

1 808.075 (4) (c) 1. ~~Review~~ Protective placement review under s. 55.18,
2 modification under s. 55.16, or termination of protective placement under s. 55.06
3 (10) 55.17.

****NOTE: Is this subdivision amended as you wish? *Yes*

INSERT
131-3

4 ✓ **SECTION 180.** 808.075 (4) (c) 2. of the statutes is amended to read:

5 808.075 (4) (c) 2. Hearing required upon transfer under s. 55.06 (9) 55.15.

INSERT
131-5

6 **SECTION 181.** 808.075 (4) (c) 3. of the statutes is amended to read:

7 808.075 (4) (c) 3. Enforcement of patient's rights under s. 55.07 55.23.

INSERT
131-7

8 **SECTION 182.** 809.30 (1) (b) 5. of the statutes is amended to read:

9 809.30 (1) (b) 5. Any other person who may appeal under ss. 51.13 (5), 51.20
10 (15), or ~~55.06 (18)~~ 55.20.

INSERT
131-10

11 **SECTION 183.** 809.30 (3) of the statutes is amended to read:

12 809.30 (3) APPEALS BY STATE OR OTHER PARTY; APPOINTMENT OF COUNSEL. In a case
13 in which the state of Wisconsin, the representative of the public, any other party, or
14 any person who may appeal under s. 51.13 (5), 51.20 (15), or ~~55.06 (18)~~ 55.20 appeals
15 and the person who is the subject of the case or proceeding is a child or claims to be
16 indigent, the court shall refer the person who is the subject of the case or proceeding
17 to the state public defender for the determination of indigency and the appointment
18 of legal counsel under ch. 977.

INSERT
131-18

19 **SECTION 184.** 813.123 (4) (a) (intro.) of the statutes is amended to read:

20 813.123 (4) (a) (intro.) Unless the vulnerable adult, guardian or guardian ad
21 litem consents in writing and the judge or circuit court commissioner agrees that the
22 contact is in the best interests of the vulnerable adult, a judge or circuit court
23 commissioner shall issue a temporary restraining order ordering the respondent to
24 avoid interference with an investigation of the vulnerable adult under s. 55.043, or

1 the delivery of protective services to or a protective placement of the vulnerable adult
2 ~~under s. 55.05 or a protective placement of the vulnerable adult under s. 55.06 ch.~~
3 55 if all of the following occur:

4 **SECTION 185.** 813.123 (4) (a) 2. of the statutes is amended to read:

5 813.123 (4) (a) 2. The judge or circuit court commissioner finds reasonable
6 grounds to believe that the respondent has interfered with, or, based on prior conduct
7 of the respondent, may interfere with, an investigation of the vulnerable adult under
8 s. 55.043, or the delivery of protective services to or a protective placement of the
9 ~~vulnerable adult under s. 55.05 or a protective placement of the vulnerable adult~~
10 ~~under s. 55.06 ch. 55.~~

11 **SECTION 186.** 813.123 (5) (a) (intro.) of the statutes is amended to read:

12 813.123 (5) (a) (intro.) Unless the vulnerable adult, guardian or guardian ad
13 litem consents to that contact in writing and the judge agrees that the contact is in
14 the best interests of the vulnerable adult, a judge may grant an injunction ordering
15 the respondent to avoid interference with an investigation of the vulnerable adult
16 under s. 55.043, or the delivery of protective services to or a protective placement of
17 ~~the vulnerable adult under s. 55.05 or a protective placement of the vulnerable adult~~
18 ~~under s. 55.06 ch. 55~~ if all of the following occur:

19 **SECTION 187.** 813.123 (5) (a) 3. b. of the statutes is amended to read:

20 813.123 (5) (a) 3. b. That the respondent has interfered with the delivery ~~to the~~
21 ~~vulnerable adult of protective services under s. 55.05~~ to or a protective placement of
22 the vulnerable adult under ~~s. 55.06 ch. 55~~ after the offer of services or placement has
23 been made and the vulnerable adult or his or her guardian, if any, has consented to
24 receipt of the protective services or placement.

25 **SECTION 188.** 813.123 (6) (c) of the statutes is amended to read:

1 813.123 (6) (c) That the respondent interfered with, or, based on prior conduct
2 of the respondent, may interfere with, an investigation of the vulnerable adult under
3 s. 55.043, or the delivery of protective services to ~~the vulnerable adult under s. 55.05~~
4 or a protective placement of the vulnerable adult under s. ~~55.06~~ ch. 55.

✓
INSERT
133-4

5 **SECTION 189.** 813.123 (7) of the statutes is amended to read:

6 813.123 (7) INTERFERENCE ORDER. Any order under this section directing a
7 person to avoid interference with an investigation of a vulnerable adult under s.
8 55.043, or the delivery of protective services to ~~a vulnerable adult under s. 55.05~~ or
9 a protective placement of a vulnerable adult under s. ~~55.06~~ ch. 55 prohibits the
10 person from intentionally preventing a representative or employee of the county
11 protective services agency from meeting, communicating, or being in visual or audio
12 contact with the vulnerable adult, except as provided in the order.

INSERT 133-12

13 **SECTION 190.** 813.123 (11) of the statutes is amended to read:

14 813.123 (11) APPLICABILITY. This section does not apply to vulnerable adults
15 who are patients or residents of state-operated or county-operated inpatient
16 institutions unless the alleged interference with an investigation of the vulnerable
17 adult under s. 55.043 or with the delivery to ~~the vulnerable adult~~ of protective
18 services ~~under s. 55.05~~ to or a protective placement of the vulnerable adult under s.
19 ~~55.06~~ ch. 55 is alleged to have been done by a person other than an employee of the
20 inpatient institution.

INSERT 133-20

21 **SECTION 191.** 851.72 (11) of the statutes is created to read:

22 851.72 (11) Annually submit to the chief judge of the judicial administrative
23 district the statement required under s. 55.18 (5) regarding the completion of annual
24 reviews of protective placement orders under s. 55.18 (1).

INSERT 133-24

25 **SECTION 192.** 880.01 (2) of the statutes is amended to read:

1 880.01 (2) "Developmentally disabled person" means any individual having a
2 disability attributable to mental retardation, cerebral palsy, epilepsy, autism or
3 another neurological condition closely related to mental retardation or requiring
4 treatment similar to that required for mentally retarded individuals, which has
5 continued or can be expected to continue indefinitely, substantially impairs the
6 individual from adequately providing for his or her own care or custody, and
7 constitutes a substantial handicap to the afflicted individual. The term does not
8 include a person affected by senility which is primarily caused by the process of aging
9 or the infirmities of aging degenerative brain disorder.

INSERT 134-9

10 **SECTION 193.** 880.01 (4) of the statutes is amended to read:

11 880.01 (4) "Incompetent" means a person adjudged by a court of record to be
12 substantially incapable of managing his or her property or caring for himself or
13 herself by reason of ~~infirmities of aging~~ degenerative brain disorder, developmental
14 disabilities, or other like incapacities. Physical disability without mental incapacity
15 is not sufficient to establish incompetence.

INSERT 134-15

16 **SECTION 194.** 880.01 (5) of the statutes is renumbered 880.01 (1t) and amended
17 to read:

18 880.01 (1t) "~~Infirmities of aging~~ Degenerative brain disorder" means ~~organic~~
19 ~~brain damage caused by advanced age or other physical degeneration in connection~~
20 ~~therewith to the extent that the person so afflicted~~ the loss or dysfunction of brain
21 ~~cells to the extent that an individual~~ is substantially impaired in his or her ability
22 to ~~adequately~~ provide adequately for his or her own care or custody.

INSERT 134-22

23 **SECTION 195.** 880.01 (7m) of the statutes is renumbered 55.14 (1) (b) and
24 amended to read:

1 55.14 (1) (b) “Not competent to refuse psychotropic medication” means that,
 2 ~~because of chronic mental illness, as defined in s. 51.01 (3g) as a result of~~
 3 developmental disabilities, degenerative brain disorder, serious and persistent
 4 mental illness, or other like incapacities, and after the advantages and
 5 disadvantages of and alternatives to accepting the particular psychotropic
 6 medication have been explained to an individual, one of the following is true:

7 1. The individual is incapable of expressing an understanding of the
 8 advantages and disadvantages of accepting treatment and the alternatives to
 9 accepting treatment.

10 2. The individual is substantially incapable of applying an understanding of
 11 the advantages, disadvantages and alternatives to his or her ~~chronic mental illness~~
 12 condition in order to make an informed choice as to whether to accept or refuse
 13 psychotropic medication.

✓
 INSERT 135-13

14 **SECTION 196.** 880.01 (8m) of the statutes is created to read:

15 880.01 (8m) “Psychotropic medication” means a prescription drug, as defined
 16 in s. 450.01 (20), that is used to treat or manage a psychiatric symptom or challenging
 17 behavior.

NOTE: Creates a definition of “psychotropic medication” in ch. 880, relating to guardianship.

under
 s. 880.07

18 **SECTION 197.** 880.06 (1) of the statutes is amended to read:

19 880.06 (1) ORIGINAL PROCEEDING. The court ~~wherein~~ in which a petition is first
 20 filed shall determine venue. If it is determined The court shall direct that proper
 21 notice be given to any potentially responsible or affected county. After all potentially
 22 responsible or affected counties and parties have been given an opportunity to be
 23 heard, the court shall determine that venue lies in the county in which the petition

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 p. 136 HERE

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to p. 135, line 21

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1 is first filed or in another county, as appropriate. If the court determines that venue
 2 lies in another county, the court shall order the entire record certified to the proper
 3 court. A court wherein in which a subsequent petition is filed shall, upon being
 4 satisfied of an earlier filing in another court, summarily dismiss such the subsequent
 5 petition. If any potentially responsible or affected county or party objects to the
 6 court's finding of venue, the court shall refer the issue to the department of health
 7 and family services for a determination of the county of responsibility under s. 51.40
 8 (2) (g) and shall suspend ruling on the motion for change of venue, until the
 9 determination under s. 51.40 (2) (g) is final. Proper notice is given to a potentially
 10 responsible or affected county if written notice of the proceeding is sent by certified
 11 mail to the county's clerk and corporation counsel.

****NOTE: Please review the ****NOTE under s. 55.075 (5) (b). Also, what petition
 does the first sentence refer to? Only the petition under s. 880.07? *yes*

Make parallel changes

12 **SECTION 198.** 880.06 (2) of the statutes is repealed and recreated to read:

13 880.06 (2) CHANGE OF RESIDENCE OF WARD BY GUARDIAN. A guardian for good
 14 cause shown may change a ward's county of residence by filing with the court a
 15 written statement as specified in s. 51.40 (2) (f).

****NOTE: This provision, as repealed an recreated, now no longer addresses the
 issue of a guardian who moves to another county; is that intentional? Also, please note
 that the current wording of s. 51.40 (2) (f), stats., applies only to a guardian who is the
 parent or sibling of a ward and to a ward who is in a nursing home or state facility. Did
 you intend this narrow application, or did you want s. 51.40 (2) (f), stats., to be modified?

16 **SECTION 199.** 880.07 (1m) of the statutes is repealed.

17 **SECTION 200.** 880.07 (2m) of the statutes is created to read:

18 880.07 (2m) Whenever a petition for guardianship on the ground of
 19 incompetency is filed with respect to an individual who resides in a facility licensed
 20 for 16 or more beds, a petition for protective placement of the individual shall also
 21 be filed.

INSERT 136-16

NOTE: Requires the filing of a protective placement petition 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.

1 **SECTION 201.** 880.08 (1) of the statutes is amended to read:

2 880.08 (1) ~~INCOMPETENTS~~ PROPOSED WARD OR WARD. A petitioner shall have
3 notice served of a petition for appointment or change of a guardian upon ~~the a~~
4 proposed ~~incompetent~~ ward or ward and existing guardian, if any, by personal
5 service at least 10 days before the time set for hearing. If such ~~the~~ proposed
6 ~~incompetent~~ ward or ward is in custody or confinement, a petitioner shall have notice
7 served by registered or certified mail on the proposed ~~incompetent's~~ ward's or ward's
8 custodian, who shall immediately serve it on the proposed ~~incompetent~~ ward or
9 ward. The custodian shall inform the proposed ~~incompetent~~ ward or ward of the
10 complete contents of the notice ~~and, certify thereon on it~~ that the custodian served
11 and informed the proposed ~~incompetent~~ ward or ward, and ~~returned~~ return the
12 certificate and notice to the circuit judge. The notice shall include the names of all
13 persons who are petitioning for guardianship. A copy of the petition shall be attached
14 to the notice. ~~The court shall cause the proposed incompetent, if able to attend, to~~
15 ~~be produced~~ ward or ward shall be present at the hearing. ~~The proposed incompetent~~
16 ~~is presumed able to attend~~ unless, after a personal interview, the guardian ad litem
17 certifies in writing to the court ~~the~~ that the proposed ward or ward is unwilling to
18 participate or unable to participate in a meaningful way or certifies other specific
19 reasons why the ~~person~~ proposed ward or ward is unable to attend. If the ~~person~~
20 proposed ward or ward is unable to attend a hearing only because of physical
21 inaccessibility or lack of transportation, the court shall ~~hold the hearing in a place~~
22 ~~where the person may attend, if requested by the proposed ward or ward, guardian~~
23 ad litem, ~~adversary~~ counsel or other interested person. ~~Such, hold the hearing in a~~

for the proposed ward or
ward,

use authored "Brown" (from p.93)

1 place where the proposed ward or ward is able to attend. The notice shall also be
 2 given personally or by mail at least 10 days before the hearing to the proposed
 3 ~~incompetent's ward's or ward's~~ counsel, if any, guardian ad litem, presumptive adult
 4 heirs or other persons who have legal or physical custody of the proposed
 5 ~~incompetent~~ ward or ward whose names and addresses are known to the petitioner
 6 or can with reasonable diligence be ascertained, to any governmental or private
 7 agency, charity or foundation from which the proposed ~~incompetent~~ ward or ward is
 8 receiving aid and to such other persons or entities as the court may require. The
 9 court shall then proceed under s. 880.33.

Section 132

****NOTE: Certain language in this provision was not included in the changes made to s. 880.08 (1) in the proposal; I have restored it. Note that I have included "or ward" because the notice is of a petition for appointment or change of an appointed guardian.

NOTE: Specifies that the court need not hold a hearing on appointment of a guardian for a person alleged to be incompetent in the presence of the person under certain circumstances. These provisions are identical to provisions inserted into ch. 55 by SEC. 2 of the bill.

****NOTE: Please see the ****Note under s. 55.10 (2).

10 **SECTION 202.** 880.24 (3) (a) of the statutes is renumbered 880.24 (3), and 880.24
 11 (3) (intro.), as renumbered, is amended to read:

12 880.24 (3) (intro.) ~~Except as provided in par. (b), when~~ When a guardian is
 13 appointed, the court shall award from the ward's estate payment of the petitioner's
 14 reasonable attorney fees and costs, ~~including those fees and costs, if any, related to~~
 15 ~~protective placement of the ward,~~ unless the court finds, after considering all of the
 16 following, that it would be inequitable to do so:

17 **SECTION 203.** 880.24 (3) (b) of the statutes is renumbered 880.24 (3) (cm) and
 18 amended to read:

19 880.24 (3) (cm) ~~If the court finds that~~ Whether the ward had executed a durable
 20 power of attorney under s. 243.07 or a power of attorney for health care under s.

1 155.05 or had engaged in other advance planning to avoid guardianship, the court
2 may not make the award specified in par. (a). *create autobref "RED"*

NOTE: Specifies that the court may consider whether the ward engaged in advance planning to avoid guardianship when deciding whether to award payment of the petitioner's attorney fees and costs from the ward's estate.

3 SECTION 204. 880.33 (1) of the statutes is amended to read:

4 880.33 (1) Whenever it is proposed to appoint a guardian on the ground of
5 incompetency, a licensed physician or licensed psychologist, or both, shall furnish a
6 written statement concerning the mental condition of the proposed ward, based upon
7 examination. The privilege under s. 905.04 shall not apply to this statement. A copy
8 of the statement shall be provided to the proposed ward, guardian ad litem, and
9 attorney. ~~Prior to the examination, under this subsection, of a person~~ *strike* an individual
10 ~~alleged to be not competent to refuse psychotropic medication under s. 880.07 (1m),~~ *strike*
11 ~~the person~~ *strike* individual ~~shall be informed that his or her statements may be used as~~ *strike*
12 ~~a basis for a finding of incompetency and an order for protective services, including~~ *strike*
13 ~~psychotropic medication.~~ *strike* The person individual shall also be informed that he or she
14 has a right to remain silent and that the examiner is required to report to the court
15 even if the ~~person~~ individual remains silent. The issuance of such a warning to the
16 ~~person~~ individual prior to each examination establishes a presumption that the
17 ~~person~~ individual understands that he or she need not speak to the examiner.

****NOTE: Section 880.07 (1m), stats., is repealed in this bill; how do you want this subsection amended? *Repeal 3d sent*

18 SECTION 205. 880.33 (2) (a) 1. of the statutes is amended to read:

19 880.33 (2) (a) 1. The proposed ward has the right to counsel whether or not
20 present at the hearing on determination of competency. The court shall in all cases
21 require the appointment of an attorney as guardian ad litem in accordance with s.
22 757.48 (1) and shall in addition require representation by full legal counsel ~~whenever~~ *strike*

1 ~~the petition contains the allegations under s. 880.07 (1m) or if, at least 72 hours~~
 2 before the hearing, the alleged incompetent requests; the guardian ad litem or any
 3 other person states that the alleged incompetent is opposed to the guardianship
 4 petition; or the court determines that the interests of justice require it. The proposed
 5 ward has the right to a trial by a jury if demanded by the proposed ward, attorney,
 6 or guardian ad litem; ~~except that if the petition contains the allegations under s.~~
 7 ~~880.07 (1m) and if notice of the time set for the hearing has previously been provided~~
 8 ~~to the proposed ward and his or her counsel, a jury trial is deemed waived unless~~
 9 ~~demanded at least 48 hours prior to the time set for the hearing.~~ The number of
 10 jurors shall be determined under s. 756.06 (2) (b). The proposed ward, attorney, or
 11 guardian ad litem shall have the right to present and cross-examine witnesses,
 12 including the physician or psychologist reporting to the court under sub. (1). The
 13 attorney or guardian ad litem for the proposed ward shall be provided with a copy
 14 of the report of the physician or psychologist at least 96 hours in advance of the
 15 hearing. Any final decision of the court is subject to the right of appeal.

***NOTE: Please see the ***Note under s. 880.33 (1), stats.

Repeal out material relating to psychotrop med

SECTION 206. 880.33 (2) (a) 2. of the statutes is amended to read:

16 880.33 (2) (a) 2. If the person proposed ward requests but is unable to obtain
 17 legal counsel, the court shall appoint legal counsel. If the person proposed ward is
 18 represented by counsel appointed under s. 977.08 in a proceeding for under a petition
 19 for protective placement brought under s. 55.06 ~~55.075~~ or for the appointment of a
 20 ~~guardian under s. 880.07 (1m)~~, the court shall order the counsel appointed under s.
 21 977.08 to represent the person proposed ward.
 22

***NOTE: Please see the ***Note under s. 880.33 (1), stats.

See above

SECTION 207. 880.33 (2) (d) of the statutes is amended to read:

repealed.

23
fix component

strike

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55.075

55.075

REPLAIN

1 880.33 (2) (d) The hearing on a petition which contains allegations under s.
 2 880.07 (1m) shall be held within 30 days after the date of filing of the petition, except
 3 that if a jury trial demand is filed the hearing shall be held within either 30 days after
 4 the date of filing of the petition or 14 days after the date of the demand for a jury trial,
 5 whichever is later. A finding by a court under s. 51.67 that there is probable cause
 6 to believe that the person individual is a proper subject for guardianship under s.
 7 880.33 (4m) has the effect of filing a petition under s. 880.07 (1m).

****NOTE: Please see the ****Note under s. 880.33 (1), stats. In addition, s. 880.33 (4m), stats., is repealed in this bill; I am unsure about what you want me to do with these cross-references..

fix component

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Repeal par.

8 SECTION 208. 880.33 (2) (e) of the statutes is amended to read: repealed

9 880.33 (2) (e) Every hearing on a petition under s. 880.07 (1m) shall be open,
 10 unless the proposed ward or his or her attorney acting with the proposed ward's
 11 consent moves that it be closed. If the hearing is closed, only persons in interest,
 12 including representatives of providers of service and their attorneys and witnesses,
 13 may be present.

****NOTE: Please see the ****Note under s. 880.33 (1), stats. Also, somewhat similarly to the ****NOTE under s. 55.10 (3), I believe the term "persons in interest" should be changed to "interested persons," to fit the definition under s. 880.01 (6), stats.

Repeal par.

INSERT
14-13

14 SECTION 209. 880.33 (2) (f) of the statutes is created to read:
 15 880.33 (2) (f) An interested person may participate in the hearing on the
 16 petition at the court's discretion.

NOTE: This provision is taken from the decision of the Wisconsin Court of Appeals in *Coston v. Joseph P.*, 222 Wis. 2d 1, 586 N.W.2d 52 (Ct. App. 1998).

17 SECTION 210. 880.33 (3) of the statutes is amended to read:
 18 880.33 (3) In a finding of limited incompetency, guardianship of the person
 19 shall be limited in accordance with the order of the court accompanying the finding
 20 of incompetence. If the proposed incompetent has executed a power of attorney for

1 health care under ch. 155, the court shall give consideration to the appointment of
 2 the health care agent for the individual as the individual's guardian. The court shall
 3 make a specific finding as to which legal rights the ~~person~~ individual is competent
 4 to exercise. Such rights include but are not limited to the right to vote, to marry, to
 5 obtain a motor vehicle operator's license or other state license, to hold or convey
 6 property, and the right to contract. The findings of incompetence must be based upon
 7 clear and convincing evidence. The court shall determine if additional medical or
 8 psychological testimony is necessary for the court to make an informed decision
 9 respecting competency to exercise legal rights and may obtain assistance in the
 10 manner provided in s. ~~55.06 (8)~~ 55.11 whether or not protective placement is made.
 11 The guardian, ward, or any interested person may at any time file a petition with the
 12 court requesting a restoration of any such legal right, and specifying the reasons
 13 therefor. ~~Such~~ The petition may request that a guardianship of the person be
 14 terminated and a guardianship of property be established.

****NOTE: In the reference to s. 55.11 in this subsection, does the term "may obtain assistance in the manner provided in s. 55.11" mean that a court may request a county department to provide an evaluation for the individual? If so, should this subsection be clarified to say that? Otherwise, it's not particularly clear what "assistance" means. IGNORE

INSERT
142-14

15 **SECTION 211.** 880.33 (4m) of the statutes is repealed.

INSERT 142-15

16 **SECTION 212.** 880.33 (4r) of the statutes is repealed.

****NOTE: Please see the ****NOTE under s. 55.10 (4) (b) (renumbered from s. 55.06 (6), stats.).

INSERT 142-16

17 **SECTION 213.** 880.33 (6) of the statutes is amended to read:

18 880.33 (6) All court records pertinent to the finding of incompetency are closed
 19 but subject to access as provided in s. ~~55.06 (17)~~ 55.22. The fact that a ~~person~~ an
 20 individual has been found incompetent is accessible to any person who demonstrates
 21 to the custodian of the records a need for that information.

INSERT 142-21

1 SECTION 214. 880.33 (7) of the statutes is amended to read:

2 880.33 (7) A finding of incompetency and appointment of a guardian under this
3 subchapter is not grounds for involuntary protective placement. Such placement A
4 protective placement may be made only in accordance with ~~s. 55.06~~ ch. 55.

INSERT
143-4

5 SECTION 215. 880.331 (1) of the statutes is amended to read:

6 880.331 (1) APPOINTMENT. The court shall appoint a guardian ad litem
7 whenever it is proposed that the court appoint a guardian on the ground of
8 incompetency under s. 880.33, ~~protectively place a person~~ provide protective
9 placement to an individual or order protective services under ~~s. 55.06~~ ch. 55, review
10 any protective placement or protective service order under s. ~~55.06~~ 55.18, or
11 terminate a protective placement under s. ~~55.06~~ 55.17.

INSERT 143-11

12 SECTION 216. 880.331 (4) (am) and (ar) of the statutes are created to read:

13 880.331 (4) (am) Interview the proposed guardian and any other person
14 seeking appointment as guardian.

15 (ar) Make a recommendation to the court regarding the fitness of the proposed
16 guardian.

****NOTE: I have deleted the proposed creation of s. 880.331 (4) (as). Please see the
****NOTE under s. 55.10 (4) (b), renumbered from s. 55.06 (6), stats.

Moved to 55.10(4)(b)

RESTORE
for person
who has
guard. at
time of peti.

INSERT 143-16

17 SECTION 217. 880.331 (4) (dm), (dr) and (ds) of the statutes are created to read:

18 880.331 (4) (dm) Inform the court and the petitioner or petitioner's counsel, if
19 any, if the proposed ward requests representation by counsel.

20 (dr) Attend all court proceedings related to the guardianship.

21 (ds) Notify the guardian of the right to be present at and participate in the
22 hearing, to present and cross-examine witnesses, to receive a copy of any evaluation

1 under s. 55.11 (1) (intro.) or (2), and to secure and present a report on an independent
2 evaluation under s. 880.33 (2) (b).

****NOTE: Please note that I added the right of the guardian to receive an evaluation specified in s. 55.11 (2)--that right is specified in s. 55.11 (3). Please also note that I added the right of the guardian to secure and present a report on an independent evaluation under s. 880.33 (2) (b), stats.--that provision doesn't really speak to the right of the guardian to receive a copy of the evaluation, as had been specified in the material proposed.

INSERT 144-2

3 SECTION 218. 880.331 (5) (intro.) of the statutes is amended to read:

CS l.c.

4 880.331 (5) DUTIES IN ~~PROTECTIVE SERVICES~~ REVIEWS. (intro.) In any review ~~under s. 55.18~~ of a
5 protective placement under s. 55.06 or ~~order~~ or of a protective service order made
6 under s. 55.05 ~~55.12~~, the guardian ad litem shall do all of the following:

INSERT 144-6

Services

7 SECTION 219. 880.34 (6) of the statutes is repealed.

INSERT 144-7

8 SECTION 220. 880.38 (1) of the statutes is amended to read:

9 880.38 (1) A guardian of the person of an incompetent, upon order of the court,
10 may have custody of the person ward, may receive all notices on behalf of the person
11 ward, and may act in all proceedings as an advocate of the person ward, but may not
12 have the power to bind the ward or the ward's property, or to represent the ward in
13 any legal proceedings pertaining to the property, unless the guardian of the person
14 is also the guardian of the property. A guardian of the person of an incompetent or
15 a temporary guardian of the person of an incompetent may not make a permanent
16 protective placement of the ward unless ordered by a court under s. 55.06 ~~55.12~~ but
17 may admit a ward to certain residential facilities under s. 55.05 ~~(5) 55.055~~ or make
18 an emergency protective placement under s. 55.06 ~~(11) 55.135~~. The guardian of the
19 person has the power to apply may petition for protective placement under s. 55.06
20 55.075 (1) and for commitment under s. 51.20 or 51.45 (13).

INSERT 144-20

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

No

21 SECTION 221. 880.38 (2) of the statutes is amended to read:

1 880.38 (2) A guardian of the person shall endeavor to secure necessary care,
 2 services, or appropriate protective placement on behalf of the ward. Subject to any
 3 limitation imposed by the court under s. 880.33 (8) (b), a guardian may consent,
 4 without further court involvement, to involuntary administration of medication,
 5 other than psychotropic medication, and involuntary medical treatment that is in
 6 the ward's best interest. A guardian may consent to involuntary administration of
 7 psychotropic medication only under a court order under s. 55.14. In determining
 8 whether medication, other than psychotropic medication, or medical treatment is in
 9 the ward's best interest, the guardian shall consider the invasiveness of the
 10 medication or treatment and the likely benefits and side effects of the medication or
 11 treatment.

INSERT 145-11

12 SECTION 222. 880.38 (3) of the statutes is amended to read:

13 880.38 (3) A guardian of the person of an incompetent appointed under s.
 14 880.33 shall make an annual report on the condition of the ward to the court that
 15 ordered the guardianship and to the county department designated under s. 55.02
 16 (2). That county department shall develop reporting requirements for the guardian
 17 of the person. The report shall include, but not be limited to, the location of the ward,
 18 the health condition of the ward, any recommendations regarding the ward, and a
 19 statement of whether or not the ward is living in the least restrictive environment

20 consistent with the needs of the ward. ~~The guardian may fulfill the requirement~~
 21 ~~under this subsection by submitting the report required to be filed under s. 55.06 (10)~~

22 ~~55.18 (1) (a) 4.~~

***NOTE: Please review my amendment to this subsection, especially the last
 sentence. *repeal last sent*

INSERT 145-22

23 SECTION 223. 880.38 (4) of the statutes is created to read:

1 880.38 (4) (a) In this subsection, “protest” means make more than one
2 discernible negative response, other than mere silence, to the offer of,
3 recommendation for, or other proffering of voluntary receipt of psychotropic
4 medication. “Protest” does not mean a discernible negative response to a proposed
5 method of administration of the psychotropic medication.

6 (b) A guardian may, without court approval, give an informed consent to the
7 voluntary receipt by the guardian’s ward of medication, including any appropriate
8 psychotropic medication, if the guardian has first made a good-faith attempt to
9 discuss with the ward the voluntary receipt of the medication and if the ward does
10 not protest.

NOTE: Creates a definition of “protest” and creates a provision under which a guardian may provide informed consent to voluntary receipt of medication, including psychotropic medication, by a ward.

11 **SECTION 224.** 940.285 (1) (a) of the statutes is renumbered 940.285 (1) (am).

12 **SECTION 225.** 940.285 (1) (b) of the statutes is renumbered 940.285 (1) (ag) and
13 amended to read:

14 940.285 (1) (ag) “~~Infirmities of aging~~ “Degenerative brain disorder” has the
15 meaning specified in s. 55.01 (3) given in s. 55.01 (1v).

INSERT 146-15

16 **SECTION 226.** 940.285 (1) (e) (intro.) of the statutes is amended to read:

17 940.285 (1) (e) (intro.) “Vulnerable adult” means any person 18 years of age or
18 older who either is a developmentally disabled person or has ~~infirmities of aging~~
19 degenerative brain disorder, mental illness or other like incapacities and who is:

INSERT 146-19

20 **SECTION 227.** 940.295 (1) (hm) of the statutes is renumbered 940.295 (1) (cg)
21 and amended to read:

22 940.295 (1) (cg) “~~Infirmities of aging~~ Degenerative brain disorder” has the
23 meaning given in s. 55.01 (3) (1v).

INSERT 146-23

1 SECTION 228. 940.295 (1) (t) (intro.) of the statutes is amended to read:

2 940.295 (1) (t) (intro.) “Vulnerable person” means any person who either is a
3 developmentally disabled person or has ~~infirmities of aging~~ degenerative brain
4 disorder, mental illness or other like incapacities and who is:

5 INSERT 147-4 SECTION 229. 971.14 (6) (b) of the statutes is amended to read:

6 971.14 (6) (b) When the court discharges a defendant from commitment under
7 par. (a), it may order that the defendant be taken immediately into custody by a law
8 enforcement official and promptly delivered to a facility specified in s. 51.15 (2), an
9 approved public treatment facility under s. 51.45 (2) (c) ² or an appropriate medical or
10 protective placement facility. Thereafter, detention of the defendant shall be
11 governed by s. 51.15, 51.45 (11), or ~~55.06 (11)~~ 55.135, as appropriate. The district
12 attorney or corporation counsel may prepare a statement meeting the requirements
13 of s. 51.15 (4) or (5), 51.45 (13) (a), or ~~55.06 (11)~~ 55.135 based on the allegations of the
14 criminal complaint and the evidence in the case. This statement shall be given to the
15 director of the facility to which the defendant is delivered and filed with the branch
16 of circuit court assigned to exercise criminal jurisdiction in the county in which the
17 criminal charges are pending, where it shall suffice, without corroboration by other
18 petitioners, as a petition for commitment under s. 51.20, or 51.45 (13) or ~~55.06 (2)~~ a
19 petition for protective placement under s. 55.075. This section does not restrict the
20 power of the branch of circuit court in which the petition is filed to transfer the matter
21 to the branch of circuit court assigned to exercise jurisdiction under ch. 51 in the
22 county. Days spent in commitment or protective placement pursuant to a petition
23 under this paragraph shall not be deemed days spent in custody under s. 973.155.

****NOTE: Have I amended this paragraph as you wish? If I have, it appears that
a statement concerning emergency protective placement under this paragraph is

✓
INSERT
148-1

permitted to suffice as a petition for protective placement, in which case an exception to the requirements under s. 55.075 should be made for this paragraph.

yes, make exception

1 **SECTION 230.** 977.05 (4) (i) 8. of the statutes is created to read:

2 977.05 (4) (i) 8. Cases involving individuals who are subject to petitions for
3 protective placement under ch. 55.

✓
INSERT
148-3

****NOTE: Should this provision also include reference to petitions for protective services?

no

4 **SECTION 231. Nonstatutory provisions.**

5 (1) REVIEW OF ORDER; INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC MEDICATION.

6 For an individual who is subject to an order appointing a guardian under section
7 880.33 (4m), 2003 stats., and to an order initially issued under section 880.33 (4r),
8 2003 stats., that is in effect on the effective date of this subsection, the county
9 department of the individual's county of residence shall, no later than 9 months after
10 the effective date of this subsection, review the individual's status under the
11 requirements of section 55.19 of the statutes, as created by this act.

12 (2) TRANSITION; INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC MEDICATION.

13 Notwithstanding the treatment of sections 55.05 (2) (d) and 880.33 (4m) and (4r) of
14 the statutes by this act, all orders issued under sections 55.05 (2) (d), 2003 stats., and
15 880.33 (4m) and (4r), 2003 stats., in effect on the effective date of this subsection,
16 remain in effect until modified or terminated by a court order under section 55.16,
17 55.17, or 55.19 of the statutes, as created by this act.

****NOTE: Note that I added reference to s. 880.33 (4m), stats., to subs. (1) and (2).

ok

18 (3) TRANSITION; ORDERS FOR PROTECTIVE PLACEMENT AND PROTECTIVE SERVICES.

19 Notwithstanding the treatment of sections 55.05 and 55.06 of the statutes by this act,
20 all orders issued under section 55.05 (2) (d), 2003 stats., or section 55.06 (9) (a) or (11)
21 (c), 2003 stats., in effect on the effective date of this subsection, remain in effect until
22 modified or terminated by a court order under section 55.16, 55.17, 55.18, or 55.19

1 of the statutes, as created by this act or section 55.175 or 55.20 of the statutes, as
2 affected by this act.

3 **SECTION 232. Initial applicability.**

INSERT
149-2

4 ✓ (1) EMERGENCY PROTECTIVE SERVICES OR EMERGENCY AND TEMPORARY PROTECTIVE
5 PLACEMENT. The treatment of sections 46.011 (2), 46.10 (2), 46.279 (4) (e) and (5),
6 49.001 (5m), 49.45 (30m) (b), ~~50.06 (2) (d)~~, 51.15 (5), 51.39, 51.40 (2) (a) 2., 51.42 (1) ✓
7 (b) and (3) (ar) 4. d., 51.437 (4) (c), 55.01 (4g), (4t), and (6x), 55.02 (2) (b) 4., 55.043
8 (4) (b), 55.05 (3), (4) (title), (a), (b), and (c), and (5) (c) 2. and 3., 55.06 (1) (intro.) and
9 (d), (11) (a), (am), (ar), (b), (c), and (d), and (12), 55.13 (2) and (3), 55.135 (title), 165.85
10 (4) (b) 1d. b., 165.86 (2) (b), 301.01 (2) (intro.), 757.69 (1) (h), 880.38 (1), and 971.14
11 (6) (b) of the statutes first applies to emergency protective services provided and
12 emergency and temporary protective placements made on the effective date of this
13 subsection.

14 ✓ (2) ~~PETITIONS FOR PROTECTIVE PLACEMENT OR PROTECTIVE SERVICES.~~ The treatment
15 of sections 46.10 (2), 46.275 (4) (b) 1., 46.279 (2), (4) (c), (d), and (e), ~~46.286 (3) (a) 3,~~
16 49.001 (8), 49.45 (30m) (b), 50.03 (5m) (c), ~~50.06 (2) (c) and (d)~~, 51.15 (1) (a) 4., 51.20 ✓✓
17 (1) ~~(a) 2. c, d, and e. and~~ (am) ~~and (1m)~~, 51.39, 51.40 (2) (a) 1. ~~and (g) 1,~~ 55.001, 55.01 ✓✓
18 (1d), (4g), (4t), (6), (6m), (6p), (6r), ~~and (6x)~~, 55.02, 55.03, 55.04 (title), (1), (2), (3), and
19 (4), ~~55.043 (1) (a) (intro.), 1, and 3. and (b) 1. and 2. a. and b. and (4) (a) and (b),~~
20 55.045, 55.05 (3), and (5) (b) 2. and (c) 3., 55.055 (3), 55.06 (1) (intro.), (a), (b), ~~and~~ (c), *and*
21 (2) (intro.), (a), (b), (c), and (d), (3) (a), (b), and (c), (4), (5), (5m), (6), (7), (8) (intro.), *(d)*
22 (a), (b), and (c), (9) (a), (11) (b) and (c), (15), (16), and (18), 55.075, 55.08, 55.09, 55.10,
23 55.11, 55.12, ~~55.13 (2) and (3)~~, 609.65 (1) (intro.), 809.30 (1) (b) 5. and (3), ~~813.123 (4)~~
24 ~~(a) (intro.) and 2., (5) (a) (intro.) and 3. b., (6) (c), (7), and (11),~~ 880.33 (2) (a) 2., (3),
25 and (7), 880.331 (1), ~~(4) (am), (ar), (dm), (dr), and (ds),~~ and (5) (intro.), ~~880.38 (1),~~
880.07 (2m),

1 971.14 (6) (b), and 977.05 (4) (i) 8. of the statutes, the renumbering and amendment
2 of section 55.01 (4) of the statutes, and the creation of section 55.01 (4) (c) of the
3 statutes first apply to petitions for protective placement or protective services
4 brought on the effective date of this subsection.

5 (3) DIAGNOSES OF SERIOUS AND PERSISTENT MENTAL ILLNESS. The treatment of
6 sections 46.27 (6r) (b) 2., 46.972 (3) (a) and (b), 49.43 (10v), 49.45 (6m) (i) 2. and (25)
7 (am) 2., 51.01 (3g) and (3s), 51.20 (7) (d) 1. (intro.) and b., 51.35 (4m) (intro.), 51.40
8 (2) (intro.), 51.421 (1), (2), and (3) (c), 51.67 (intro.) and (2), 55.001, 55.01 (6r) and (6v),
9 55.06 (2) (c), and (11) (a), 55.08 (2) (b), and 880.01 (7m) of the statutes first applies
10 to diagnoses of serious and persistent mental illness made on the effective date of this
11 subsection.

12 (4) DIAGNOSES OF DEGENERATIVE BRAIN DISORDER. The treatment of sections
13 46.286 (1) (intro.) and (3) (a) (intro.), 46.90 (1) (c) and (d), 51.01 (2g) (b), (3g), and (5)
14 (a), 55.001, 55.01 (1v), (2), (3), and (6r), 55.06 (2) (c) and (11) (a), 55.08 (2) (b), 880.01
15 (2), (4), (5), and (7m), 940.285 (1) (b) and (e) (intro.), and 940.295 (1) (hm) and (t)
16 (intro.) of the statutes first applies to diagnoses of degenerative brain disorder made
17 on the effective date of this subsection.

18 (5) REQUEST FOR VOLUNTARY PROTECTIVE SERVICES. The treatment of sections
19 55.05 (title), (2) (intro.), (a), (b), and (c), and (3) of the statutes first applies to a
20 request made on the effective date of this subsection.

21 (6) ADMISSIONS. The treatment of sections 46.10 (2), 51.10 (4m) (a) (intro.), 51.10
22 (8), 51.39, 55.05 (5) (title), (a), (b) 1. and 2., (c) (intro.), 1., 2., and 3. and (d), 55.055
23 (2) (c) and (d) and (3), 55.06 (1) (d) and (12), and 880.38 (1) of the statutes first applies
24 to admissions made on the effective date of this subsection.

1 (7) INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC MEDICATION. The treatment
 2 of sections 50.02 (2) (ad), 51.03 (3) (a) 6., 55.05 (2) (d), 55.09 (3), 55.10 (4) (a), 55.14,
 3 55.16 (2) (c) 2., ~~55.19 (1) (a) 1. e. and (3) (e) 1. and 2.~~ 609.65 (1) (intro.), 880.01 (7m)
 4 and (8m), 880.07 (1m), 880.33 (1), (2) (a) 1. and 2., (d), (e), and (f), (4m), and (4r),
 5 880.34 (6), and 880.38 (2) of the statutes first applies to a petition for the involuntary
 6 administration of psychotropic medication brought on the effective date of this
 7 subsection.

8 (8) ANNUAL REVIEW OF ORDER FOR PROTECTIVE PLACEMENTS. The treatment of
 9 sections ~~46.279(2) and (4) (d),~~ 49.45 (30m) (c) 2., 55.02 (2) (b) 3., 55.06 (4) and (10) (a) 1., ~~and 2.~~ 55.18, 808.075 (4)
 10 (c) 1., 851.72 (11), 880.331 (1) and (5) (intro.), and 880.38 (3) of the statutes first
 11 applies to a review conducted on the effective date of this subsection. ~~(intro.),~~

12 (9) ANNUAL REVIEW OF ORDERS FOR INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC
 13 MEDICATION. The treatment of sections ~~55.06 (10) (a) 1,~~ 55.19, and 851.72 (11) of the
 14 statutes first applies to a review conducted on the effective date of this subsection.

15 (10) PROTECTIVE PLACEMENT TRANSFER. The treatment of sections 20.435 (2) (gk),
 16 51.39, 55.06 (9) (b), (c), (d), and (e), 55.15, and 808.075 (4) (c) 2. of the statutes first
 17 applies to a transfer of an individual under a protective placement order made on the effective date of this subsection.

18 (11) MODIFICATION OF ORDERS FOR PROTECTIVE PLACEMENT OR PROTECTIVE SERVICES.
 19 The treatment of sections 55.16 and 808.075 (4) (c) 1. of the statutes first applies to
 20 a petition for modification of an order for protective placement or protective services
 21 brought on the effective date of this subsection.

22 (12) TERMINATION OF PROTECTIVE PLACEMENTS OR PROTECTIVE SERVICES. The
 23 treatment of sections 55.06 (10) (b) and (c) and (14), 55.17, 808.075 (4) (c) 1., and
 24 880.331 (1) of the statutes first applies to a petition for termination of an order for

880.33 (2) (a) 1, and 2., (d), (e), and (f), (3), (4m), (4r), (6), and (7),

1 protective placement or protective services brought on the effective date of this
2 subsection.

3 (13) PETITIONS FOR GUARDIANSHIP. The treatment of sections 880.06 (1), 880.07
4 (2m), 880.08 (1), 880.24 (3) (a) and (b), and 880.331 (4) (am), (ar), (dm), (dr), and (ds)
5 of the statutes first applies to petitions under section 880.07 of the statutes, as
6 affected by this act, made on the effective date of this subsection.

(1m)
and

7 (14) GUARDIANSHIP; CHANGE OF RESIDENCE. The treatment of section 880.06 (2)
8 of the statutes first applies to a written statement filed on the effective date of this
9 subsection.

10 (15) GUARDIANSHIP; CHANGE OF GUARDIAN. The treatment of section 880.08 (1)
11 of the statutes first applies to a petition filed on the effective date of this subsection.

12 (16) GUARDIANSHIP; VOLUNTARY ADMINISTRATION OF MEDICATION. The treatment
13 of section 880.38 (4) of the statutes first applies to the voluntary administration of
14 medication made on the effective date of this subsection.

15 (17) RECORDS. The treatment of sections 46.21 (2m) (c), 46.215 (1m), 46.22 (1)
16 (dm), 46.23 (3) (e), 46.283 (7) (b), 46.284 (7) (b), 46.285 (10), 51.42 (3) (e), 51.437 (4r)
17 (b), 55.06 (17), 55.22 (title), 767.24 (7) (b), and 880.33 (6) of the statutes first applies
18 to a record made on the effective date of this subsection.

(END)

INSERT 152-14

and
, 880.34 (6), 880.38 (1), (2), (3), and (4)

D-NOTE