liability shall be placed with the county in which the
5 individual is found. For the purpose of establishing county liability, "emergency
6 services" means those services provided under the authority of s. 55.05 (4), 2003
7 stats., or s. 55.06 (11) (a), 2003 stats., or s. 51.15, ~~55.05 (4) or 55.06 (11) (a), 55.13, or~~
8 55.135. Nothing in this paragraph prevents recovery of liability under s. 46.10 or any
9 other statute creating liability upon the individual receiving a service or any other
10 designated responsible party.

NOTE: Changes cross-references to emergency protective services and emergency protective placement, the provisions of which are renumbered in this bill.

11 **SECTION 63.** 51.437 (4r) (b) of the statutes is amended to read:

12 51.437 (4r) (b) Notwithstanding ss. 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83,
13 51.30, 51.45 (14) (a), ~~55.06 (17) (e)~~ 55.22 (3), 146.82, 252.11 (7), 253.07 (3) (c) and
14 938.78 (2) (a), any subunit of the county department of developmental disabilities
15 services acting under this section may exchange confidential information about a
16 client, without the informed consent of the client, with any other subunit of the same
17 county department of developmental disabilities services, with a resource center,
18 care management organization or family care district, or with any person providing
19 services to the client under a purchase of services contract with the county
20 department of developmental disabilities services or with a resource center, care
21 management organization or family care district, if necessary to enable an employee
22 or service provider to perform his or her duties, or to enable the county department

ASSEMBLY BILL 785**SECTION 63**

1 of developmental disabilities services to coordinate the delivery of services to the
2 client.

NOTE: Changes a cross-reference to access to records in protective placement and services cases, the provisions of which are renumbered in this bill.

3 **SECTION 64.** 51.67 (intro.) of the statutes is amended to read:

4 **51.67 Alternate procedure; protective services.** (intro.) If, after a hearing
5 under s. 51.13 (4) or 51.20, the court finds that commitment under this chapter is not
6 warranted and that the subject individual is a fit subject for guardianship and
7 protective placement or services, the court may, without further notice, appoint a
8 temporary guardian for the subject individual and order temporary protective
9 placement or services under ch. 55 for a period not to exceed 30 days. Temporary
10 protective placement for an individual in a center for the developmentally disabled
11 is subject to s. 51.06 (3). Any interested party may then file a petition for permanent
12 guardianship or protective placement or services, including medication, under ch.
13 55. If the individual is in a treatment facility, the individual may remain in the
14 facility during the period of temporary protective placement if no other appropriate
15 facility is available. The court may order psychotropic medication as a temporary
16 protective service under this section if it finds that there is probable cause to believe
17 the individual is not competent to refuse psychotropic medication and that the
18 medication ordered will have therapeutic value and will not unreasonably impair the
19 ability of the individual to prepare for and participate in subsequent legal
20 proceedings. An individual is not competent to refuse psychotropic medication if,
21 because of chronic serious and persistent mental illness, and after the advantages
22 and disadvantages of and alternatives to accepting the particular psychotropic
23 medication have been explained to the individual, one of the following is true:

ASSEMBLY BILL 785

1 **SECTION 65.** 51.67 (2) of the statutes is amended to read:

2 51.67 (2) The individual is substantially incapable of applying an
3 understanding of the advantages, disadvantages and alternatives to his or her
4 chronic serious and persistent mental illness in order to make an informed choice as
5 to whether to accept or refuse psychotropic medication.

NOTE: SECTIONS 64 and 65 revise the term "chronic mental illness" to "serious and persistent mental illness".

6 **SECTION 66.** 55.001 of the statutes is amended to read:

7 **55.001 Declaration of policy.** The legislature recognizes that many citizens
8 of the state, because of ~~the infirmities of aging, chronic serious and persistent~~ mental
9 illness, ~~mental retardation, other degenerative brain disorder,~~ developmental
10 disabilities, or other like incapacities incurred at any age, are in need of protective
11 services or protective placement. Except as provided in s. 49.45 (30m) (a), ~~these the~~
12 protective services or protective placement should, to the maximum degree of
13 feasibility under programs, services and resources that the county board of
14 supervisors is reasonably able to provide within the limits of available state and
15 federal funds and of county funds required to be appropriated to match state funds,
16 allow the individual the same rights as other citizens, and at the same time protect
17 the individual from exploitation, abuse, and degrading treatment. This chapter is
18 designed to establish those protective services and protective placements, to assure
19 their availability to all persons individuals when in need of them, and to place the
20 least possible restriction on personal liberty and exercise of constitutional rights
21 consistent with due process and protection from abuse, exploitation, and neglect.

NOTE: Inserts references to both protective services and protective placements. Also, revises terminology to delete the terms "infirmities of aging" and "mental retardation"; to insert a new term, "degenerative brain disorder" to replace "infirmities of aging"; and to replace the word "chronic" with the term "serious and persistent".

ASSEMBLY BILL 785

SECTION 67

1 **SECTION 67.** 55.01 (1d) of the statutes is created to read:

2 55.01 (1d) "Activated power of attorney for health care" means a power of
3 attorney for health care that has taken effect in the manner specified in s. 155.05 (2).

NOTE: Creates a definition of "activated power of attorney for health care", a term
which is used in this bill.

4 **SECTION 68.** 55.01 (1v) of the statutes is created to read:

5 55.01 (1v) "Degenerative brain disorder" means the loss or dysfunction of brain
6 cells to the extent that an individual is substantially impaired in his or her ability
7 to provide adequately for his or her own care or custody.

NOTE: Creates a definition of "degenerative brain disorder", which is a new term
created in this bill to replace the outdated term "infirmities of aging".

8 **SECTION 69.** 55.01 (2) of the statutes is amended to read:

9 55.01 (2) "Developmentally disabled person" means any individual having a
10 disability attributable to mental retardation, cerebral palsy, epilepsy, autism or
11 another neurological condition closely related to mental retardation or requiring
12 treatment similar to that required for mentally retarded individuals, which has
13 continued or can be expected to continue indefinitely, substantially impairs the an
14 individual from adequately providing for his or her own care or custody, and
15 constitutes a substantial handicap to the afflicted individual. The term does not
16 include a person affected by ~~senility~~ ^{INS. 1-2} which that is primarily caused by the process
17 of aging or the ~~infirmities of aging~~ degenerative brain disorder.

NOTE: Revises the term "infirmities of aging" to "degenerative brain disorder".

18 **SECTION 70.** 55.01 (3) of the statutes is repealed.

NOTE: SECTION 68 creates a new definition of "degenerative brain disorder", which
is created to replace the repealed definition "infirmities of aging".

19 **SECTION 71.** 55.01 (4) of the statutes is renumbered 55.01 (4) (intro.) and
20 amended to read:

ASSEMBLY BILL 785

1 55.01 (4) (intro.) “Interested person” means any adult of the following:

2 (a) An adult relative or friend of a person an individual sought to be protected
3 under this subchapter; or any chapter.

4 (b) Any official or representative of a public or private agency, corporation or
5 association concerned with the person’s individual’s welfare.

NOTE: Revises the term “interested person”.

6 **SECTION 72.** 55.01 (4) (c) of the statutes is created to read:

7 55.01 (4) (c) A health care agent, as defined in s. 155.01 (4).

NOTE: Includes a health care agent in the definition of “interested person”.

8 **SECTION 73.** 55.01 (4g) of the statutes is amended to read:

9 55.01 (4g) “Intermediate facility” has the meaning given in s. 46.279 (1) ~~(a)~~ (b).

10 **SECTION 74.** 55.01 (4t) of the statutes is amended to read:

11 55.01 (4t) “Nursing facility” has the meaning given in s. 46.279 (1) ~~(b)~~ (c).

12 **SECTION 75.** 55.01 (6), (6m), (6p) and (6r) of the statutes are created to read:

13 55.01 (6) “Protective placement” means a placement that is made to provide for
14 the care and custody of an individual.

15 **(6m)** “Protective placement facility” means a facility to which a court may
16 under s. 55.12 order an individual to be provided protective placement for the
17 primary purpose of residential care and custody.

18 **(6p)** “Protective placement unit” means a ward, wing, or other designated part
19 of a placement facility.

20 **(6r)** “Protective services” includes any of the following:

21 (a) Outreach.

22 (b) Identification of individuals in need of services.

23 (c) Counseling and referral for services.

ASSEMBLY BILL 785**SECTION 75**

- 1 (d) Coordination of services for individuals.
- 2 (e) Tracking and follow-up.
- 3 (f) Social services.
- 4 (g) Case management.
- 5 (h) Legal counseling or referral.
- 6 (i) Guardianship referral.
- 7 (j) Diagnostic evaluation.
- 8 (k) Any services that, when provided to an individual with developmental
- 9 disabilities, degenerative brain disorder, serious and persistent mental illness, or
- 10 other like incapacity, keep the individual safe from abuse, neglect, or
- 11 misappropriation of property or prevent the individual from experiencing
- 12 deterioration or from inflicting harm on himself or herself or another person.

NOTE: Creates a definition of protective placement. This definition is derived from the first sentence of s. 55.06 (1). Creates a definition of protective services. This definition incorporates the noninclusive list of possible services from current s. 55.04 (1) (a), and specifies that “protective services” includes any services that are intended to keep specified individuals safe from abuse, neglect, or misappropriation of property, or prevent the individual from inflicting harm on himself or herself or another person.

13 **SECTION 76.** 55.01 (6t) of the statutes is created to read:

14 55.01 (6t) “Residence” means the voluntary concurrence of an individual’s

15 physical presence with his or her intent to remain in a place of fixed habitation.

16 Physical presence is prima facie evidence of intent to remain.

NOTE: Creates a definition of “residence” for use in ch. 55. This definition is based on the definition of “residence” in s. 49.001.

17 **SECTION 77.** 55.01 (6v) of the statutes is created to read:

18 55.01 (6v) “Serious and persistent mental illness” has the meaning given in s.

19 51.01 (14t).

NOTE: Creates a definition of “serious and persistent mental illness”, which is used in this bill and replaces the outdated term “chronic mental illness”.

ASSEMBLY BILL 785

1 **SECTION 78.** 55.01 (6x) of the statutes is created to read:

2 55.01 (6x) “Treatment facility” has the meaning given in s. 51.01 (19).

NOTE: Provides that in ch. 55, “treatment facility” has the same definition as in ch. 51: “any publicly or privately operated facility or unit thereof providing treatment of alcoholic, drug dependent, mentally ill or developmentally disabled persons, including but not limited to inpatient and outpatient treatment programs, community support programs and rehabilitation programs”.

3 **SECTION 79.** 55.01 (6y) of the statutes is created to read:

4 55.01 (6y) “Voluntary” means according to an individual’s free choice, if
5 competent, or by choice of a guardian, if adjudicated incompetent.

NOTE: Creates a definition of “voluntary”, a term which is used in this bill.

6 **SECTION 80.** 55.02 of the statutes is repealed and recreated to read:

7 **55.02 Protective services and protective placement: duties. (1)**

8 DEPARTMENT DUTIES. (a) The department shall do all of the following:

9 1. Cooperate with county departments to develop and operate a coordinated,
10 statewide system for protective services and protective placement.

11 2. Monitor and supervise the implementation and operation of the protective
12 services and protective placement system.

13 3. Provide technical assistance to county departments providing protective
14 services and protective placement.

15 4. Evaluate the protective services and protective placement system.

16 (b) The department may provide protective services and protective placement
17 directly or contract for the provision of protective services or protective placement.

18 **(2) COUNTY DEPARTMENT DUTIES.** (a) The chairperson of each county board of
19 supervisors shall designate a county department under s. 46.215, 46.22, 46.23, 51.42,
20 or 51.437 that is providing services in the county on its own or through a joint
21 mechanism with another county department or county to have the responsibility for

ASSEMBLY BILL 785**SECTION 80**

1 planning for the provision of protective services and protective placement and for
2 directly providing protective services, protective placement, or both, or entering into
3 a contract under s. 46.036 with a responsible agency for the provision of protective
4 services, protective placement, or both.

5 (b) In addition to the responsibilities specified in par. (a), the county
6 department shall:

7 1. Monitor and evaluate protective services and protective placements.

8 2. Prepare and submit reports required by the department, or by a court if
9 protective services or protective placement are ordered by a court.

10 3. Develop requirements for submittal by guardians of the person of reports to
11 the county department under s. 880.38 (3).

12 4. Designate at least one appropriate medical facility or protective placement
13 facility as an intake facility for the purpose of emergency protective placements
14 under s. 55.135.

NOTE: Revises the duties of the DHFS and the county departments to more accurately reflect the actual role of each in the protective services and protective placement system. Also, creates a new requirement that each county department must designate an appropriate intake facility for emergency protective placements.

15 **SECTION 81.** 55.03 of the statutes is renumbered 55.03 (1) and amended to read:

16 55.03 (1) AGENCY AS GUARDIAN. No agency acting as a guardian appointed under
17 ch. 880 shall may be a provider of protective services or protective placement for its
18 ward under this chapter.

19 (2) TRANSFER OF GUARDIANSHIP AND LEGAL CUSTODY. Nothing in this chapter shall
20 may be construed to prohibit the transfer of guardianship and legal custody under
21 s. 48.427 or s. 48.43.

22 **SECTION 82.** 55.04 (title) and (1) to (3) of the statutes are repealed.

ASSEMBLY BILL 785

1 **SECTION 83.** 55.04 (4) of the statutes is renumbered 55.03 (3) and amended to
2 read:

3 **55.03 (3) GUARDIAN AUTHORITY AND RESPONSIBILITY APPLICABLE TO PARENT OF**
4 **MINOR.** Where any responsibility or authority is created under this chapter upon or
5 in relation to a guardian, such the responsibility or authority is deemed to apply to
6 a parent or person in the place of a parent in the case of a minor who is or who is
7 alleged to be developmentally disabled.

NOTE: The program responsibilities formerly specified in s. 55.04 have been incorporated into newly created definitions of protective services and protective placement in s. 55.01 (6) and (6r), respectively, and into the repealed and recreated version of s. 55.02.

The bill incorporates the provisions of current ss. 55.02 and 55.04 into ss. 55.02 and 55.03.

8 **SECTION 84.** 55.043 (1) (a) (intro.) of the statutes is amended to read:

9 **55.043 (1) (a) (intro.)** If a county protective services agency has probable cause
10 to believe that there is misappropriation of property or neglect or abuse of a
11 vulnerable adult, the county protective services agency may conduct an
12 investigation ~~in Milwaukee County~~ to determine if the vulnerable adult in question
13 is in need of protective services. The county protective services agency shall conduct
14 the investigation in accordance with standards established by the department for
15 conducting the investigations. The investigation shall include at least one of the
16 following:

NOTE: Deletes a reference to Milwaukee County in the statute that confers authority on a county protective services agency to conduct an investigation into alleged abuse of a vulnerable adult. The effect of this amendment is to permit all counties in the state to exercise this authority.

17 **SECTION 85.** 55.043 (1) (a) 1. and 3. of the statutes are amended to read:

18 **55.043 (1) (a) 1.** Observation of or an interview with the vulnerable adult, in
19 private to the extent practicable, and with or without consent of his or her guardian
20 or agent under an activated power of attorney for health care, if any.

ASSEMBLY BILL 785**SECTION 85**

1 3. An interview with the guardian or agent under an activated power of
2 attorney for health care, if any, and with the caretaker, if any, of the vulnerable adult.

3 **SECTION 86.** 55.043 (1) (b) 1. of the statutes is amended to read:

4 55.043 (1) (b) 1. The vulnerable adult or his or her guardian or agent under an
5 activated power of attorney for health care, if any, consents to the examination.

6 **SECTION 87.** 55.043 (1) (b) 2. a. and b. of the statutes are amended to read:

7 55.043 (1) (b) 2. a. The vulnerable adult has no guardian or agent under an
8 activated power of attorney for health care.

9 b. The vulnerable adult's guardian or agent under an activated power of
10 attorney for health care refuses to consent to the examination, but the examination
11 is authorized by order of a court.

NOTE: SECTIONS 85 to 87 insert a reference to an agent under an activated power of attorney for health care, in the event that a vulnerable adult under ch. 55 has such an agent who may act on his or her behalf in protective services or protective placement proceedings.

12 **SECTION 88.** 55.043 (4) (a) of the statutes is amended to read:

13 55.043 (4) (a) Offer services, including protective services ~~under s. 55.05, a,~~
14 ~~protective placement under s. 55.06,~~ relocation assistance, or other services.

15 **SECTION 89.** 55.043 (4) (b) of the statutes is amended to read:

16 55.043 (4) (b) Take appropriate emergency action, including provision of
17 emergency protective services under s. 55.13 or emergency protective placement
18 under s. ~~55.06~~ 55.135, if the county protective services agency considers that the
19 emergency action is in the vulnerable adult's best interests and the emergency action
20 is the least restrictive appropriate intervention.

NOTE: Changes cross-references to emergency protective services and emergency protective placement, the provisions of which are renumbered in this bill.

21 **SECTION 90.** 55.045 of the statutes is amended to read:

ASSEMBLY BILL 785

1 **55.045 Funding.** Except as provided in s. 49.45 (30m) (a), the appropriate
2 county department ~~designated under s. 55.02~~ shall within the limits of available
3 state and federal funds and of county funds required to be appropriated to match
4 state funds, provide for the reasonable program needs of ~~persons~~ individuals who are
5 ~~protectively placed~~ provided protective placement or who receive protective services
6 under this chapter, including reasonable expenses for the evaluations required by s.
7 ~~55.06 (8)~~ 55.11. Payment and collections for protective placement or protective
8 services provided in public facilities specified in s. 46.10 shall be governed in
9 accordance with s. 46.10. The department may require that ~~a person~~ an individual
10 who is ~~protectively placed~~ provided protective placement or receives protective
11 services under this chapter provide reimbursement for services or care and custody
12 received, based on the ability of the ~~person~~ individual to pay for such costs.

13 **SECTION 91.** 55.05 (title) of the statutes is amended to read:

14 **55.05 (title) Protective Voluntary protective services.**

15 **SECTION 92.** 55.05 (2) (intro.) of the statutes is amended to read:

16 55.05 (2) (intro.) The department or ~~an~~ a county department or agency
17 providing with which the county department contracts under s. 55.02 (2) that
18 provides protective services under s. 55.04 may provide such the services under any
19 of the following conditions:

20 **SECTION 93.** 55.05 (2) (a) of the statutes is amended to read:

21 55.05 (2) (a) ~~The person~~ An individual who needs or believes he or she needs
22 protective service ~~may seek such service~~ services requests the services.

23 **SECTION 94.** 55.05 (2) (b) of the statutes is amended to read:

24 55.05 (2) (b) ~~Any~~ An interested person ~~may request~~ requests protective services
25 on behalf of ~~a person~~ an individual in need of services. A guardian may request and

ASSEMBLY BILL 785

SECTION 94

1 consent to protective services on behalf of the guardian's ward. An agent under an
2 activated power of attorney for health care may request and consent to protective
3 services on behalf of the agent's principal.

4 **SECTION 95.** 55.05 (2) (c) of the statutes is repealed.

5 **SECTION 96.** 55.05 (2) (d) of the statutes is repealed.

6 **SECTION 97.** 55.05 (3) of the statutes is amended to read:

7 55.05 (3) VOLUNTARY PROTECTIVE SERVICES PREFERRED. An individual shall
8 receive protective services voluntarily unless ordered by the court under s. 55.12,
9 requested by –a– the individual's guardian or agent under an activated power of
10 attorney for health care, or provided on an emergency basis in accordance with sub.
11 (4) s. 55.13.

NOTE: Amends current law relating to voluntary protective services, to provide a separate statutory section for voluntary protective services and to insert references to an agent under an activated power of attorney for health care, who may, in some situations, be authorized to request and consent to protective services for a principal.

12 **SECTION 98.** 55.05 (4) (title) and (a) of the statutes are renumbered 55.13 (title)

13 and (1) and amended to read:

14 **55.13 (title) Emergency protective services.** (1) Emergency protective
15 services may be provided for not more than 72 hours where when there is reason to
16 believe that, if the emergency protective services are not provided, the person
17 individual entitled to the services or others will incur a substantial risk of serious
18 physical harm.

19 **SECTION 99.** 55.05 (4) (b) of the statutes is renumbered 55.13 (4) and amended
20 to read:

21 55.13 (4) ~~Where~~ If it is necessary to forcibly enter a premises forcibly to provide
22 or investigate the need for emergency protective services, the representative of an
23 agency or staff member of a county protective services agency department shall

ASSEMBLY BILL 785

1 obtain a court order authorizing entry and shall make the entry accompanied by a
2 sheriff, police officer, or member of a fire department. When it appears probable that
3 substantial physical harm, irreparable injury, or death may occur to an individual,
4 the police officer, fire fighter, or sheriff may enter a premises without a court order
5 if the time required to obtain such an order would result in greater risk of physical
6 harm to the individual.

7 **SECTION 100.** 55.05 (4) (c) of the statutes is renumbered 55.13 (5) and amended
8 to read:

9 55.13 (5) ~~Where~~ If a forcible entry is made under ~~par. (b)~~ sub. (4), a report of
10 the exact circumstances, including the date, time, place, factual basis for the need
11 of ~~such~~ the entry, and the exact services rendered, shall be made and forwarded to
12 the court within 14 days of after entry by the person making ~~such~~ the entry.

13 **SECTION 101.** 55.05 (5) (title) of the statutes is renumbered 55.055 (title) and
14 amended to read:

15 **55.055 (title) Admissions initially made without court involvement.**

16 **SECTION 102.** 55.05 (5) (a) of the statutes is repealed.

NOTE: This statute is repealed because it is unnecessary; moreover, it is misleading, because an individual who is legally and actually capable of consenting may consent to enter *any* regulated residential, medical, or treatment facility, not just those specified.

17 **SECTION 103.** 55.05 (5) (b) 1. of the statutes is renumbered 55.055 (1) (a) and
18 amended to read:

19 55.055 (1) (a) ~~Guardians of persons~~ The guardian of an individual who have
20 has been found incompetent under s. 880.33 may consent to the individual's
21 admission to a foster home, group home, or community-based residential facility, as
22 defined under s. 50.01 (1g), without a protective placement order under s. ~~55.06~~ 55.12
23 if the home or facility is licensed for fewer than 16 beds. Prior to providing that

ASSEMBLY BILL 785

SECTION 103

1 consent, and annually thereafter, the guardian shall review the ward's right to the
2 least restrictive residential environment and may consent only to admission to a
3 home or facility that implements ~~those rights~~ that right.

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

4 **SECTION 104.** 55.05 (5) (b) 2. of the statutes is renumbered 55.055 (1) (b) and
5 amended to read:

6 55.055 (1) (b) ~~Guardians~~ The guardian of persons ~~an individual~~ who have ~~has~~
7 been found incompetent under s. 880.33 may consent to ~~the individual's~~ admission
8 to a nursing home if the person is ~~admitted directly from a hospital inpatient unit~~
9 ~~for recuperative care or other facility not specified in par. (a) for which protective~~
10 ~~placement is otherwise required for a period not to exceed 3 months, unless the~~
11 ~~hospital admission was for psychiatric care 60 days. In order to be admitted under~~
12 ~~this paragraph, the individual must be in need of recuperative care or be unable to~~
13 ~~provide for his or her own care or safety so as to create a serious risk of substantial~~
14 ~~harm to himself or herself or others. Prior to providing that consent, the guardian~~
15 ~~shall review the ward's right to the least restrictive residential environment and~~
16 ~~consent only to admission to a nursing home ~~or other facility~~ that implements ~~those~~~~
17 ~~rights ~~that right~~. Following the ~~3-month~~ ~~60-day~~ period, ~~the admission may be~~~~
18 ~~extended for an additional 60 days if a petition for protective placement proceeding~~
19 ~~under s. 55.06 is required 55.075 has been brought, or, if no petition for protective~~
20 ~~placement under s. 55.075 has been brought, for an additional 30 days for the~~
21 ~~purpose of allowing the initiation of discharge planning for the individual.~~
22 ~~Admission under this paragraph is not permitted for an individual with a primary~~
23 ~~diagnosis of mental illness or developmental disability.~~

INS. 1-3

ASSEMBLY BILL 785

NOTE: Renumbers and amends a provision in current law that permits a person to be admitted to a nursing home prior to a protective placement proceeding on a short term basis. This provision permits individuals to be admitted to a facility not only directly from a hospital inpatient unit, as under current law, but also in cases where the individual is in need of recuperative care or unable to provide for his or her own care or safety so as to create a serious risk of substantial harm to himself or herself or others. In addition, this provision is revised to permit a 60 day admission, rather than a 3 month admission; however, the provision permits the placement to be extended for an additional 60 days if a protective placement petition has been brought, or, if no petition has been brought, for an additional 30 days to allow the initiation of discharge planning.

1 **SECTION 105.** 55.05 (5) (c) (intro.) of the statutes is renumbered 55.055 (3)
2 (intro.) and amended to read:

3 55.055 (3) (intro.) If ~~a person~~ an individual admitted under ~~par. (b) sub. (1)~~
4 verbally objects to or otherwise actively protests such an admission, the person in
5 charge of the home, nursing home, or other facility shall immediately notify the
6 agency ~~designated under s. 55.02~~ county department for the county in which the
7 ~~person~~ individual is living. Representatives of that ~~agency~~ county department shall
8 visit the ~~person~~ individual as soon as possible, but no later than 72 hours after
9 notification, and do the following:

10 **SECTION 106.** 55.05 (5) (c) 1. of the statutes is renumbered 55.055 (3) (a) and
11 amended to read:

12 55.055 (3) (a) Determine whether the protest persists or has been voluntarily
13 withdrawn and consult with the ~~person's~~ individual's guardian regarding the
14 reasons for the admission.

15 **SECTION 107.** 55.05 (5) (c) 2. of the statutes is renumbered 55.055 (3) (b) and
16 amended to read:

17 55.055 (3) (b) Attempt to have the ~~person~~ individual released within 72 hours
18 if the protest is not withdrawn and ~~necessary elements of s. 55.06 (2) or (11) are not~~
19 ~~present~~ the individual does not satisfy all standards under s. 55.08 (1) or criteria

ASSEMBLY BILL 785

SECTION 107

1 under 55.135 (1) and provide assistance in identifying appropriate alternative living
2 arrangements.

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

3 **SECTION 108.** 55.05 (5) (c) 3. of the statutes is renumbered 55.055 (3) (c) and
4 amended to read:

5 55.055 (3) (c) Comply with s. ~~55.06 (11)~~ 55.135, if all elements are present the
6 individual satisfies all criteria under s. 55.135 (1) and emergency placement in that
7 home, nursing home, or other facility or another home, nursing home, or other
8 facility is necessary, or file a petition for protective placement under s. ~~55.06 (2)~~
9 55.075. The court, with the permission of the home, nursing home, or facility, may
10 order the ~~person~~ individual to remain in the home, nursing home, or other facility
11 pending the outcome of the protective placement proceedings.

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

12 **SECTION 109.** 55.05 (5) (d) of the statutes is renumbered 55.055 (4) and
13 amended to read:

14 55.055 (4) The admission to a health care facility, as defined in s. 155.01 (6),
15 of a principal by a health care agent under the terms of a power of attorney for health
16 care instrument and in accordance with ch. 155 or the admission of an individual to
17 a nursing home or community-based residential facility under the requirements of
18 s. 50.06 is not a protective placement under this chapter.

19 **SECTION 110.** 55.055 (1) (c) of the statutes is created to read:

20 55.055 (1) (c) The guardian of a ward who has been found incompetent in a state
21 other than this state may consent to admission of the ward under par. (a) or (b) if the
22 ward is currently a resident of this state. A petition ~~for guardianship and~~ protective

INS 1-4

ASSEMBLY BILL 785

1 placement shall be filed in this state within 60 days after the ward's admission under
2 this paragraph.

NOTE: Provides that the procedure for admissions to facilities that are initially made without court involvement may be initiated by an out-of-state guardian if the ward is currently a resident of this state provided the petition for guardianship and protective placement is filed within 60 days after the ward's admission to the facility.

3 **SECTION 111.** 55.055 (1) (d) of the statutes is created to read:

4 55.055 (1) (d) A resident of this state who is the guardian of a ward who has
5 been found incompetent in, and resides in, a state other than this state may consent
6 to an admission of the ward under par. (a) or (b) if the guardian intends to move the
7 ward to this state within 30 days after the consent to the admission. A ~~petition for~~
8 ~~guardianship and~~ protective placement shall be filed in this state within 60 days
9 after a ward's admission under this paragraph.

NOTE: Provides that an in-state guardian of an out-of-state ward may consent to an admission to a facility that is initially made without court involvement if the guardian intends to move the ward to this state within 30 days after the consent to the admission, provided the petition for guardianship and protective placement is filed within 60 days after the ward's admission to the facility.

10 **SECTION 112.** 55.055 (2) of the statutes is created to read:

11 55.055 (2) (a) In this subsection, "facility" means any of the following:

- 12 1. A group home.
- 13 2. A foster home.
- 14 3. A community-based residential facility, as defined in s. 50.01 (1g).
- 15 4. An adult family home, as defined in s. 50.01 (1).
- 16 5. A nursing home, as defined in s. 50.01 (3).

17 (b) Whenever a petition for guardianship on the ground of incompetency is filed
18 with respect to an individual who resides in a facility licensed for 16 or more beds,
19 a petition for protective placement of the individual shall also be filed. The
20 individual may continue to reside in the facility until the court issues a decision on

ASSEMBLY BILL 785

SECTION 112

1 the petition for guardianship and protective placement of the individual. Thereafter,
2 the individual may continue to reside in the facility only if the court's order under s.
3 55.12 specifies protective placement of the individual in a facility licensed for 16 or
4 more beds.

NOTE: Specifies that a guardian may not consent to the continued residence of a person in a facility licensed for 16 or more beds. Specifies that whenever a petition for guardianship on the ground of incompetency is filed with respect to a person who resides in a facility licensed for 16 or more beds, a petition for protective placement of the person shall also be filed. Specifies that the person may continue to reside in the facility if the court orders placement of the person in a facility licensed for 16 or more beds and may continue to reside in the facility pending the court's decision on the placement petition.

5 SECTION 113. 55.06 (1) (intro.) of the statutes is renumbered 55.06 and
6 amended to read:

7 **55.06 Protective services and protective placement; eligibility.** ~~A~~
8 ~~protective placement under this section is a placement of a ward for the primary~~
9 ~~purpose of providing care and custody. To be eligible for court-ordered protective~~
10 ~~placement or protective services, an individual shall be a resident of or present in the~~
11 ~~state and have a need for protective placement or protective services. The individual~~
12 shall have attained the age of 18, but an individual who is alleged to be
13 developmentally disabled may receive protective placement or protective services
14 upon attaining the age of 14. ~~No protective~~ Protective placement under this section
15 or protective services may be ordered unless under this chapter there is a
16 determination of incompetency only for an individual who is determined to be
17 incompetent in accordance with ch. 880, ~~except in the case of or for~~ a minor who is
18 alleged to be developmentally disabled, and only if there is a finding of a need for
19 protective placement ~~in accordance with sub. (2) except as provided in subs. (11) and~~
20 (12) under s. 55.12, and ss. 55.055 (5), 55.13, and 55.135 are inappropriate or do not
21 apply. A procedure for adult court-ordered protective placement or protective

INS.
1-7

ASSEMBLY BILL 785

1 ~~services~~ may be initiated 6 months prior to an individual's birthday at which he or
2 ~~she first becomes eligible for placement before a minor attains age 18.~~

NOTE: Amends the current provision on eligibility for protective placement to include eligibility for court-ordered protective services.

3 **SECTION 114.** 55.06 (1) (a) of the statutes is renumbered 55.075 (1) and
4 amended to read:

5 55.075 (1) ~~The board designated under s. 55.02 department, the county~~
6 ~~department~~ or an agency designated by it with which the county department
7 contracts under s. 55.02 (2), a guardian, or an interested person may file a petition
8 for appointment of a guardian and for protective services or protective placement for
9 an individual. The department shall provide for a schedule of reimbursement for the
10 cost of ~~such~~ the proceedings based upon the ability to pay of the proposed ward or
11 person individual to be protected.

NOTE: Renumbers provisions in current law relating to petitioning for protective services or placement and revises who may file a petition.

12 **SECTION 115.** 55.06 (1) (b) of the statutes is renumbered 55.075 (4) (b) and
13 amended to read:

14 55.075 (4) (b) If a person seeking to be the guardian of a proposed ward requests
15 the assistance of a ~~board designated under s. 55.02 county department~~ or an agency
16 ~~designated by it with which it contracts under s. 55.02 (2)~~ in petitioning for
17 guardianship or for protective ~~service or placement, such~~ services or protective
18 placement, the assistance may be considered a service and may be charged for based
19 upon the ability of ~~such~~ the person to pay for the service.

NOTE: Creates an exception to the requirement in s. 55.075 (4) (a), created in this bill, that the court must, unless it is inequitable, award payment of the petitioner's costs from the assets of the person sought to be provided protective placement or services.

20 **SECTION 116.** 55.06 (1) (c) of the statutes is renumbered 55.02 (3) and amended
21 to read:

ASSEMBLY BILL 785

SECTION 116

1 55.02 (3) CORPORATION COUNSEL. ~~If requested by the court, the~~ The corporation
2 counsel of the county in which the petition is brought may or, if requested by the
3 court, shall assist in conducting proceedings under this chapter.

NOTE: Amends current law to provide that the corporation counsel for the county
in which the petition for protective placement or services is brought may assist in
conducting proceedings under this chapter. The corporation counsel must assist if
requested by the court, as under current law.

4 **SECTION 117.** 55.06 (1) (d) of the statutes is renumbered 55.03 (4) and amended
5 to read:

6 55.03 (4) GUARDIAN AUTHORITY FOR MAKING PROTECTIVE PLACEMENT. No guardian
7 or temporary guardian may make a permanent protective placement of his or her
8 ward unless ordered by a court under ~~this section s. 55.12~~, but a guardian or
9 temporary guardian may admit a ward to certain residential facilities under s. ~~55.05~~
10 ~~(5) 55.055~~ or make an emergency protective placement under s. ~~55.06 (11) 55.135~~.

NOTE: Renumbers and amends a provision in current law relating to a guardian's
authority to make a protective placement of a ward, admit the ward to certain residential
facilities, or make an emergency protective placement.

11 **SECTION 118.** 55.06 (2) (intro.) of the statutes is repealed.

NOTE: Repeals a provision in current law; this provision is recreated in a new
section of the bill.

12 **SECTION 119.** 55.06 (2) (a) of the statutes is renumbered 55.08 (1) (a) and
13 amended to read:

14 55.08 (1) (a) ~~Has~~ The individual has a primary need for residential care and
15 custody;.

16 **SECTION 120.** 55.06 (2) (b) of the statutes is renumbered 55.08 (1) (b) and
17 amended to read:

18 55.08 (1) (b) Except in the case of a minor who is alleged to be developmentally
19 disabled, the individual has either been determined to be incompetent by a circuit
20 court or has had submitted on the minor's behalf a petition for a guardianship;.