

1 **SECTION 51.** 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 52.** 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 53.** 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

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 54.** 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 55.** 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

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 56.** 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.

1 **SECTION 57.** 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 58.** 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.

1 **SECTION 59.** 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 60.** 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 58 to 60 revise the term "chronic mental illness" to "serious and persistent mental illness".

23 **SECTION 61.** 51.437 (4) (c) of the statutes is amended to read:

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 62.** 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

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 63.** 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:

1 **SECTION 64.** 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 63 and 64 revise the term “chronic mental illness” to “serious and persistent mental illness”.

6 **SECTION 65.** 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”.

1 **SECTION 66.** 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 67.** 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 68.** 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 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 69.** 55.01 (3) of the statutes is repealed.

NOTE: SECTION 67 creates a new definition of “degenerative brain disorder”, which
is created to replace the repealed definition “infirmities of aging”.

19 **SECTION 70.** 55.01 (4) of the statutes is renumbered 55.01 (4) (intro.) and
20 amended to read:

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 71. 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 72. 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 73. 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 74. 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.

NOTE: Creates a definition of protective placement. This definition is derived from
the first sentence of s. 55.06 (1).

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.

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

NOTE: 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.

14 **SECTION 75.** 55.01 (6t) of the statutes is created to read:

15 55.01 (6t) “Residence” means the voluntary concurrence of an individual’s

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

17 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.

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

19 55.01 (6v) “Serious and persistent mental illness” has the meaning given in s.

20 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”.

1 **SECTION 77.** 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 78.** 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 79.** 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

1 **SECTION 82.** 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 83.** 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 84.** 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.

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.

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15 SECTION 80. 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 81. 55.04 (title) and (1) to (3) of the statutes are repealed.

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 85.** 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 86.** 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 84 to 86 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 87.** 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 88.** 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 89.** 55.045 of the statutes is amended to read:

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 90.** 55.05 (title) of the statutes is amended to read:

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

15 **SECTION 91.** 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 92.** 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 93.** 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

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 94.** 55.05 (2) (c) of the statutes is repealed.

5 **SECTION 95.** 55.05 (2) (d) of the statutes is repealed.

6 **SECTION 96.** 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 97.** 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 98.** 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

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 99.** 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 100.** 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 101.** 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 102.** 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

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 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 104.** 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 105.** 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 106.** 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

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 103.** 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.

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 107.** 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 (1)~~ 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 108.** 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 109.** 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

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 110. 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} must 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 111. 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

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 112. 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

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 113. 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 114. 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: As written in s. 55.075 (4) (a), this par. (b) is an exception to the requirement under par. (a) 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 protective services. Therefore, it seems that the court can't have these petitioner's costs paid from the person's assets. Is that the result that you want?

Sept 90
[Handwritten signatures and notes]

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.

1 **SECTION 115.** 55.06 (1) (c) of the statutes is renumbered 55.02 (3) and amended
2 to read:

3 **55.02 (3) CORPORATION COUNSEL.** ~~If requested by the court, the~~ The corporation
4 counsel of the county in which the petition is brought may or, if requested by the
5 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.

6 **SECTION 116.** 55.06 (1) (d) of the statutes is renumbered 55.03 (4) and amended
7 to read:

8 **55.03 (4) GUARDIAN AUTHORITY FOR MAKING PROTECTIVE PLACEMENT.** No guardian
9 or temporary guardian may make a permanent protective placement of his or her
10 ward unless ordered by a court under ~~this section s. 55.12,~~ but a guardian or
11 temporary guardian may admit a ward to certain residential facilities under s. 55.05
12 ~~(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.

13 **SECTION 117.** 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.

14 **SECTION 118.** 55.06 (2) (a) of the statutes is renumbered 55.08 (1) (a) and
15 amended to read:

16 **55.08 (1) (a)** ~~Has~~ The individual has a primary need for residential care and
17 custody.

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

3 55.08 (1) (b) Except in the case of a minor who is alleged to be developmentally
4 disabled, the individual has either been determined to be incompetent by a circuit
5 court or has had submitted on the minor's behalf a petition for a guardianship;

6 **SECTION 120.** 55.06 (2) (c) of the statutes is renumbered 55.08 (1) (c) and
7 amended to read:

8 55.08 (1) (c) As a result of developmental disabilities, ~~infirmities of aging,~~
9 ~~chronic degenerative brain disorder, serious and persistent~~ mental illness, or other
10 like incapacities, the individual is so totally incapable of providing for his or her own
11 care or custody as to create a substantial risk of serious harm to oneself ~~oneself~~ himself or
12 herself or others. Serious harm may be occasioned ~~evidenced~~ by overt acts or acts
13 of omission; ~~and.~~

NOTE: Revises the terms "infirmities of aging" and "chronic mental illness" to
"degenerative brain disorder" and "serious and persistent mental illness", respectively.

14 **SECTION 121.** 55.06 (2) (d) of the statutes is renumbered 55.08 (1) (d) and
15 amended to read:

16 55.08 (1) (d) ~~Has~~ The individual has a disability which ~~that~~ is permanent or
17 likely to be permanent.

18 **SECTION 122.** 55.06 (3) (a) of the statutes is renumbered 55.075 (2) (a) and
19 amended to read:

20 55.075 (2) (a) ~~The~~ A petition shall allege that the individual meets the
21 standards specified in s. 55.08 (1) or (2) and state with particularity the factual basis
22 for the allegations ~~specified in sub. (2).~~

1 SECTION 123. 55.06 (3) (b) of the statutes is renumbered 55.075 (2) (b) and
2 amended to read:

3 55.075 (2) (b) The petition ~~under sub. (2)~~ shall be based on personal knowledge
4 of the individual alleged to need protective placement or protective services.

5 SECTION 124. 55.06 (3) (c) of the statutes is renumbered 55.075 (5) (a) and
6 amended to read:

7 55.075 (5) (a) The A petition under sub. (1) shall be filed in the county of
8 residence of the ~~person~~ individual to be protected, except that the petition may be
9 filed in the county in which the individual is physically present due to circumstances,
10 including those specified in s. 51.22 (4). The county of residence, as determined by
11 the court, under s. 51.40, or by the guardian, is the county of responsibility.

NOTE: Clarifies where the petition for protective placement or services shall be filed. The petition must be filed in the county of residence of the individual to be protected, or where the person is present due to ~~circumstances specified in s. 51.22 (4).~~

12 SECTION 125. 55.06 (4) of the statutes is renumbered 55.075 (3) and amended
13 to read:

14 55.075 (3) A petition for guardianship ~~if required under sub. (2) (b) must~~
15 described in s. 55.08 (1) (b) or (2) (a) shall be heard prior to ordering protective
16 placement under this section or protective services. If ~~incompetency has been the~~
17 individual is determined incompetent under s. 880.33 more than ~~one year~~ preceding
18 12 months before the filing of an application for protective placement or protective
19 services on his or her behalf, the court shall review the finding of incompetency.

20 SECTION 126. 55.06 (5) of the statutes is renumbered 55.09 (1) and amended
21 to read:

22 55.09 (1) NOTICE TO INDIVIDUAL. Notice of a petition for protective placement
23 or protective services shall be served upon the ~~person~~ individual sought to be placed

extraordinary
including
requiring
medical
aid
and
the
prevention
of
harm
to
the
individual
or
others
or

1 ~~protected~~, by personal service, at least 10 days ~~prior to~~ before the time set for a
2 hearing. ~~Upon service of the notice, the person sought to be protected shall be~~
3 ~~informed of the complete contents of the notice.~~ The person serving the notice shall
4 inform the individual sought to be protected of the complete contents of the notice
5 and shall return a certificate to the circuit judge verifying that the petition has been
6 delivered and notice given. The notice shall include the names of all petitioners.
7 Notice shall also be served personally or by mail upon the person's guardian ad litem,
8 legal counsel, guardian, if any, presumptive adult heirs, and upon other persons who
9 have physical custody of the person to be protected whose names and addresses are
10 known to the petitioner or can with reasonable diligence be ascertained, to any
11 governmental or private body or group from whom the person to be protected is
12 known to be receiving aid, and to such other persons or entities as the court may
13 require. Notice shall also be served personally or by mail upon the department at
14 least 10 days prior to the time set for hearing if the person sought to be protected may
15 be placed in a center for the developmentally disabled. Notice shall also be served
16 personally or by mail, at least 10 days before the time set for hearing, upon the county
17 department that is participating in the program under s. 46.278 of the county of
18 residence of the person sought to be protected, if the person has a developmental
19 disability and may be placed in an intermediate facility or a nursing facility, except
20 that, for a person sought to be protected to whom s. 46.279 (4m) applies, this notice
21 shall instead be served on the department. ~~The incompetent or proposed~~
22 ~~incompetent is presumed able to attend the hearing unless, after a personal~~
23 ~~interview, the guardian ad litem certifies to the court that the person is unable to~~
24 attend.

NOTE: Deletes provision from current law relating to notice of petition and hearing for protective placement. These provisions are placed in a new statutory section, s. 55.09, **Notice of petition and hearing for protective services or placement**, Which is found in SECTION 158 of this bill.

1 **SECTION 127.** 55.06 (5m) of the statutes is renumbered 55.10 (1) and amended
2 to read:

3 55.10 (1) TIME LIMITS. A petition for protective placement of a person who has
4 been admitted to a nursing home or a community-based residential facility under
5 s. 50.06 or protective services shall be heard within 60 days after it is filed unless an
6 extension of this time is requested by the petitioner, the individual sought to be
7 protected or the individual's guardian ad litem, or the county department, in which
8 case the court may extend the date for hearing by up to 45 days. If an individual
9 under s. 50.06 (3) alleges that an another individual is making a health care decision
10 under s. 50.06 (5) (a) that is not in the best interests of the incapacitated individual
11 or if the incapacitated individual verbally objects to or otherwise actively protests the
12 admission, the petition shall be heard as soon as possible within the 60-day period.

NOTE: Allows certain parties to request an extension of up to 45 days of the 60-day time period within which a petition for protective placement or services must be heard.

13 **SECTION 128.** 55.06 (6) of the statutes is renumbered 55.10 (4) (b) and amended
14 to read:

15 55.10 (4) (b) Guardian ad litem; costs. ~~Section 880.33 (2) applies to all hearings~~
16 ~~under this chapter except for transfers of placement under sub. (9) (b), (c) and (e).~~
17 ~~A person to be protected shall have a~~ The court shall in all cases require the
18 appointment of an attorney as guardian ad litem who is an attorney appointed in
19 accordance with s. 757.48 (1) present at all hearings under this chapter if the person
20 does not have full legal counsel . The responsibilities and duties of a guardian ad
21 litem on behalf of a proposed ward or individual who is alleged incompetent specified

1 in s. 880.331 (4) apply to a guardian ad litem appointed in a proceeding for protective
2 services or protective placement on behalf of an individual sought to be protected.
3 If a guardian has been appointed for an individual who is the subject of a petition for
4 court-ordered protective placement or protective services, the guardian ad litem
5 shall interview the guardian. The guardian ad litem shall be present at all hearings
6 under this chapter if the individual sought to be protected does not have full legal
7 counsel. The court may, however, excuse a personal appearance by a guardian ad
8 litem based on information contained in a written report by the guardian ad litem
9 to the court. If the person individual sought to be protected is an adult who is
10 indigent, the county of legal settlement shall be liable for any fees due the guardian
11 ad litem fees. If the person individual sought to be protected is a child, the person's
12 minor, the minor's parents or the county of legal settlement in which the hearing is
13 held shall be liable for any fees due the guardian ad litem fees as provided in s. 48.235
14 (8). ~~The subject individual, attorney or guardian ad litem shall have the right to~~
15 ~~present and cross-examine witnesses, including any person making an evaluation~~
16 ~~or review under sub. (8) (e).~~

NOTE: Clarifies that the responsibilities and duties of a guardian ad litem on behalf
of an individual who is the subject of a protective placement or services proceeding are
the same as those in a proceeding under ch. 880, relating to guardianship.

17 **SECTION 129.** 55.06 (7) of the statutes is renumbered 55.10 (4) (d) and amended
18 to read:

19 55.10 (4) (d) Standard of proof. ~~Except for emergency placement or temporary~~
20 ~~placement under subs. (11) and (12), before~~ Before protective placement or protective
21 services may be ordered under this chapter s. 55.12, the court or jury must find by
22 clear and convincing evidence that the individual to be placed protected is in need
23 of protective placement as provided in sub. (2) because he or she meets all of the

1 standards under s. 55.08 (1) or is in need of protective services because he or she
2 meets all of the standards under s. 55.08 (2).

NOTE: Clarifies the standard of proof at protective placement or services hearing; provides that the person must meet the standards for protective placement or protective services before an order may be entered.

3 **SECTION 130.** 55.06 (8) (intro.) of the statutes is renumbered 55.11 (1) (intro.)
4 and amended to read:

5 55.11 (1) (intro.) Before ordering the protective placement of or protective
6 services for any individual, the court shall direct require a comprehensive evaluation
7 of the person in need of placement individual sought to be protected, if such an
8 evaluation has not already been made. The court may utilize available
9 multidisciplinary resources in the community in determining the need for protective
10 placement or protective services. The board designated under s. 55.02 or an agency
11 designated by it county department or an agency with which it contracts under s.
12 55.02 (2) shall cooperate with the court in securing available resources. Where
13 applicable by reason of the particular disability, the appropriate board designated
14 under s. 55.02 or an agency designated by it having responsibility for the place of
15 legal residence of the individual as provided in s. 49.001 (6) shall make a
16 recommendation for placement. If the court is considering placement of the
17 individual in a center for the developmentally disabled, the court shall request a
18 statement or testimony from the department regarding whether the placement is
19 appropriate for the person's needs and whether it is consistent with the purpose of
20 the center under s. 51.06 (1). If the individual has a developmental disability and
21 the court is considering placement of the individual in an intermediate facility or a
22 nursing facility, the court shall request a statement or testimony from the county
23 department of the individual's county of residence that is participating in the

1 ~~program under s. 46.278 as to whether the individual's needs could be met in a~~
2 ~~noninstitutional setting, except that, if s. 46.279 (4m) applies to the individual, the~~
3 ~~court shall request the statement or testimony from the department, rather than the~~
4 ~~county department. A copy of the comprehensive evaluation shall be provided to the~~
5 ~~guardian, the guardian ad litem, and to the individual or attorney at least 96 hours~~
6 ~~in advance of the hearing to determine placement. The court or the cooperating~~
7 ~~agency obtaining the evaluation shall request appropriate information which shall~~
8 ~~include at least the following:~~

9 **SECTION 131.** 55.06 (8) (a) of the statutes is renumbered 55.11 (1) (a) and
10 amended to read:

11 55.11 (1) (a) The address of the place where the person individual is residing
12 and the person or agency who is providing services at present, if any.

13 **SECTION 132.** 55.06 (8) (b) of the statutes is renumbered 55.11 (1) (b) and
14 amended to read:

15 55.11 (1) (b) A resume of any professional treatment and services provided to
16 the person individual by the department or agency, ~~if any~~, in connection with the
17 problem creating the need for protective placement or protective services.

18 **SECTION 133.** 55.06 (8) (c) of the statutes is renumbered 55.11 (1) (c) and
19 amended to read:

20 55.11 (1) (c) A medical, psychological, social, vocational, and educational
21 evaluation and review, ~~where~~ if necessary, and any recommendations for or against
22 maintenance of partial legal rights as provided in s. 880.33. ~~Such~~ The evaluation and
23 review shall include recommendations for the individual's placement that are
24 consistent with the least restrictive environment required requirements of s. 55.12
25 (3), (4), and (5).

NOTE: SECTION 130 to 133 renumber and reorganize provisions regarding a comprehensive evaluation of an individual who is the subject of a protective placement or services petition.

1 SECTION 134. 55.06 (9) (a) of the statutes is renumbered 55.12 (1) and amended
2 to read:

3 55.12 (1) ~~The court may order protective services under s. 55.05 (2) (d) as an~~
4 ~~alternative to placement. When ordering protective placement under the standards~~
5 ~~specified in s. 55.08 (1) or protective services under the standards specified in s. 55.08~~
6 ~~(2), the court, on the basis of the evaluation and other relevant evidence, shall order~~
7 ~~the appropriate board specified under s. 55.02 or an agency designated by it to~~
8 ~~protectively place county department or agency with which it contracts under s.~~
9 ~~55.02 (2) to provide protective placement or protective services to the individual.~~
10 Placement by the appropriate board or designated agency is

11 (3) Protective placement or protective services provided by a county
12 department or an agency with which it contracts under s. 55.02 (2) are subject to s.
13 46.279 and shall be made provided in the least restrictive environment and in the
14 least restrictive manner consistent with the needs of the person individual to be
15 placed protected and with the placement resources of the appropriate board specified
16 under s. 55.02 county department.

17 (4) Factors to be considered that a county department shall consider in making
18 providing protective placement or protective services shall include the needs of the
19 person individual to be protected for health, social, or rehabilitative services; the
20 level of supervision needed; the reasonableness of the placement or services given the
21 cost and the actual benefits in the level of functioning to be realized by the individual;
22 the limits of available state and federal funds and of county funds required to be
23 appropriated to match state funds; and the reasonableness of the protective

1 placement or protective services given the number or projected number of
2 individuals who will need protective placement or protective services and given the
3 limited funds available.

4 (5) Except as provided in s. 49.45 (30m), the county may not be required to
5 provide funding, in addition to its funds that are required to be appropriated to
6 match state funds, in order to ~~protectively place~~ provide protective placement or
7 protective services to an individual. Placement Protective placement under this
8 section does not replace commitment of a ~~person~~ an individual in need of acute
9 psychiatric treatment under s. 51.20 or 51.45 (13).

10 (2) Subject to s. 46.279, protective placement may be made to ~~such facilities as~~
11 nursing homes, public medical institutions, centers for the developmentally disabled
12 under the requirements of s. 51.06 (3), foster care services and or other home
13 placements, or to other appropriate facilities, but may not be made to units for the
14 acutely mentally ill. An individual who is subject to an order for protective
15 placement or protective services may be detained on an emergency basis under s.
16 51.15 or involuntarily committed under s. 51.20 or may be voluntarily admitted to
17 a treatment facility for inpatient care under s. 51.10 (8). No individual who is subject
18 to an order for protective placement or services may be involuntarily transferred to,
19 detained in, or committed to a treatment facility for care except under s. 51.15 or
20 51.20. Protective placement in a locked unit shall require a specific finding of the
21 court as to the need for the action.

22 (6) If the appropriate board or designated county department or agency with
23 which it contracts under s. 55.02 (2) proposes to place provide protective placement
24 to an individual who has a developmental disability in an intermediate facility or a
25 nursing facility under an order under this paragraph section, the county department

1 or agency, or, if s. 46.279 (4m) applies to the individual, the department or the
2 department's contractor shall develop a plan under s. 46.279 (4) and furnish the plan
3 to the board county department or agency and to the individual's guardian. The
4 board county department or agency with which it contracts under s. 55.02 (2) shall
5 place provide protective placement to the individual in a noninstitutional
6 community setting in accord with the plan unless the court finds that protective
7 placement in the intermediate facility or nursing facility is the most integrated
8 setting, as defined in s. 46.279 (1) (bm), that is appropriate to the needs of the
9 individual, taking into account information presented by all affected parties. The
10 prohibition of placements in units for the acutely mentally ill does not prevent
11 placement by a court for short-term diagnostic procedures under par. (d). Placement
12 in a locked unit shall require a specific finding of the court as to the need for such
13 action. A placement facility may transfer a patient from a locked unit to a less
14 restrictive environment without court approval.

NOTE: Renumbers and reorganizes the provisions relating to an order for protective placement or services; clarifies that an individual who is subject to an order of protective placement or services may be detained on an emergency basis under s. 51.15 or involuntarily committed under s. 51.20, or voluntarily admitted to a treatment facility for inpatient care under s. 51.10 (8).

15 **SECTION 135.** 55.06 (9) (b) of the statutes is repealed.

16 **SECTION 136.** 55.06 (9) (c) of the statutes is repealed.

NOTE: SECTIONS 135 and 136 repeal provisions that have been incorporated into other statutory sections.

17 **SECTION 137.** 55.06 (9) (d) of the statutes is repealed.

18 **SECTION 138.** 55.06 (9) (e) of the statutes is repealed.

NOTE: SECTIONS 137 and 138 repeal provisions that have been found unconstitutional.

19 **SECTION 139.** 55.06 (10) (a) 1. of the statutes is renumbered 55.18 (1) (a) (intro.)

20 and amended to read:

1 55.18 (1) (a) (intro.) ~~The county department or any agency which is responsible~~
2 ~~for a protective placement of the individual's county of residence shall, except as~~
3 ~~provided in sub. (1m), annually review the status of each person placed at least once~~
4 ~~every 12 months from the date of admission. The court in its order of placement may,~~
5 ~~however, require that such review be conducted more frequently~~ individual who has
6 been provided protective placement. The review shall include ~~in writing an a visit~~
7 to the individual and a written evaluation of the physical, mental and social
8 condition of each such person, and the individual and the service needs of the
9 individual. The review shall be made a part of the permanent record of such person.
10 ~~The review shall include recommendations for discharge or placement in services~~
11 ~~which place less restrictions on personal freedom, where appropriate. The results~~
12 ~~of the review shall be furnished to the department in such form as the department~~
13 ~~may require and shall be furnished to the court that ordered the placement and to~~
14 ~~the person's guardian.~~ the individual. The county department shall inform the
15 guardian of the individual of the review at the time the review is made and shall,
16 before completing a report of the review, invite the individual and the guardian to
17 submit comments or information concerning the individual's need for protective
18 placement or protective services. Not later than the first day of the 11th month after
19 the initial order is made for protective placement for an individual and, except as
20 provided in par. (b), annually thereafter, the county department shall do all of the
21 following:

NOTE: Renumbers and amends provisions relating to annual review of protective placement. Provides that the individual's guardian must be notified of the review and invite the individual and the guardian to submit comments or information concerning the individual's need for protective placement or protective services.

NOTE: Requires the county department of the county of residence of a protectively placed individual to annually review the status of the individual, as required by *State ex. rel. Watts and County of Dunn v. Goldie H.*, as described in the PREFATORY NOTE. Specifies

the required elements of the review, including a visit to the individual and a written evaluation of the individual's condition.

1 **SECTION 140.** 55.06 (10) (a) 2. of the statutes is renumbered 55.18 (1) (ar) and
2 amended to read:

3 55.18 (1) (ar) If the ~~person~~ individual has a developmental disability and is
4 protectively placed in an intermediate facility or a nursing facility, the agency that
5 is responsible for the protective placement shall notify in writing the county
6 department of the county of residence of the ~~person~~ individual that is participating
7 in the program under s. 46.278 or, if s. 46.279 (4m) applies to the ~~person~~ individual,
8 the department, at least 120 days before the review. The county department so
9 notified or, if s. 46.279 (4m) applies, the department's contractor, shall develop a plan
10 under s. 46.279 (4) and furnish the plan to the court that ordered the protective
11 placement and to the ~~person's~~ individual's guardian. The court shall order that the
12 ~~person~~ individual be transferred to the noninstitutional community setting in
13 accordance with the plan unless the court finds that protective placement in the
14 intermediate facility or nursing facility is the most integrated setting, as defined in
15 s. 46.279 (1) (bm), that is appropriate to the needs of the ~~person~~ individual taking into
16 account information presented by all affected parties.

17 **SECTION 141.** 55.06 (10) (b) of the statutes is renumbered 55.17 (1) and
18 amended to read:

19 55.17 (1) PETITION. ~~The~~ An individual, the individual's guardian or guardian
20 ad litem, the department, an agency, a guardian or a ward a county department or
21 agency with it contracts under s. 55.02 (2), or any other interested person may file
22 a petition at any time ~~petition the court for modification or~~ for termination of a an
23 order for protective placement. ~~A~~ or protective services. The petition shall be served

1 on the individual; the individual's guardian; the individual's attorney and guardian
 2 ad litem, if any; and the county department. The petition to terminate a protective
 3 placement shall allege that the conditions which warranted placement as specified
 4 in sub. (2) are no longer present. A petition shall be heard if a hearing has not been
 5 held within the previous 6 months but a hearing may be held at any time in the
 6 discretion of the court. The petition shall be heard within 21 days of its receipt by
 7 the court individual no longer meets the standards under s. 55.08 (1) for
 8 court-ordered protective placement or under s. 55.08 (2) for court-ordered protective
 9 services.

NOTE: Revises the provisions relating to a petition for protective services or placement. These provisions expand who may petition and who must be served with the petition; and remove provisions regarding hearing on the petition, which are placed in a separate provision.

10 SECTION 142. 55.06 (10) (c) of the statutes is repealed.

NOTE: Repeals a provision in current law that provides that termination of a guardianship or attainment of the age of majority by a minor terminates a protective placement order. (Is this recreated anywhere else? If not, why not? Oversight?)] no.

11 SECTION 143. 55.06 (11) (a) of the statutes is renumbered 55.135 (1) and
 12 amended to read:

13 55.135 (1) If, from personal observation of, or a reliable report made to, a
 14 sheriff, police officer, fire fighter, guardian, if any, or authorized representative of a
 15 board designated under s. 55.02 or an agency designated by it county department or
 16 an agency with which it contracts under s. 55.02 (2), it appears probable that an
 17 individual will ~~suffer irreparable injury or death or will present~~ is so totally
 18 incapable of providing for his or her own care or custody as to create a substantial
 19 risk of serious physical harm to himself or herself or others as a result of
 20 developmental disabilities, ~~infirmities of aging, chronic~~ degenerative brain disorder,
 21 serious and persistent mental illness, or other like incapacities if not immediately

1 placed, the person making the observation or to whom the report is made may take
2 into custody and transport the individual to an appropriate medical or protective
3 placement facility. The person making emergency protective placement shall
4 prepare a statement at the time of detention providing specific factual information
5 concerning the person's observations or reports made to the person and the basis for
6 emergency placement. The statement shall be filed with the director of the facility
7 and ~~shall also be filed~~ with any petition under ~~sub. (2)~~ s. 55.075. At the time of
8 emergency protective placement the individual shall be informed by the director of
9 the facility or the director's designee, ~~both~~ orally and in writing, of his or her right
10 to contact an attorney and a member of his or her immediate family and the right to
11 have an attorney provided at public expense, as provided under s. 967.06 and ch. 977,
12 if the individual is a ~~child~~ minor or is indigent. The director or designee shall also
13 provide the individual with a copy of the statement by the person making emergency
14 protective placement.

NOTE: Changes a provision in current law regarding emergency protective placement, by providing that, in addition to the personal observation of a law enforcement officer, firefighter, guardian or authorized representative of a county department, detention may be made based on a reliable report made to one of these persons.

15 **SECTION 144.** 55.06 (11) (am) of the statutes is renumbered 55.135 (2) and
16 amended to read:

17 55.135 (2) Whoever signs a statement under ~~par. (a)~~ sub. (1) knowing the
18 information contained ~~therein~~ in the statement to be false is guilty of a Class H
19 felony.

20 **SECTION 145.** 55.06 (11) (ar) of the statutes is renumbered 55.135 (3) and
21 amended to read:

22 55.135 (3) A person who acts in accordance with this ~~subsection~~ section is not
23 liable for any actions performed in good faith.

1 **SECTION 146.** 55.06 (11) (b) of the statutes is renumbered 55.135 (4) and
2 amended to read:

3 55.135 (4) ~~Upon detention~~ When an individual is detained under this section,
4 a petition shall be filed under ~~sub. (2) s. 55.075~~ by the person making such the
5 emergency protective placement and a preliminary hearing shall be held within 72
6 hours, excluding Saturdays, Sundays and legal holidays, to establish probable cause
7 to believe the grounds for protective placement under ~~sub. (2) s. 55.08 (1)~~. The sheriff
8 or other person making emergency protective placement under ~~par. (a) sub. (1)~~ shall
9 provide the individual with written notice and orally inform him or her of the time
10 and place of the preliminary hearing. If the detainee is not under guardianship, a
11 petition for guardianship shall accompany the protective placement petition, except
12 in the case of a minor who is alleged to be developmentally disabled. In the event that
13 protective placement is not appropriate, the court may elect to treat a petition for
14 protective placement as a petition for commitment under s. 51.20 or 51.45 (13).

15 **SECTION 147.** 55.06 (11) (c) of the statutes is renumbered 55.135 (5) and
16 amended to read:

17 55.135 (5) Upon ~~a~~ finding of probable cause under ~~par. (b) sub. (4)~~, the court
18 may order temporary protective placement up to 30 days pending the hearing for a
19 permanent protective placement, or the court may order such protective services as
20 may be required. If the court orders under this subsection an individual who has a
21 developmental disability ~~is ordered, under this paragraph, to be temporarily placed~~
22 receive temporary protective placement in an intermediate facility or in a nursing
23 facility, and if at the hearing for permanent protective placement the court orders
24 that the individual be ~~protectively placed~~ provide protective placement, the court
25 may, before commencement of permanent protective placement, extend the

1 temporary protective placement order for not more than 90 days if necessary for the
2 county department that is participating in the program under s. 46.278 or, if s. 46.279
3 (4m) applies, the department's contractor to develop the plan required under s.
4 46.279 (4).

5 **SECTION 148.** 55.06 (11) (d) of the statutes is renumbered 55.135 (6) and
6 amended to read:

7 55.135 (6) A law enforcement agency, fire department, or county department
8 ~~designated under s. 55.02 or an agency designated by that county department or~~
9 agency with which it contracts under s. 55.02 (2) shall designate at least one
10 employee authorized to take an individual into custody under ~~this subsection~~ section
11 who shall attend the in-service training on emergency detention and emergency
12 protective placement offered by a county department of community programs under
13 s. 51.42 (3) (ar) 4. d., if the county department of community programs serving the
14 designated employee's jurisdiction offers an in-service training program.

15 **SECTION 149.** 55.06 (12) of the statutes is renumbered 55.055 (5) and amended
16 to read:

17 55.055 (5) ~~When~~ If a ward lives with the his or her guardian, the guardian may
18 make temporary protective placement of the ward. ~~Placement may be made, to~~
19 provide the guardian with a vacation or to ~~temporarily~~ release the guardian
20 temporarily for a family emergency. ~~Such~~ The temporary protective placement may
21 be made for not more than 30 days but the court may, upon application, grant an
22 additional period not to exceed 60 days in all. The application shall include ~~such~~ any
23 information as that the court may reasonably deem necessary. When reviewing the
24 application, the court shall provide the least restrictive temporary protective
25 placement ~~which~~ that is consistent with the needs of the ward.

1 **SECTION 150.** 55.06 (14) of the statutes is renumbered 55.175 and amended to
2 read:

3 **55.175 Discharge from protective placement.** Prior to discharge from a
4 protective placement, the appropriate board which is responsible for placement
5 county department shall review the need for provision of continuing protective
6 services or for continuation of full or limited guardianship or provision for such a
7 guardianship if the individual has no guardian. ~~Recommendation shall be made~~ The
8 county department shall make a recommendation to the court if the recommendation
9 includes a course of action for which court approval would be required. Prior to
10 discharge from any state institute or center for the developmentally disabled, the
11 department shall make such the review under s. 51.35 (7).

12 **SECTION 151.** 55.06 (15) of the statutes is repealed.

NOTE: Repeals a provision regarding the responsibilities of a guardian to the ward,
since these provisions are present in ch. 880, stats. (check section number).

13 **SECTION 152.** 55.06 (16) of the statutes is renumbered 55.21 and amended to
14 read:

15 **55.21 Centers for the developmentally disabled.** Placements Protective
16 placements to centers for the developmentally disabled and discharges from such
17 institutions shall be in compliance with s. 51.35 (4).

18 **SECTION 153.** 55.06 (17) of the statutes is renumbered 55.22 and amended to
19 read:

20 **55.22 Records.** (1) (intro.) ~~Any~~ No records of the court pertaining to protective
21 services or protective placement proceedings, including evaluations, reviews and
22 recommendations prepared under sub. (8) (e) s. 55.11 (1) (c), are not open to public
23 inspection but are any record is available to all of the following:

1 (a) The individual who is the subject of the proceedings and the subject's
2 individual's guardian at all times.

3 (b) The subject's individual's attorney or guardian ad litem, without the
4 subject's individual's consent and without modification of the records, in order to
5 prepare for any court proceedings relating to the subject's individual's protective
6 services or protective placement or relating to the subject's individual's
7 guardianship.

8 (c) Other persons only with the informed written consent of the subject
9 individual as provided in s. 51.30 (2) or under an order of the court that maintains
10 the records.

11 (2) If the subject individual is an adult who has been adjudged incompetent
12 under ch. 880 or is a minor, consent for release of information from and access to the
13 court records may be given only as provided in s. 51.30 (5).

14 (3) All treatment and service records pertaining to a person an individual who
15 is protected under this chapter or for whom application has been made for protection
16 under this chapter are confidential and ~~privileged to the subject~~. Section 51.30
17 governs access to treatment and service records.

NOTE: Renumbers a provision in current law relating to records in protective
placement and services proceedings and makes minor wording changes.

18 **SECTION 154.** 55.06 (18) of the statutes is renumbered 55.20 and amended to
19 read:

20 **55.20 Appeals.** An appeal may be taken to the court of appeals from a final
21 judgment or final order under this section chapter within the time period specified
22 in s. 808.04 (3) and in accordance with s. 809.30 by the subject of the petition or the
23 individual's guardian, by any petitioner, or by the representative of the public.

1 SECTION 155. 55.07 of the statutes is renumbered 55.23, and 55.23 (1) and (2),
2 as renumbered, are amended to read:

3 55.23 (1) The rights and limitations upon rights, procedures for enforcement
4 of rights, and penalties prescribed in s. 51.61 apply to persons individuals who
5 receive services under this chapter, whether on a voluntary or involuntary basis.

6 (2) A parent who has been denied periods of physical placement under s. 767.24
7 (4) (b) or 767.325 (4) may not have the rights of a parent or guardian with respect to
8 access to a ~~child's~~ minor's records under this chapter.

9 SECTION 156. 55.075 of the statutes is created to read:

10 55.075 Protective services or protective placement; petition. Except as
11 provided in s. 971.14 (6) (b):

12 (1) WHO MAY PETITION.

13 (2) CONTENTS OF PETITION.

14 (3) PETITION FOR GUARDIANSHIP; REVIEW OF INCOMPETENCY.

15 (4) FEES AND COSTS OF PETITION. (a) ~~Except as provided in par (b),~~ the court shall
16 award, from the assets of the individual sought to be protectively placed or
17 protectively served, payment of the petitioner's reasonable attorney fees and costs,
18 unless the court finds, after considering all of the following, that it would be
19 inequitable to do so:

20 1. The petitioner's interest in the matter, including any conflict of interest that
21 the petitioner may have had in pursuing the guardianship or protective placement
22 or services.

23 2. The ability of the estate of the individual sought to be protectively placed or
24 protectively served to pay the petitioner's reasonable attorney fees and costs.

25 3. Whether the petition was contested and, if so, the nature of the contest.

1 4. Whether the individual sought to be protectively placed or protectively
2 served had executed a durable power of attorney under s. 243.07 or a power of
3 attorney for health care under s. 155.05 or had provided advance consent to nursing
4 home admission or engaged in other advance planning to avoid protective placement
5 or protective services.

6 5. Any other factors that the court considers to be relevant.

7 **(5) WHERE A PETITION MAY BE FILED; VENUE; COUNTY OF RESPONSIBILITY.**

8 **(b)** The court in which a petition is first filed under par. (a) shall determine
9 venue. The court shall direct that proper notice be given to any potentially
10 responsible or affected county. Proper notice is given to a potentially responsible or
11 affected county if written notice of the proceeding is sent by certified mail to the
12 county's clerk and corporation counsel. After all potentially responsible or affected
13 counties and parties have been given an opportunity to be heard, the court shall
14 determine that venue lies in the county in which the petition is filed under par. (a)
15 or in another county, as appropriate. If the court determines that venue lies in
16 another county, the court shall order the entire record certified to the proper court.
17 A court in which a subsequent petition is filed shall, upon being satisfied of an earlier
18 filing in another court, summarily dismiss the subsequent petition.

NOTE: Renumbers and reorganizes provisions relating to a petition for protective placement or services. Adds to ch. 55 provisions similar to those in current s. 880.24 (3), stats., requiring the court to award payment of reasonable attorney fees and costs to a person who petitions for protective services or placement. Also, adds new provisions relating to venue in a protective placement or services proceeding.

19 **SECTION 157.** 55.08 of the statutes is created to read:

20 **55.08 Protective services or protective placement: standards. (1)**
21 **PROTECTIVE PLACEMENT.** A court may under s. 55.12 order protective placement for
22 an individual who meets all of the following standards:

1 (2) PROTECTIVE SERVICES. A court may under s. 55.12 order protective services
2 for an individual who meets all of the following standards:

3 (a) The individual has been determined to be incompetent by a circuit court or
4 is a minor who is alleged to be developmentally disabled and on whose behalf a
5 petition for a guardianship has been submitted.

6 (b) As a result of developmental disabilities, degenerative brain disorder,
7 serious and persistent mental illness, or other like incapacities, the individual will
8 incur a substantial risk of physical harm or deterioration or will present a
9 substantial risk of physical harm to others if protective services are not provided.

NOTE: Renumbers and reorganizes provisions relating to standards that a court must consider when determining whether an individual meets the standards for protective placement; adds standards that a court must consider when determining whether an individual meets the standards for court-ordered protective services. Although courts order protective services under current law, there are no specific statutory provisions for courts to follow when ordering protective services.

10 **SECTION 158.** 55.09 of the statutes is created to read:

11 **55.09 Notice of petition and hearing for protective services or**
12 **placement.**

13 (2) OTHER NOTICE REQUIRED. In addition to the notice required under sub. (1),
14 notice shall be served, personally or by mail, at least 10 days before the time set for
15 a hearing, upon all of the following:

16 (a) The guardian ad litem, legal counsel, and guardian, if any, of the individual
17 sought to be protected.

18 (b) The agent under an activated power of attorney for health care, if any, of the
19 individual sought to be protected.

20 (c) The presumptive adult heirs, if any, of the individual sought to be protected.

1 (d) Other persons who have physical custody of the individual sought to be
2 protected whose names and addresses are known to the petitioner or can with
3 reasonable diligence be ascertained.

4 (e) The county department.

5 (f) Any governmental or private body or group from whom the individual sought
6 to be protected is known to be receiving aid.

7 (g) Any other persons or entities that the court may require.

8 (h) The department, if the individual sought to be protected may be placed in
9 a center for the developmentally disabled.

10 (i) The county department that is participating in the program under s. 46.278
11 of the county of residence of the individual sought to be protected, if the individual
12 has a developmental disability and may be placed in an intermediate facility or a
13 nursing facility, except that, for an individual sought to be protected to whom s.
14 46.279 (4m) applies, this notice shall instead be served on the department.

15 **(3) NOTICE OF PETITION FOR INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC**
16 **MEDICATION.** Notice of a petition under s. 55.14 shall be served personally or by mail
17 upon the corporation counsel and county department.

NOTE: Creates a new section relating to notice of petition and hearing for protective
services or placement, which incorporates and reorganizes provisions in current law
regarding who must be served with notice of a hearing for protective services or
placement.

18 **SECTION 159.** 55.10 of the statutes is created to read:

19 **55.10 Hearing on petition for protective services or protective**
20 **placement.**

21 **(2) ATTENDANCE.** The individual sought to be protected shall be present at the
22 hearing on the petition unless, after a personal interview, the guardian ad litem
23 certifies in writing to the court that the individual is unwilling to participate or

1 unable to participate in a meaningful way or certifies other specific reasons why the
2 individual is unable to attend. If the individual is unable to attend a hearing only
3 because of physical inaccessibility or lack of transportation, the court shall, if
4 requested by the individual, the individual's guardian ad litem, the individual's
5 counsel, or other interested person, hold the hearing in a place where the individual
6 is able to attend.

7 (3) HEARING TO BE OPEN. The hearing shall be open, unless the individual sought
8 to be protected, or his or her attorney acting with the consent of the individual sought
9 to be protected, requests that it be closed. If the hearing is closed, only persons in
10 interest, including representatives of providers of service and their attorneys and
11 witnesses, may be present.

12 (4) RIGHTS. The following provisions apply to all hearings under this chapter
13 except transfers of placement under s. 55.15 and summary hearings under ss. 55.18
14 (3) (d) and 55.19 (3) (d):

15 (a) *Counsel; costs.* The individual sought to be protected has the right to counsel
16 whether or not the individual is present at the hearing on the petition. The court
17 shall require representation by full legal counsel whenever the petition alleges that
18 the individual is not competent to refuse psychotropic medication under s. 55.14, the
19 individual sought to be protected requested such representation at least 72 hours
20 before the hearing, the guardian ad litem or any other person states that the
21 individual sought to be protected is opposed to the petition, or the court determines
22 that the interests of justice require it. If the individual sought to be protected or any
23 other person on his or her behalf requests but is unable to obtain legal counsel, the
24 court shall appoint legal counsel. Counsel shall be provided at public expense, as
25 provided under s. 967.06 and ch. 977, if the individual is indigent. If the individual

1 sought to be protected is an adult who is indigent, and if counsel was not appointed
2 under s. 977.08, the county in which the hearing is held is liable for any fees due the
3 individual's legal counsel. If the individual sought to be protected is represented by
4 counsel appointed under s. 977.08 in a proceeding for the appointment of a guardian
5 under s. 880.33, the court shall order the counsel appointed under s. 977.08 to
6 represent under this section the individual sought to be protected.

7 (c) *Trial by jury; right to cross examine witnesses.* The individual sought to be
8 protected has the right to a trial by a jury if demanded by the individual sought to
9 be protected or his or her attorney or guardian ad litem. The number of jurors shall
10 be determined under s. 756.06 (2) (b). The individual sought to be protected, and the
11 individual's attorney and guardian ad litem have the right to present and
12 cross-examine witnesses, including any person making an evaluation or review
13 under s. 55.11.

14 (e) *Independent evaluation.* The individual sought to be protected has the right
15 to secure an independent evaluation as provided in s. 55.11 (2).

NOTE: Creates a new section on hearing on the petition for protective placement
or services, which incorporates and reorganizes provisions in current law. Also, modifies
provision regarding attendance of the individual to be protected at the hearing. Specifies
the rights that apply to all hearings under ch. 55. These rights are present under current
law, but are contained in ch. 880 and only cross-referenced currently in ch. 55. This
provisions specifies these rights within ch. 55 for easier reference.

16 **SECTION 160.** 55.11 of the statutes is created to read:

17 **55.11 Comprehensive evaluation; recommendations; statements.**

18 (2) If requested by the individual sought to be protected, or anyone on the
19 individual's behalf, the individual sought to be protected has the right at his or her
20 own expense, or, if indigent, at the expense of the county where the petition is filed,
21 to secure an independent comprehensive evaluation, if an independent
22 comprehensive evaluation has not already been made. The individual, or anyone on

1 the individual's behalf, may present a report of this independent comprehensive
2 evaluation or the evaluator's personal testimony as evidence at the hearing.

3 (3) A copy of the comprehensive evaluation and any independent
4 comprehensive evaluation shall be provided to the individual's guardian, agent
5 under any activated health care power of attorney, and guardian ad litem, and to the
6 individual or the individual's attorney at least 96 hours in advance of the hearing to
7 determine protective placement or protective services.

8 (4) Where applicable by reason of the particular disability, the county
9 department or an agency with which it contracts under s. 55.02 (2) that has
10 responsibility where the individual has legal residence shall make a
11 recommendation for protective placement or protective services.

12 (5) If the court is considering protective placement of the individual in a center
13 for the developmentally disabled, the court shall request a statement or testimony
14 from the department regarding whether the protective placement is appropriate for
15 the individual's needs and whether it is consistent with the purpose of the center
16 under s. 51.06 (1).

17 (6) If the individual has a developmental disability and the court is considering
18 protective placement of the individual in an intermediate facility or a nursing
19 facility, the court shall request a statement or testimony from the county department
20 of the individual's county of residence that is participating in the program under s.
21 46.278 as to whether the individual's needs could be met in a noninstitutional
22 setting, except that, if s. 46.279 (4m) applies to the individual, the court shall request
23 the statement or testimony from the department, rather than the county
24 department.