

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

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

10 2. If the court finds that the individual continues to meet the standards under
 11 s. 55.08 (2) and the protective services ordered for the individual are not provided in
 12 ~~a~~ manner that is consistent with the requirements of s. 55.12 (3), (4), and (5), the
 13 court shall order protective services that are more consistent with his or her current
 14 needs. The services shall be provided in the least restrictive manner consistent with
 15 the requirements of s. 55.12 (3), (4), and (5).

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

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

22 SECTION 170. 55.17 of the statutes is created to read:

23 **55.17 Termination of an order for protective placement or protective**
 24 **services.**

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

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the least restrictive

those requirements

least restrictive

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

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

the least restrictive

10 (b) If the court finds that the individual continues to meet the standards under
11 s. 55.08 (1) and the protective placement of the individual is not in ~~an~~ environment
12 that is consistent with the requirements of s. 55.12 (3), (4), and (5), the court shall
13 make an order specified in s. 55.16 (4) (b).

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

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

22 2. If the court determines that the individual does not meet the standards for
23 protective services under s. 55.08 (2), and the individual is being transferred or
24 discharged from his or her current residential facility, the county department shall
25 assist the residential facility with discharge planning for the individual, including

1 planning for a proper residential living arrangement and the necessary support
2 services for the individual.

3 3. Any individual whose protective placement is terminated under this
4 paragraph may reside in his or her current protective placement facility for up to 60
5 days after a determination under subd. 1. or 2. in order to arrange for an alternative
6 living arrangement. If the protective placement facility has fewer than 16 beds, the
7 individual may remain in the protective placement facility as long as the
8 requirements of s. 55.055 are met. Admission by the individual, if an adult, to
9 another residential facility shall be made under s. 55.055.

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

15 1. If the individual continues to meet the standards under s. 55.08 (2) and the
16 protective services ordered for the individual are 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 continue the order for protective services.

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

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

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

4 **SECTION 171.** 55.18 of the statutes is created to read:

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

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

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

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

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

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

21 e. Whether the protective placement order should be terminated or whether the
22 individual should be placed in another facility with adequate support services that
23 places fewer restrictions on the individual's personal freedom, is closer to the
24 individual's home community, or more adequately meets the individual's needs,
25 including any recommendation that is made during the reporting period by the

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1 county department with respect to termination of the protective placement or
2 placement of the individual in another facility.

3 f. The comments of the individual and the individual's guardian during the
4 performance of the review, as summarized by the county department, and the
5 response of the county department to the comments.

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

****NOTE: Note that I moved to s. 55.18 (1) (a) 1. the material proposed for sub. (1)
(c) that describes the information that the report must include; I did the same with s.
55.19 (1) (a) 1. and the material proposed for s. 55.19 (1) (c). 

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

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

13 (b) If, following an annual review of an individual's status under par. (a), the
14 individual or the individual's guardian or guardian ad litem requests modification
15 or termination of the individual's protective placement and a hearing under the
16 requirements of s. 55.10 (4) is provided, or if a hearing under the requirements of s.
17 55.10 (4) is provided pursuant to a petition for modification or termination of the
18 protective placement, the county is not required to initiate a subsequent review of
19 the individual's status under par. (a) until the first day of the 11th month after the
20 date that the court issues a final order after the hearing.

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

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

3 (1m) COUNTY AGREEMENT. The county of residence of an individual whose
4 placement is in a different county may enter into an agreement with that county
5 under which the county of the individual's placement performs all or part of the
6 duties of the county of residence under this section.

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

11 (a) Review the report filed under sub. (1) (a) 1., the report required under s.
12 880.38 (3), and any other relevant reports on the individual's condition and
13 placement.

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

****NOTE: Please see the ****NOTE under s. 55.19 (2) (b) (intro.)

orally ✓

Add oral ✓

- 16 1. The procedure for review of protective placement.
- 17 2. The right of the individual to appointment of legal counsel under sub. (3) (c). ✓
- 18 3. The right to an evaluation under sub. (3) (b).
- 19 4. The contents of the report under sub. (1) (a) 1.
- 20 5. That a change in or termination of protective placement or protective
21 services may be ordered by the court.
- 22 6. The right to a hearing under sub. (3) (d).

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and an explain that the indiv. or the — see MM'S notes

****NOTE: Please see the ****NOTE under s. 55.19 (2) (b) 6.

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

***NOTE: Please see the ***NOTE under s. 55.19 (2) (e). *zls*

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

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

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

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

16 2. The individual or the individual's guardian requests modification or
17 termination of the protective placement.

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

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

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

***NOTE: Please see the ***NOTE under s. 55.19 (2) (g). *zls*

1 **(3) COURT REVIEW OF REPORTS; HEARING; ORDER.** (a) The court that ordered
2 protective placement for an individual under s. 55.12 shall review the report of the
3 guardian ad litem under sub. (2) (f), the report filed under sub. (1) (a) 1., and the
4 report required under s. 880.38 (3).

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

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

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

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

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

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

****NOTE: Please see the ****NOTE under s. 55.19 (3) (br). *p-126*

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

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

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

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

***NOTE: Please see the ***NOTE under s. 55.19 (3) (d).

- 7 1. The individual or the individual's guardian or guardian ad litem so requests.
- 8 2. The report under sub. (2) (f) indicates that the individual no longer meets the
9 standards for protective placement under s. 55.08 (1).
- 10 3. The report under sub. (2) (f) indicates that the current protective placement
11 is not in the least restrictive environment consistent with the individual's needs.
- 12 4. The report under sub. (2) (f) indicates that the individual objects to the
13 current protective placement.

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

- 15 1. If the court finds that the individual continues to meet the standards under
16 s. 55.08 (1) and the protective placement of the individual is in the least restrictive
17 environment that is consistent with his or her needs and with the requirements of
18 s. 55.12 (3), (4), and (5), the court shall order the continuation of the protective
19 placement in the facility in which the individual resides at the time of the hearing.
20 The court shall include in the order the information relied upon as a basis for the
21 order and shall make findings based on the standards under s. 55.08 (1) in support
22 of the need for continuation of the protective placement.
- 23 2. If the court finds that the individual continues to meet the standards under
24 s. 55.08 (1) and the protective placement of the individual is not in the least

1 restrictive environment that is consistent with his or her needs and with the
2 requirements of s. 55.12 (3), (4), and (5), the court shall order transfer of the
3 individual to a protective placement that is in the least restrictive environment
4 consistent with the individual's needs and with the requirements of s. 55.12 (3), (4),
5 and (5). In lieu of ordering transfer of the individual to a specific facility, the court
6 may order the county department of residence to develop or recommend a protective
7 placement that is in the least restrictive environment consistent with the
8 individual's needs and with the requirements of s. 55.12 (3), (4), and (5) and arrange
9 for the individual's transfer to that protective placement within 60 days after the
10 court's order. The court may extend this period to permit development of a protective
11 placement. The court may order protective services as well as a transfer of protective
12 placement. The court shall include in the order the information relied upon as a basis
13 for the order and shall make findings based on the standards under s. 55.08 (1) in
14 support of the need for continued protective placement.

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

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

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

(use 2x)

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department

1 (4) ESTABLISHMENT OF COUNTY POLICY. The county ~~protective services agency~~
 2 shall ensure that no later than ~~December 31, 2004~~, the county establishes a written
 3 policy that specifies procedures to be followed in the county that are designed to
 4 ensure that annual reviews of all individuals who are subject to orders for protective
 5 placement under s. 55.12 or to orders for protective placement initially issued under
 6 s. 55.06 (9) (a), 2003 stats., residing in the county are conducted as required by this
 7 section. The county ~~protective services agency~~ shall maintain a copy of the written
 8 policy and shall make the policy available for public inspection.

***NOTE: Since this bill likely will be for the 2005-06 session, the date in this subsection should be changed. What would you like it to be? *to no after passage*

***NOTE: Does the term "county protective services agency" serve any really useful purpose? As defined in s. 55.01 (1t), stats., it's the same as "county department," as defined in s. 55.01 (1r), stats.; the use of the two terms to mean the same entity seems confusing. *change throughout*

INSERT 120-9

9 (5) REPORT BY REGISTER IN PROBATE. The register in probate of each county shall
 10 ~~by December 31 of each year~~ file with the chief judge of the judicial administrative
 11 district a statement indicating whether each report and petition required to be filed
 12 by the county department under sub. (1) that year has been filed. If the statement
 13 indicates that a required report or petition has not been filed, the statement shall
 14 include an explanation of the reasons the report or petition has not been filed.

***NOTE: Would you like to establish a specific starting date for the requirement under this subsection, such as "Beginning December 31, 2005, and annually thereafter, ..."?

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*Beginning first after Jan 31
if bill is passed every Jan 31 through*

15 SECTION 172. 55.19 of the statutes is created to read:
 16 **55.19 Annual review of order authorizing involuntary administration**
 17 **of psychotropic medication.** All of the following shall be performed with respect
 18 to any individual who is subject to an order under s. 55.14 or an order initially issued
 19 under s. 880.33 (4r), 2003 stats., authorizing involuntary administration of
 20 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 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:

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 ^{or} attempting to administer psychotropic medication to the individual
 23 voluntarily is not feasible or is not in the best interests of the individual, as specified

24 in s. 55.14 (3) (c) ^{to be specified} including all information required under

***NOTE: I'm not sure that I understand what this subdivision is requiring; s. 55.14 (3) (c) specifies requirements for a petition for a court order requiring that psychotropic medication be administered involuntarily to an individual. Is it your intent that this subdivision require that the report of the annual review provide all of the evidence that the petition is required to provide? Note that I also added "is not feasible," since s. 55.14 (3) (c) has that option. *Yes*

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 (b) If, following an annual review of an individual's status under par. (a), the
18 individual or the individual's guardian or guardian ad litem requests termination of
19 the order and a hearing under the requirements of s. 55.10 (4) is provided, or if a
20 hearing under the requirements of s. 55.10 (4) is provided pursuant to a petition for
21 modification or termination of the order, the county department is not required to

1 initiate a subsequent review under par. (a) until the first day of the 11th month after
2 the date that the court issues a final order after the hearing.

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

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

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

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

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

****NOTE: Should sub. (2) (b) (intro.) indicate that the explanation must be oral
(because par. (c) additionally requires that the information be provided in writing)?

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

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

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

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

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

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7 6. The right to a hearing under sub. (3) (d).

****NOTE: Section 55.10 (4) states a series of rights that are to apply to all hearings under ch. 55 except transfers under s. 55.15. The series of rights under s. 55.19 (2) (b) includes the right to a "full due process hearing." I have taken this to mean a hearing under the requirements of s. 55.10 (4). Correct? If so, should the G.A.L. inform the individual and guardian about what the requirements under s. 55.10 (4) provide for the individual? See also my ****NOTE under s. 55.19 (3) (d) (intro.).

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

****NOTE: Note that I required that the information also be provided to the guardian. Okay?

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

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

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

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

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

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

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

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

****NOTE: Note my change to this paragraph; it seems illogical that the G.A.L.
would not also have to certify that he or she complied with pars. (a) and (e). *ok*

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

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

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

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

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

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

4 (br) The court shall order that the county department obtain any other
5 necessary information with respect to the individual. *l*

***NOTE: Please review this paragraph. It replaces material proposed as par. (a)
2. Generally, the material proposed as par. (a) 1. to 4. is redundant to material in par. (b)
or (bm). *ok*

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

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

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

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

***NOTE: *County of Dunn v. Goldie H.*, 245 Wis2d 538, 629 NW2d 189 (2001) held
that, in determining whether to continue a protective placement, a circuit court must hold
either a full due process hearing or a summary hearing, as described in the opinion, and
must make factual findings to support the need for continuation of the protective
placement. The court described a summary hearing as a brief hearing on the record; held
in court or held by other means, such as a telephone or video conference; not an
evidentiary hearing; and not requiring the presence of the person whose protective
placement is in question. The court did not describe a "full due process" hearing, and that
term is not used elsewhere in the statutes. I have incorporated the requirements for a
summary hearing in par. (d) and have, in lieu of using the term "full due process hearing,"
referred to the requirements under s. 55.10 (4). Please review. *ok*

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

1 2. The report under sub. (2) (f) indicates that the individual no longer meets the
2 standards for an order under s. 55.14 (8).

3 3. The report under sub. (2) (f) indicates that the individual objects to the order.

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

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

***NOTE: In the second sentence under this subdivision, did you mean that the court order shall include the information relied upon as a basis? Or that the court should include this information in some other document?

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

1. ***NOTE: With respect to the third sentence, please see the ***Note under subd.

19 3. If the court finds that the individual no longer meets the standards for an
20 order under s. 55.14 (8), the court shall terminate the order. If the order is
21 terminated, the court shall review the needs of the individual with respect to other
22 protective services. If the court determines that the individual meets the standards

in the order

1 for other protective services under s. 55.08 (2) that are not currently being provided
2 to the individual, the court may order those protective services for the individual.

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

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

INSERT 128-9

10 **SECTION 173.** 165.85 (4) (b) 1d. b. of the statutes is amended to read:

11 165.85 (4) (b) 1d. b. Training on emergency detention standards and
12 procedures under s. 51.15, emergency protective placement standards and
13 procedures under s. ~~55.06 (11)~~ 55.135, and information on mental health and
14 developmental disabilities agencies and other resources that may be available to
15 assist the officer in interpreting the emergency detention and emergency protective
16 placement standards, making emergency detentions and emergency protective
17 placements, and locating appropriate facilities for the emergency detentions and
18 emergency protective placements of persons.

INSERT 128-18

****NOTE: Should reference also be made to s. 55.13 under this subdivision unit? No

19 **SECTION 174.** 165.86 (2) (b) of the statutes is amended to read:

20 165.86 (2) (b) Organize a program of training, which shall encourage
21 utilization of existing facilities and programs through cooperation with federal,
22 state, and local agencies and institutions presently active in this field. Priority shall
23 be given to the establishment of the statewide preparatory and recertification
24 training programs described in sub. (1), but the department shall cooperate in the

1 creation and operation of other advanced and special courses, including courses
 2 relating to emergency detention of persons under s. 51.15 and emergency protective
 3 placement under s. ~~55.06 (11)~~ 55.135, that meet the curriculum standards
 4 recommended by the board. The department may satisfy the requirement for
 5 cooperating in the development of special courses relating to emergency detention
 6 and emergency protective placement by cooperating with county departments of
 7 community programs in the development of these courses under s. 51.42 (3) (ar) 4.
 8 d. The department shall keep appropriate records of all such training courses given
 9 in the state and the results thereof in terms of persons attending, agencies
 10 represented, and, where applicable, individual grades given.

****NOTE: Should reference to s. 55.13 also be made under this paragraph? *No*

INSERT
129-16

11 **SECTION 175.** 301.01 (2) (intro.) of the statutes is amended to read:

12 301.01 (2) (intro.) "Prisoner" means any person who is either arrested,
 13 incarcerated, imprisoned, or otherwise detained in excess of 12 hours by any law
 14 enforcement agency of this state, except when detention is pursuant to s. 55.06 (11)
 15 (a), 2003 stats., or s. 51.15, 51.20, 51.45 (11) (b), or ~~55.06 (11) (a)~~ 55.135 or ch. 980.

16 "Prisoner" does not include any of the following:

17 **SECTION 176.** 609.65 (1) (intro.) of the statutes is amended to read:

18 609.65 (1) (intro.) If an enrollee of a limited service health organization,
 19 preferred provider plan, or defined network plan is examined, evaluated, or treated
 20 for a nervous or mental disorder pursuant to a court order under s. 880.33 (4m) or
 21 (4r), 2003 stats., an emergency detention under s. 51.15, a commitment or a court
 22 order under s. 51.20 or 880.33 (4m) or (4r), ~~an order for protective placement or~~
 23 protective services under s. 55.12, an order under s. 55.14 or 55.19 (3) (e), or an order
 24 under ch. 980, then, notwithstanding the limitations regarding participating

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55.13,

1 providers, primary providers, and referrals under ss. 609.01 (2) to (4) and 609.05 (3),
2 the limited service health organization, preferred provider plan, or defined network
3 plan shall do all of the following:

****NOTE: Section 880.33 (4m) and (4r), stats., is repealed in this bill. Is this provision amended as you intend? I have taken into account the fact that the reviewing court under s. 55.19 may just let the old orders under s. 880.33 (4m) and (4r), stats., stand.

INSERT 130-3

4 SECTION 177. 757.69 (1) (h) of the statutes is amended to read:

5 757.69 (1) (h) Hear petitions for commitment and conduct probable cause

6 hearings under ss. 51.20, 51.45, and ~~55.06 (11)~~ 55.135, conduct reviews of
7 guardianships and protective placements and protective services under chs. 55 and
8 880, advise a person alleged to be mentally ill of his or her rights under the United
9 States and Wisconsin constitutions, and, if the person claims or appears to be unable
10 to afford counsel, refer the person to the authority for indigency determinations
11 specified under s. 977.07 (1) or, if the person is a child, refer that child to the state
12 public defender who shall appoint counsel for the child without a determination of
13 indigency, as provided in s. 48.23 (4).

INSERT 130-13

****NOTE: Should reference to s. 55.13 also be made under this paragraph?

yes

14 SECTION 178. 767.24 (7) (b) of the statutes is amended to read:

15 767.24 (7) (b) A parent who has been denied periods of physical placement with
16 a child under this section is subject to s. 118.125 (2) (m) with respect to that child's
17 school records, s. 51.30 (5) (bm) with respect to the child's court or treatment records,
18 s. ~~55.07~~ 55.23 with respect to the child's records relating to protective services, and
19 s. 146.835 with respect to the child's patient health care records.

20 SECTION 179. 808.075 (4) (c) 1. of the statutes is amended to read:

INSERT 130-19