

B

ASSEMBLY BILL 539

1 SECTION 136. 55.043 (1m) of the statutes is created to read:

2 55.043 (1m) REPORTING. (a) The following persons shall file reports as specified  
3 in par. (b):

4 1. An employee of any entity that is licensed, certified, or approved by or  
5 registered with the department.

6 ~~2. An employee of a financial institution, as defined in s. 705.01 (3)~~ AAG-2

7 3. A health care provider, as defined in s. 155.01 (7).

8 4. A social worker, professional counselor, or marriage and family therapist  
9 certified under ch. 457.

10 (b) Except as provided in par. (be), a person specified in par. (a) who has seen  
11 an adult at risk in the course of the person's professional duties shall file a report with  
12 the county department, the adult-at-risk agency, a state or local law enforcement  
13 agency, the department, or the board on aging and long-term care if the adult at risk  
14 has requested the person to make the report, or if the person has reasonable cause  
15 to believe that any of the following situations exist:

16 1. The adult at risk is at imminent risk of serious bodily harm, death, sexual  
17 assault, or significant property loss and is unable to make an informed judgment  
18 about whether to report the risk.

19 2. An adult at risk other than the subject of the report is at risk of serious bodily  
20 harm, death, sexual assault, or significant property loss inflicted by a suspected  
21 perpetrator.

22 (be) A person specified in par. (a) is not required to file a report as provided in  
23 ~~par. (b) if the person believes that filing a report would not be in the best interest of~~  
24 the adult at risk. If the person so believes, the person shall document the reasons  
25 for this belief in the case file that the person maintains on the adult at risk.

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**ASSEMBLY BILL 539****SECTION 136**

1           (br) Any person, including an attorney or a person working under the  
2 supervision of an attorney, may report to the county department, adult-at-risk  
3 agency, a state or local law enforcement agency, the department, or the board on  
4 aging and long-term care that he or she believes that abuse, financial exploitation,  
5 neglect, or self-neglect of an adult at risk has occurred if the person is aware of facts  
6 or circumstances that would lead a reasonable person to believe or suspect that  
7 abuse, financial exploitation, neglect, or self-neglect of an adult at risk has occurred.  
8 The person shall indicate the facts and circumstances of the situation as part of the  
9 report.

10           (c) 1. a. No person may discharge or otherwise retaliate or discriminate against  
11 any person for reporting in good faith under this subsection.

12           b. No person may discharge or otherwise retaliate or discriminate against any  
13 individual on whose behalf another person has reported in good faith under this  
14 subsection.

15           d. Any discharge of a person or act of retaliation or discrimination that is taken  
16 against a person who makes a report under this subsection, within 120 days after the  
17 report is made, establishes a rebuttable presumption that the discharge or act is  
18 made in response to the report. This presumption may be rebutted by a  
19 preponderance of evidence that the discharge or act was not made in response to the  
20 report.

21           2. b. Any employee of an employer who is discharged or otherwise  
22 discriminated against may file a complaint with the department of workforce  
23 development under s. 106.54 (5).

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1 c. Any person not described in subd. 2. b. who is retaliated or discriminated  
2 against in violation of subd. 1. a. or b. may commence an action in circuit court for  
3 damages incurred as a result of the violation.

4 (d) No person may be held civilly or criminally liable or be found guilty of  
5 unprofessional conduct for reporting in good faith under this subsection, or for filing  
6 a report with an agency not listed in par. (b) (intro.) or (br) if the person had a good  
7 faith belief that the report was filed correctly with one of the listed agencies.

8 (e) If a report under par. (b) or (br) is made to a state official, the state official  
9 shall refer the report to the appropriate adult-at-risk agency. INSERT  
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10 (f) Any person making a report under this subsection is presumed to have  
11 reported in good faith.

12 **SECTION 137.** 55.043 (1r) (title) of the statutes is created to read:

13 55.043 (1r) (title) RESPONSE AND INVESTIGATION.

14 **SECTION 138.** 55.043 (1r) (a) 2. of the statutes is created to read:

15 55.043 (1r) (a) 2. If an agent or employee of an adult-at-risk agency ~~authorized~~  
16 ~~required to respond~~ under this subsection is the subject of a report, or if the  
17 adult-at-risk agency or an agency under contract with the county department  
18 determines that the relationship between the adult-at-risk agency and the agency  
19 under contract with the county department would not allow for an unbiased  
20 response, the adult-at-risk agency shall, after taking any action necessary to protect  
21 the adult at risk, notify the department. Upon receipt of the notice, the department  
22 or a county department under s. 46.215, 46.22, 51.42, or 51.437 designated by the  
23 department shall conduct an independent investigation. The powers and duties of  
24 a county department making the independent investigation are those given to an  
25 adult-at-risk agency under pars. (b) to (g) and sub. (6). INS.  
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**ASSEMBLY BILL 539****SECTION 139**

1           **SECTION 139.** 55.043 (1r) (b) (intro.) of the statutes is created to read:

2           55.043 (1r) (b) (intro.) The adult-at-risk agency's response or another  
3           investigative agency's investigation may include one or more of the following:

4           **SECTION 140.** 55.043 (1r) (b) 3. of the statutes is created to read:

5           55.043 (1r) (b) 3. An interview with the adult at risk, in private to the extent  
6           practicable, and with or without consent of his or her guardian or agent under an  
7           activated power of attorney for health care, if any.

8           **SECTION 141.** 55.043 (1r) (b) 6. a. of the statutes is created to read:

9           55.043 (1r) (b) 6. a. To an adult-at-risk agency or other investigative agency  
10          under this section. The financial record holder may release financial record  
11          information by initiating contact with the adult-at-risk agency or other  
12          investigative agency without first receiving a request for release of the information  
13          from the adult-at-risk agency or other investigative agency.

14          **SECTION 142.** 55.043 (1r) (b) 6. b. of the statutes is created to read:

15          55.043 (1r) (b) 6. b. Under a lawful order of a court of record.

16          **SECTION 143.** 55.043 (1r) (c) 2. b. of the statutes is created to read:

17          55.043 (1r) (c) 2. b. The adult at risk has a guardian or agent under an activated  
18          power of attorney for health care, but that guardian or agent is the person suspected  
19          of abusing, neglecting, or financially exploiting the adult at risk.

20          **SECTION 144.** 55.043 (1r) (d) of the statutes is created to read:

21          55.043 (1r) (d) No person may be held civilly or criminally liable or be found  
22          guilty of unprofessional conduct for responding to a report or for participating in or  
23          conducting an investigation under this subsection, including the taking of  
24          photographs or conducting of a medical examination, if the response or investigation  
25          was performed in good faith and within the scope of his or her authority.

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1           **SECTION 145.** 55.043 (2) of the statutes is renumbered 55.043 (2) (a) and  
2 amended to read:

3           55.043 (2) (a) ~~The county protective services~~ adult-at-risk agency may request  
4 a sheriff or police officer to accompany the adult-at-risk agency investigator or  
5 worker during visits to the residence of the ~~vulnerable adult~~ adult at risk or request  
6 other assistance as needed. If the request is made, a sheriff or police officer shall  
7 accompany the adult-at-risk agency investigator ~~of the county protective services~~  
8 ~~agency or worker~~ to the residence of the ~~vulnerable adult~~ adult at risk and shall  
9 provide other assistance as requested or necessary.

10           **SECTION 146.** 55.043 (2) (b) of the statutes is created to read:

11           55.043 (2) (b) If the ~~adult-at-risk agency worker or investigator or other~~  
12 ~~agency investigator~~ has reason to believe that substantial physical harm,  
13 irreparable injury, or death may occur to an adult at risk, the worker or investigator  
14 shall either initiate a protective services action under this chapter or contact law  
15 enforcement or another public agency, as appropriate.

16           **SECTION 147.** 55.043 (3) of the statutes is amended to read:

17           55.043 (3) **RESTRAINING ORDER; INJUNCTION.** If a person ~~other than the~~  
18 ~~vulnerable adult~~ interferes with the response or investigation under sub. (1) (1r) or  
19 interferes with the delivery of protective services under this chapter to the  
20 ~~vulnerable adult~~ at risk, the ~~county protective services~~ adult-at-risk agency  
21 investigator or worker may ~~obtain a restraining~~ apply for an order or injunction  
22 under s. 813.123 against the person prohibiting the interference.

23           **SECTION 148.** 55.043 (4) (title) of the statutes is amended to read:

24           55.043 (4) (title) **OFFER OF SERVICES AND REFERRAL OF CASES.**

**ASSEMBLY BILL 539****SECTION 149**

1           **SECTION 149.** 55.043 (4) (intro.) of the statutes is renumbered 55.043 (4) (b)  
2 (intro.) and amended to read:

3           55.043 (4) (b) (intro.) ~~If upon investigation, after responding to a report, the~~  
4 ~~county protective services adult-at-risk agency finds misappropriation of property~~  
5 ~~or has reason to believe that the adult at risk has been the subject of abuse, financial~~  
6 ~~exploitation, neglect or abuse of a vulnerable adult, or self-neglect, the county~~  
7 ~~protective services adult-at-risk agency may do one or more~~ any of the following:

8           **SECTION 150.** 55.043 (4) (a) of the statutes is renumbered 55.043 (4) (b) 1. and  
9 amended to read:

10           55.043 (4) (b) 1. ~~Offer services, including~~ Initiate a protective services under  
11 ~~s. 55.05, a protective placement under s. 55.06, relocation assistance or other services~~  
12 action or contact an investigative agency, as appropriate.

13           **SECTION 151.** 55.043 (4) (am) of the statutes is created to read:

14           55.043 (4) (am) Upon responding to a report, the ~~adult-at-risk~~ agency or the  
15 investigative agency shall determine whether the adult at risk or any other  
16 individual involved in the alleged abuse, financial exploitation, neglect, or  
17 self-neglect is in need of services under this chapter or ch. 46, 47, 59, 51, or 880. If  
18 provided, direct services shall be rendered under the least restrictive conditions  
19 necessary to achieve their objective.

20           **SECTION 152.** 55.043 (4) (b) of the statutes is renumbered 55.043 (4) (b) 2. and  
21 amended to read:

22           55.043 (4) (b) 2. Take appropriate emergency action, including emergency  
23 protective placement under s. 55.06, if the ~~county protective services adult-at-risk~~  
24 ~~agency considers that the emergency action is in the vulnerable adult's best interests~~

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1 of the adult at risk and the emergency action is the least restrictive appropriate  
2 intervention.

3 **SECTION 153.** 55.043 (4) (c) of the statutes is renumbered 55.043 (4) (b) 3. and  
4 amended to read:

5 55.043 (4) (b) 3. Refer the case to local law enforcement officials under, as  
6 specified in sub. (2), for further investigation or to the district attorney, if the county  
7 ~~protective services~~ adult-at-risk agency has reason to believe that a ~~violation of chs.~~  
8 ~~939 to 951 has occurred~~ crime has been committed.

9 **SECTION 154.** 55.043 (4) (d) of the statutes is renumbered 55.043 (4) (b) 4. and  
10 amended to read:

11 55.043 (4) (b) 4. Refer the case to the licensing permitting, registration, or  
12 certification authorities of the department or to other regulatory bodies if the  
13 residence, facility, or program for the ~~vulnerable adult~~ at risk is or should be licensed,  
14 permitted, registered, or certified or is otherwise regulated.

15 **SECTION 155.** 55.043 (4) (e) of the statutes is renumbered 55.043 (4) (b) 5. and  
16 amended to read:

17 55.043 (4) (b) 5. Refer the case to the department of regulation and licensing  
18 if the ~~misappropriation of property or~~ financial exploitation, neglect, self-neglect, or  
19 abuse involves an individual who is required to hold a credential, as defined in s.  
20 440.01 (2) (a), under chs. 440 to 460.

21 **SECTION 156.** 55.043 (4) (f) of the statutes is renumbered 55.043 (4) (b) 6. and  
22 amended to read:

23 55.043 (4) (b) 6. Bring or refer for action to bring a petition for a guardianship  
24 and protective service services or protective placement or a review of an existing  
25 guardianship if necessary to prevent ~~misappropriation of property or~~ financial

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1 ~~exploitation, neglect, self-neglect,~~ or abuse and if the ~~vulnerable adult~~ at risk would  
2 otherwise be at risk of serious harm because of an inability to arrange for necessary  
3 food, clothing, shelter ~~and, or~~ services.

4 **SECTION 157.** 55.043 (5) of the statutes is repealed.

5 **SECTION 158.** 55.043 (5g) of the statutes is created to read:

6 **55.043 (5g) REFUSAL OF SERVICES.** An adult at risk may refuse to accept services  
7 unless a guardian authorizes the services. The adult-at-risk agency or other  
8 provider agency shall notify the adult at risk of this right to refuse before providing  
9 services.

10 **SECTION 159.** 55.043 (6) of the statutes is created to read:

11 **55.043 (6) RECORDS; CONFIDENTIALITY.** (a) In this subsection:

12 1. "Departmental report form" includes documentation of an adult-at-risk  
13 agency's response to or investigation of a report made under sub. (1r) and is the  
14 information required to be submitted to the department.

15 2. "Record" includes any document relating to the response, investigation,  
16 assessment, and disposition of a report made under sub. (1r).

17 (am) The adult-at-risk agency shall prepare a departmental report form on its  
18 response under sub. (1r) to a report of suspected abuse, financial exploitation,  
19 neglect, or self-neglect. If the adult-at-risk agency refers the report to an  
20 investigative agency, the investigative agency shall advise the adult-at-risk agency  
21 in writing of its response to the report. The adult-at-risk agency shall maintain  
22 records of suspected abuse, financial exploitation, neglect, or self-neglect.

23 (b) Departmental report forms are confidential and may not be released by the  
24 adult-at-risk agency or other investigative agency, except under the following  
25 circumstances:

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1           1. To the adult at risk, any person named in a departmental report form who  
2 is suspected of abusing, neglecting, or financially exploiting an adult-at-risk, and  
3 the suspect's attorney. These persons may inspect the departmental report form,  
4 except that information identifying the person who initially reported the suspected  
5 abuse, financial exploitation, neglect, or self-neglect, or any other person whose  
6 safety might be endangered through disclosure, may not be released.

7           2. To the agency or other entity contacted under sub. (2) (b). Information  
8 obtained under this subdivision shall remain confidential.

9           3. To an individual, organization, or agency designated by the department or  
10 as required by law for the purposes of management audits or program monitoring  
11 and evaluation. Information obtained under this subdivision shall remain  
12 confidential and may not be used in any way that discloses the names of or other  
13 identifying information about the individuals involved.

14           4. For purposes of research, if the research project has been approved by the  
15 department or the adult-at-risk agency and the researcher has provided assurances  
16 that the information will be used only for the purposes for which it was provided to  
17 the researcher, the information will not be released to a person not connected with  
18 the study under consideration, and the final product of the research will not reveal  
19 information that may serve to identify the individuals involved. The information  
20 shall remain confidential. In approving the use of information under this  
21 subdivision, the department shall impose any additional safeguards needed to  
22 prevent unwarranted disclosure of information.

23           5. Under lawful order of a court of record.

24           6. To any agency or individual that provides direct services under sub. (4),  
25 including an attending physician for purposes of diagnosis, examination, and

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1 treatment, and within the department to coordinate treatment for mental illness,  
2 developmental disabilities, alcoholism, or drug abuse of individuals committed to or  
3 under the supervision of the department. Information obtained under this  
4 subdivision shall remain confidential.

5 7. To the guardian of the adult at risk or the guardian of any person named in  
6 a report who is suspected of abusing, neglecting, or financially exploiting an adult  
7 at risk. These persons may inspect the departmental report form, except that  
8 information identifying the person who initially reported the suspected abuse,  
9 financial exploitation, neglect, or self-neglect, or any other person whose safety  
10 might be endangered through disclosure, may not be released.

11 8. To law enforcement officials in accordance with the policy developed under  
12 sub. (1g) (a).

13 9. To a federal agency, state governmental agency, agency of any other state,  
14 or local unit of government in this state or any other state that has a need for a  
15 departmental report form in order to carry out its responsibility to protect adults at  
16 risk from abuse, financial exploitation, neglect, or self-neglect.

17 10. To the reporter who made a report in his or her professional capacity,  
18 regarding action taken to protect or provide services to the alleged victim of abuse,  
19 financial exploitation, neglect, or self-neglect.

20 (bd) If a person requesting a departmental report form is not one of the persons  
21 or entities specified in par. (b), the adult-at-risk agency may release information  
22 indicating only whether or not a report was received and whether or not statutory  
23 responsibility was fulfilled.

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1 (br) Notwithstanding par. (b) 1. to 10., an adult-at-risk agency or an  
2 investigative agency may not release departmental report forms under this section,  
3 if any of the following applies:

4 1. The adult-at-risk agency determines that release would be contrary to the  
5 best interests of the adult at risk who is the subject of the departmental report form  
6 or of a minor residing with the subject of the departmental report form, or the release  
7 is likely to cause mental, emotional, or physical harm to the subject of the  
8 departmental report form or to any other individual.

9 2. The district attorney determines that disclosure of the information would  
10 jeopardize any ongoing or future criminal investigation or prosecution or would  
11 jeopardize a defendant's right to a fair trial.

12 3. The adult-at-risk agency determines that disclosure would jeopardize  
13 ongoing or future civil investigations or proceedings or would jeopardize the fairness  
14 of such a legal proceeding.

15 (bt) Subject to pars. (b), (bd), (br), (bv) and (bw), records under this subsection  
16 are confidential and may not be released by the adult-at-risk agency or other  
17 investigative agency, except under the following circumstances, upon request:

18 1. To the adult at risk who is the alleged victim named in the record.

19 2. To the legal guardian, conservator, or other legal representative of the adult  
20 at risk who is the alleged victim named in the record, if the legal guardian,  
21 conservator, or other legal representative of the alleged victim is not the alleged  
22 perpetrator of the abuse, financial exploitation, or neglect.

23 3. To law enforcement officials and agencies in accordance with the policy  
24 developed under sub. (1g) (a) or with investigations conducted under sub. (1r), or a  
25 district attorney, for purposes of investigation or prosecution.

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1           4. To the department, under s. 51.03 (2), or for death investigations under s.  
2           50.04 (2t) or 50.035 (5); or to a sheriff, police department, or district attorney for  
3           death investigations under s. 51.64 (2) (a).

4           5. To an employee of the county department under s. 51.42 or 51.437 that is  
5           providing services to an adult at risk who is the alleged victim named in the record,  
6           or to the alleged perpetrator of abuse, to determine whether the alleged victim should  
7           be transferred to a less restrictive or more appropriate treatment modality or facility.

8           6. To a court, tribal court, or state governmental agency for a proceeding  
9           relating to the licensure or regulation of an individual or entity regulated or licensed  
10          by the state governmental agency, that was an alleged perpetrator of abuse, financial  
11          exploitation, or neglect.

12          7. To the department, for management, audit, program monitoring,  
13          evaluation, billing, or collection purposes.

14          8. To the attorney or guardian ad litem for the adult at risk who is the alleged  
15          victim named in the record, to assist in preparing for any proceeding under ch. 48,  
16          51, 55, 880, 971, or 975 pertaining to the alleged victim.

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17          9. To a coroner, medical examiner, pathologist, or other physician investigating  
18          the cause of death of an adult at risk that is unexplained or unusual or is associated  
19          with unexplained or suspicious circumstances.

20          10. To staff members of the protection and advocacy agency designated under  
21          s. 51.62 and the board on aging and long-term care under s. 16.009.

22          11. To an agency, including a probation or parole agency, that is legally  
23          responsible for the supervision of an alleged perpetrator of abuse, neglect, or  
24          financial exploitation of an adult at risk.

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1           12. To a grand jury, if it determines that access to specified records is necessary  
2 for the conduct of its official business.

3           13. Under a lawful order of a court of record.

4           (bv) The identity of a person making a report of alleged abuse, neglect,  
5 self-neglect, or financial exploitation shall be deleted from any record prior to its  
6 release under par. (bt) or from any departmental report form prior to its release  
7 under par. (b). The identity of any reporter may only be released with the written  
8 consent of the reporter or under a lawful order of a court of record.

9           (bw) A person to whom a departmental report form or a record is disclosed  
10 under this subsection may not further disclose it, except to the persons and for the  
11 purposes specified in this subsection.

12           (by) A custodian of records or departmental report forms incurs no civil or  
13 criminal liability under this subsection and may not be found guilty of unprofessional  
14 conduct for the release or nonrelease of records or departmental report forms in  
15 accordance with this subsection while acting in good faith and within the scope of his  
16 or her authority.

17           **SECTION 160.** 55.043 (7) of the statutes is created to read:

18           55.043 (7) EXCEPTION. Nothing in this section may be construed to mean that  
19 a person is abused, financially exploited, neglected, or in need of direct or protective  
20 services solely because he or she consistently relies upon treatment by spiritual  
21 means through prayer for healing in accordance with his or her religious tradition.

22           **SECTION 161.** 55.043 (8) of the statutes is created to read:

23           55.043 (8) DEPARTMENT DUTIES. (a) The department shall develop a plan to  
24 assist adult-at-risk agencies in determining appropriate responses to reports of  
25 abuse, financial exploitation, neglect, or self-neglect.

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1 (b) The department shall prepare and distribute sample departmental report  
2 forms for use by adult-at-risk agencies.

3 (c) The department shall collect statistical information from each county  
4 pertaining to each reported case of abuse, financial exploitation, neglect, or  
5 self-neglect. The department may require adult-at-risk agency workers or  
6 investigators to submit departmental report forms to the department that  
7 summarize the information being reported. These departmental report forms may  
8 not name or otherwise identify individuals. The department shall use this  
9 information to review the effectiveness of this section, to plan program changes, and  
10 to formulate reports.

11 (d) The department shall develop and disseminate information on  
12 adult-at-risk abuse and the adult-at-risk reporting system under this section. The  
13 department shall also develop informational materials to be used by adult-at-risk  
14 agencies regarding abuse of adults at risk and regarding the adult-at-risk abuse  
15 reporting system. The department shall solicit contributions of labor, materials, and  
16 expertise from private sources to assist in developing the informational materials.

17 **SECTION 162.** 55.043 (9) of the statutes is repealed.

18 **SECTION 163.** 55.043 (9m) of the statutes is created to read:

19 55.043 (9m) PENALTIES. (a) Any person, including the state or any political  
20 subdivision of the state, violating sub. (6) is liable to any person damaged as a result  
21 of the violation for such damages as may be proved, together with exemplary  
22 damages of not less than \$100 nor more than \$500 for each violation and the costs  
23 and reasonable actual attorney fees that are incurred by the person damaged.

24 (b) In any action brought under par. (a) in which the court determines that the  
25 violator acted in a manner that was knowing and willful, the violator shall be liable

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1 for such damages as may be proved together with exemplary damages of not less than  
2 \$500 nor more than \$1,000 for each violation, together with costs and reasonable  
3 actual attorney fees as may be incurred. It is not a prerequisite to an action under  
4 par. (a) that the plaintiff suffer or be threatened with actual damages.

5 (c) An individual may bring an action to enjoin any violation of sub. (6) or to  
6 compel compliance with sub. (6), and may in the same action seek damages as  
7 provided in this subsection. The individual may recover costs and reasonable actual  
8 attorney fees incurred in the action, if he or she prevails.

9 (d) Whoever violates sub. (1m) (c) 1. may be fined not more than \$10,000 or  
10 imprisoned for not more than 6 months or both.

11 (e) Whoever intentionally violates sub. (1m) (b) by failure to report as required  
12 may be fined not more than \$500 or imprisoned not more than 6 months or both.

13 **SECTION 164.** 55.06 (2) (c) of the statutes is amended to read:

14 55.06 (2) (c) As a result of developmental disabilities, ~~infirmities of aging~~  
15 degenerative brain disorder, chronic mental illness, or other like incapacities, is so  
16 totally incapable of providing for his or her own care or custody as to create a  
17 substantial risk of serious harm to ~~oneself~~ himself, herself, or others. Serious harm  
18 may be occasioned by overt acts or acts of omission; and

19 **SECTION 165.** 55.06 (11) (a) of the statutes is amended to read:

20 55.06 (11) (a) If, from personal observation of a sheriff, police officer, fire  
21 fighter, guardian, if any, or authorized representative of a board designated under  
22 s. 55.02 or an agency designated by it, it appears probable that an individual will  
23 suffer irreparable injury or death or will present a substantial risk of serious physical  
24 harm to others as a result of developmental disabilities, ~~infirmities of aging~~  
25 degenerative brain disorder, chronic mental illness or other like incapacities if not

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

**SECTION 166.** 106.54 (5) of the statutes is amended to read:

14 106.54 (5) The division shall receive complaints of discharge, retaliation or  
 15 discrimination under s. 16.009 (5) (d), 46.90 (4) (b) ~~or~~, 50.07 (3) (b), or 55.043 (1m) (c)  
 16 and shall process the complaints in the same manner that employment  
 17 discrimination complaints are processed under s. 111.39.

~~**SECTION 167.** 146.40 (1) (ab) of the statutes is created to read:~~

~~146.40 (1) (ab) "Abuse" has the meaning given in s. 46.90 (1) (a).~~

~~**SECTION 168.** 146.40 (1) (aw) of the statutes is created to read:~~

~~146.40 (1) (aw) "Financial exploitation" means any of the following:~~

- ~~1. Obtaining an individual's money or property by deceiving or enticing the individual, or by forcing, compelling, or coercing the individual to give, sell at less than fair market value, or in other ways convey money or property against his or her will without his or her informed consent.~~

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1           2. Theft, as prohibited in s. 943.20.

2           3. The substantial failure or neglect of a fiscal agent to fulfill his or her  
3 responsibilities.

4           **SECTION 169.** 146.40 (4g) (a) 3. of the statutes is amended to read:

5           146.40 (4g) (a) 3. Findings of the department under sub. (4r) (b) or of the  
6 hearing officer under sub. (4r) (d) concerning the ~~misappropriation of property~~  
7 financial exploitation or the neglect or abuse of a client by an individual listed under  
8 sub. 2.

9           **SECTION 170.** 146.40 (4r) (a) of the statutes is amended to read:

10           146.40 (4r) (a) Any individual may report to the department that he or she  
11 believes that any person employed by or under contract with an entity has neglected  
12 or abused a client or ~~misappropriated the client's property~~ financially exploited the  
13 client.

14           **SECTION 171.** 146.40 (4r) (am) 1. of the statutes is amended to read:

15           146.40 (4r) (am) 1. Except as provided in sub. 2., an entity shall report to the  
16 department any allegation of ~~misappropriation of the property~~ financial exploitation  
17 of a client or of neglect or abuse of a client by any person employed by or under  
18 contract with the entity if the person is under the control of the entity.

19           **SECTION 172.** 146.40 (4r) (am) 2. of the statutes is amended to read:

20           146.40 (4r) (am) 2. An entity shall report to the department of regulation and  
21 licensing any allegation of ~~misappropriation of the property~~ financial exploitation of  
22 a client or of neglect or abuse of a client by any person employed by or under contract  
23 with the entity if that person holds a credential that is related to the person's  
24 employment at, or contract with, the entity if the person is under the control of the  
25 entity.

**ASSEMBLY BILL 539****SECTION 173**

1 **SECTION 173.** 146.40 (4r) (am) 3. of the statutes is amended to read:

2 146.40 (4r) (am) 3. An entity that intentionally fails to report an allegation of  
3 ~~misappropriation of the property~~ financial exploitation of a client or of neglect or  
4 abuse of a client may be required to forfeit not more than \$1,000 and may be subject  
5 to other sanctions specified by the department by rule.

6 **SECTION 174.** 146.40 (4r) (b) of the statutes is amended to read:

7 146.40 (4r) (b) Except as provided in pars. (em) and (err), the department shall  
8 review and investigate any report received under par. (a) or (am) and, if the  
9 allegation is substantiated, make specific, documented findings concerning the  
10 ~~misappropriation of property~~ financial exploitation or the neglect or abuse. The  
11 department shall in writing by certified mail notify the person specified in the report  
12 that the person's name and the department's findings about the person shall be listed  
13 in the registry under sub. (4g) (a) 2. and 3. unless the person contests the listings in  
14 a hearing before the division of hearings and appeals created under s. 15.103 (1). The  
15 written notification shall describe the investigation conducted by the department,  
16 enumerate the findings alleging ~~misappropriation of property~~ financial exploitation  
17 or neglect or abuse of a client and explain the consequence to the person specified in  
18 the report of waiving a hearing to contest the findings. The person specified in the  
19 report shall have 30 days after receipt of the notification to indicate to the  
20 department in writing whether he or she intends to contest the listing or to waive the  
21 ~~hearing~~

22 **SECTION 175.** 146.82 (2) (a) 7. of the statutes is amended to read:

23 146.82 (2) (a) 7. To ~~a county~~ an elder-adult-at-risk agency designated under  
24 s. 46.90 (2) or other investigating agency under s. 46.90 for purposes of s. 46.90 (4)  
25 (~~a~~) and (5) or to ~~the county protective services~~ an adult-at-risk agency designated

**ASSEMBLY BILL 539**

1 under s. 55.02 for purposes of s. 55.043. The health care provider may release  
2 information by initiating contact with the ~~county elder-adult-at-risk~~ agency or  
3 ~~county protective services adult-at-risk~~ agency without receiving a request for  
4 release of the information from the ~~county elder-adult-at-risk~~ agency or ~~county~~  
5 ~~protective services adult-at-risk~~ agency.

6 **SECTION 176.** 813.123 (title) of the statutes is amended to read:

7 **813.123 (title) ~~Vulnerable adult restraining~~ Restraining orders and**  
8 **injunctions for individuals at risk.**

9 **SECTION 177.** 813.123 (1) (a) of the statutes is amended to read:

10 813.123 (1) (a) “Abuse” has the meaning given in s. 55.01 ~~46.90~~ (1) (a).

11 **SECTION 178.** 813.123 (1) (ae) of the statutes is created to read:

12 813.123 (1) (ae) “Adult at risk” has the meaning given in s. 55.01 (1e).

13 **SECTION 179.** 813.123 (1) (am) of the statutes is created to read:

14 813.123 (1) (am) “Adult-at-risk agency” has the meaning given in s. 55.01 (1f).

15 **SECTION 180.** 813.123 (1) (b) of the statutes is amended to read:

16 813.123 (1) (b) “Bodily harm” has the meaning given in s. ~~939.22 (4)~~ 46.90 (1)  
17 (aj).

18 **SECTION 181.** 813.123 (1) (br) of the statutes is created to read:

19 813.123 (1) (br) “Caregiver” has the meaning given in s. 46.90 (1) (an).

20 **SECTION 182.** 813.123 (1) (c) of the statutes is repealed.

21 **SECTION 183.** 813.123 (1) (cg) of the statutes is created to read:

22 813.123 (1) (cg) “Elder adult at risk” has the meaning given in s. 46.90 (1) (br).

23 **SECTION 184.** 813.123 (1) (dm) of the statutes is created to read:

24 813.123 (1) (dm) “Financial exploitation” has the meaning given in s. 46.90 (1)  
25 (ed).

**ASSEMBLY BILL 539****SECTION 185**

1           **SECTION 185.** 813.123 (1) (eg) of the statutes is created to read:

2           813.123 (1) (eg) “Harassment” has the meaning given in s. 813.125 (1).

3           **SECTION 186.** 813.123 (1) (ep) of the statutes is created to read:

4           813.123 (1) (ep) “Individual at risk” means an elder adult at risk or an adult  
5 at risk.

6           **SECTION 187.** 813.123 (1) (f) of the statutes is repealed.

7           **SECTION 188.** 813.123 (1) (fm) of the statutes is created to read:

8           813.123 (1) (fm) “Mistreatment of an animal” means cruel treatment of any  
9 animal owned by or in service to an individual at risk.

10          **SECTION 189.** 813.123 (1) (g) of the statutes is amended to read:

11          813.123 (1) (g) “Neglect” has the meaning given in s. ~~55.01 (4r)~~ 46.90 (1) (f).

12          **SECTION 190.** 813.123 (1) (gr) of the statutes is created to read:

13          813.123 (1) (gr) “Self-neglect” has the meaning given in s. 46.90 (1) (g).

14          **SECTION 191.** 813.123 (1) (gs) of the statutes is created to read:

15          813.123 (1) (gs) “Stalking” means engaging in a course of conduct, as defined  
16 in s. 940.32 (1) (a).

17          **SECTION 192.** 813.123 (1) (h) of the statutes is repealed.

18          **SECTION 193.** 813.123 (2) of the statutes is renumbered 813.123 (2) (a) and  
19 amended to read:

20           813.123 (2) (a) No action under this section may be commenced by complaint  
21 and summons. An action under this section may be commenced only by a petition  
22 described under sub. (6). The action commences with service of the petition upon the  
23 respondent if a copy of the petition is filed before service or promptly after service.  
24 The vulnerable adult, a parent, an adult sibling, an adult child or the legal guardian  
25 of the vulnerable adult or a county protective services agency individual at risk, any

**ASSEMBLY BILL 539**

1 person acting on behalf of an individual at risk, an elder–adult–at–risk agency, or an  
2 adult–at–risk agency may be a petitioner under this section. If the petition is filed  
3 by a person other than the individual at risk, the petitioner shall serve a copy of the  
4 petition on the individual at risk. Section 813.06 does not apply to an action under  
5 this section. The respondent may respond to the petition either in writing before or  
6 at the hearing on the issuance of the injunction or orally at that hearing.

7 **SECTION 194.** 813.123 (2) (b) of the statutes is created to read:

8 813.123 (2) (b) The court may go forward with a petition filed under sub. (6) if  
9 the individual at risk has been adjudicated incompetent under ch. 880,  
10 notwithstanding an objection by an individual at risk who is the subject of the  
11 petition, or an objection by the guardian of the individual at risk.

12 **SECTION 195.** 813.123 (3) (b) (intro.) and 1. of the statutes are consolidated,  
13 renumbered 813.123 (3) (b) and amended to read:

14 813.123 (3) (b) The court or circuit court commissioner, on its or his or her own  
15 motion or the motion of any party, ~~may shall~~ order ~~one or more of the following:~~ 1.  
16 ~~That~~ that a guardian ad litem be appointed under s. 880.331 (1) for the ~~vulnerable~~  
17 ~~adult~~ individual at risk, if the petition under sub. (6) was filed by a person other than  
18 the individual at risk, and may order that a guardian ad litem be appointed in other  
19 instances when justice so requires.

20 **SECTION 196.** 813.123 (3) (b) 2. and 3. of the statutes are renumbered 813.123  
21 (3) (c) 1. and 2. and amended to read:

22 813.123 (3) (c) 1. That all persons, other than the ~~vulnerable adult~~ individual  
23 at risk, the parties, their attorneys, a representative of the ~~county protective services~~  
24 adult–at–risk agency or elder–adult–at–risk agency, witnesses, court personnel, and

## ASSEMBLY BILL 539

## SECTION 196

1 any guardian or any guardian ad litem, be excluded from any hearing under this  
2 section.

3 2. That access to any record of an action under this section be available only  
4 to the ~~vulnerable adult~~ individual at risk, the parties, their attorneys, any guardian  
5 or any guardian ad litem, the ~~county protective services~~ adult-at-risk agency or  
6 elder-adult-at-risk agency, court personnel, and, upon appeal, any applicable court  
7 upon appeal.

8 **SECTION 197.** 813.123 (3) (c) (intro.) of the statutes is created to read:

9 813.123 (3) (c) (intro.) The court or circuit court commissioner, on its or his or  
10 her own motion or the motion of any party, may order any of the following:

11 **SECTION 198.** 813.123 (4) (a) (intro.) of the statutes is amended to read:

12 813.123 (4) (a) (intro.) Unless the ~~vulnerable adult~~ individual at risk, guardian,  
13 or guardian ad litem consents in writing and the judge or circuit court commissioner  
14 agrees that the contact is in the best interests of the ~~vulnerable adult~~ individual at  
15 risk, a judge or circuit court commissioner shall issue a temporary restraining order  
16 ~~ordering the respondent to avoid interference with an investigation of the vulnerable~~  
17 ~~adult under s. 55.043, the delivery of protective services to the vulnerable adult~~  
18 ~~under s. 55.05 or a protective placement of the vulnerable adult under s. 55.06, as~~  
19 specified in par. (ar), if all of the following occur:

20 **SECTION 199.** 813.123 (4) (a) 2. of the statutes is renumbered 813.123 (4) (a) 2.  
21 (intro.) and amended to read:

22 813.123 (4) (a) 2. (intro.) The judge or circuit court commissioner finds  
23 reasonable grounds to believe that any of the following:

24 a. That the respondent has interfered with, or, based on prior conduct of the  
25 respondent, may interfere with, an investigation of the ~~vulnerable adult under s.~~

## ASSEMBLY BILL 539

1 55.043, individual at risk, the delivery of protective services to the ~~vulnerable adult~~  
2 individual at risk under s. 55.05 or a protective placement of the ~~vulnerable adult~~  
3 individual at risk under s. 55.06, or the delivery of services to an elder adult at risk  
4 under s. 46.90 (5m); and that the interference complained of, if continued, would  
5 make it difficult to determine whether abuse, ~~material abuse~~, neglect, or self-neglect  
6 has occurred, is occurring, or may recur.

7 SECTION 200. 813.123 (4) (a) 2. b. of the statutes is created to read:

8 813.123 (4) (a) 2. b. That the respondent engaged in or threatened to engage  
9 in the abuse, financial exploitation, neglect, harassment, or stalking of an individual  
10 at risk or the mistreatment of an animal.

11 SECTION 201. 813.123 (4) (ar) of the statutes is created to read:

12 813.123 (4) (ar) A temporary restraining order issued under par. (a) shall order  
13 the respondent to do one or more of the following:

14 1. Avoid interference with an investigation of the elder adult at risk under s.  
15 46.90 or the adult at risk under s. 55.043, the delivery of protective services to the  
16 individual at risk under s. 55.05 or a protective placement of the individual at risk  
17 under s. 55.06, or the delivery of services to the elder adult at risk under s. 46.90 (5m).

18 2. Cease engaging in or threatening to engage in the abuse, financial  
19 exploitation, neglect, harassment, or stalking of an individual at risk or  
20 mistreatment of an animal.

21 3. Avoid the residence of the individual at risk or any other location temporarily  
22 occupied by the individual at risk, or both.

23 4. Avoid contacting or causing any person other than a party's attorney or a law  
24 enforcement officer to contact the individual at risk unless the individual at risk  
25 consents in writing.

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**ASSEMBLY BILL 539****SECTION 201**

1           5. Engage in any other appropriate remedy not inconsistent with the remedies  
2 requested in the petition.

3           **SECTION 202.** 813.123 (5) (a) (intro.) of the statutes is amended to read:

4           813.123 (5) (a) (intro.) Unless the ~~vulnerable adult~~ individual at risk, guardian,  
5 or guardian ad litem consents in writing to ~~that a contact in writing~~ and the judge  
6 agrees that the contact is in the best interests of the ~~vulnerable adult~~ individual at  
7 risk, a judge may grant an injunction ordering the respondent ~~to avoid interference~~  
8 ~~with an investigation of the vulnerable adult under s. 55.043, the delivery of~~  
9 ~~protective services to the vulnerable adult under s. 55.05 or a protective placement~~  
10 ~~of the vulnerable adult under s. 55.06, as specified in par. (a),~~ if all of the following  
11 occur:

12           **SECTION 203.** 813.123 (5) (a) 3. a. of the statutes is amended to read:

13           813.123 (5) (a) 3. a. That the respondent has interfered with, or, based upon  
14 prior conduct of the respondent, may interfere with, an investigation of the  
15 ~~vulnerable~~ elder adult at risk under s. 46.90 or the adult at risk under s. 55.043 and  
16 that the interference complained of, if continued, would make it difficult to  
17 determine if ~~misappropriation of property or abuse or neglect,~~ financial exploitation,  
18 neglect, harassment, or stalking of an individual at risk or mistreatment of an  
19 animal is occurring or may recur.

20           **SECTION 204.** 813.123 (5) (a) 3. b. of the statutes is amended to read:

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

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1 receipt of the protective services or protective placement; or that the respondent has  
2 interfered with the delivery of services to an elder adult at risk under s. 46.90 (5m).

3 **SECTION 205.** 813.123 (5) (a) 3. c. of the statutes is created to read:

4 813.123 (5) (a) 3. c. That the respondent has engaged in or threatened to engage  
5 in the abuse, financial exploitation, neglect, harassment, or stalking of an individual  
6 at risk or the mistreatment of an animal.

7 **SECTION 206.** 813.123 (5) (ar) of the statutes is created to read:

8 813.123 (5) (ar) An injunction granted under par. (a) shall order the respondent  
9 to do one or more of the following:

10 1. Avoid interference with an investigation of the elder adult at risk under s.  
11 46.90 or the adult at risk under s. 55.043, the delivery of protective services to the  
12 individual at risk under s. 55.05 or a protective placement of the individual at risk  
13 under s. 55.06, or the delivery of services to the elder adult at risk under s. 46.90 (5m).

14 2. Cease engaging in or threatening to engage in the abuse, financial  
15 exploitation, neglect, harassment, or stalking of an individual at risk or the  
16 mistreatment of an animal.

17 3. Avoid the residence of the individual at risk or any other location temporarily  
18 occupied by the individual at risk, or both.

19 4. Avoid contacting or causing any person other than a party's attorney or a law  
20 enforcement officer to contact the individual at risk unless the individual at risk  
21 consents in writing.

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22 5. Any other appropriate remedy not inconsistent with the remedies requested  
23 in the petition.

24 **SECTION 207.** 813.123 (5) (c) 1., 2. and 3. of the statutes are amended to read:

**ASSEMBLY BILL 539****SECTION 207**

1           813.123 (5) (c) 1. An injunction under this subsection is effective according to  
2 its terms but for not more than ~~2~~ 4 years.

3           2. When an injunction that has been in effect for less than 6 months expires,  
4 the court shall extend the injunction if the petitioner states that an extension is  
5 necessary to protect the ~~vulnerable adult~~ individual at risk. This extension shall  
6 remain in effect until 6 months after the date on which the court first entered the  
7 injunction.

8           3. If the petitioner states that an extension is necessary to protect the  
9 ~~vulnerable adult~~ individual at risk, the court may extend the injunction for not more  
10 than 2 years.

11           **SECTION 208.** 813.123 (6) (a) of the statutes is amended to read:

12           813.123 (6) (a) The name of the petitioner and the ~~vulnerable adult~~ individual  
13 at risk.

14           **SECTION 209.** 813.123 (6) (c) of the statutes is amended to read:

15           813.123 (6) (c) That the respondent interfered with, or, based on prior conduct  
16 of the respondent, may interfere with, an investigation of the elder adult at risk  
17 under s. 46.90 (5), an investigation of the ~~vulnerable adult~~ adult at risk under s.  
18 55.043, the delivery of protective services to the ~~vulnerable adult~~ individual at risk  
19 under s. 55.05 or, a protective placement of the ~~vulnerable adult~~ individual at risk  
20 under s. 55.06, or the delivery of services to the elder adult at risk under s. 46.90 (5m);  
21 or that the respondent engaged in, or threatened to engage in, the abuse, financial  
22 exploitation, neglect, stalking, or harassment of an individual at risk or  
23 mistreatment of an animal.

24           **SECTION 210.** 813.123 (7) of the statutes is amended to read:

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1           813.123 (7) INTERFERENCE ORDER. Any order under this section directing a  
2 person to avoid interference with an investigation of a vulnerable adult under s.  
3 55.043, the delivery of protective services to a vulnerable adult under s. 55.05 or a  
4 protective placement of a vulnerable adult under s. 55.06 prohibits the person sub.  
5 (4) (ar) 1. or 2. or (5) (ar) 1. or 2. also shall prohibit the respondent from intentionally  
6 preventing a representative or employee of the county protective services agency  
7 from meeting, communicating or being in visual or audio contact with the vulnerable  
8 adult adult at risk, except as provided in the order.

9           **SECTION 211.** 813.123 (9) (intro.) of the statutes is amended to read:

10           813.123 (9) (intro.) A law enforcement officer ~~may~~ shall arrest and take a  
11 person into custody if all of the following occur:

12           **SECTION 212.** 813.123 (11) of the statutes is repealed.

13           **SECTION 213.** 880.01 (2) of the statutes is amended to read:

14           880.01 (2) "Developmentally disabled person" means any individual having a  
15 disability attributable to mental retardation, cerebral palsy, epilepsy, autism or  
16 another neurological condition closely related to mental retardation or requiring  
17 treatment similar to that required for mentally retarded individuals, which has  
18 continued or can be expected to continue indefinitely, substantially impairs the  
19 individual from adequately providing for his or her own care or custody and  
20 ~~constitutes a substantial handicap to the afflicted individual. The term does not~~  
21 ~~include a person affected by senility which is primarily caused by the process of aging~~  
22 ~~or the infirmities of aging degenerative brain disorder.~~

23           **SECTION 214.** 880.01 (4) of the statutes is amended to read:

24           880.01 (4) "Incompetent" means a person adjudged by a court of record to be  
25 substantially incapable of managing his or her property or caring for himself or

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**ASSEMBLY BILL 539****SECTION 214**

1 herself by reason of ~~infirmities of aging~~ degenerative brain disorder, developmental  
2 disabilities, or other like incapacities. Physical disability without mental incapacity  
3 is not sufficient to establish incompetence.

4 **SECTION 215.** 880.01 (5) of the statutes is renumbered 880.01 (1t) and amended  
5 to read:

6 880.01 (1t) ~~“Infirmities of aging”~~ “Degenerative brain disorder” means ~~organic~~  
7 ~~brain damage caused by advanced age or other physical degeneration in connection~~  
8 ~~therewith to the extent that the person so afflicted~~ the loss or dysfunction of brain  
9 cells to the extent that an individual is substantially impaired in his or her ability  
10 to ~~adequately provide~~ adequately for his or her own care or custody.

11 **SECTION 216.** 895.85 (2) of the statutes is amended to read:

12 895.85 (2) SCOPE. This section does not apply to awards of double damages or  
13 treble damages, or to the award of exemplary damages under ss. 46.90 ~~(6)-(e)~~ (9) (a)  
14 and (b), 51.30 (9), 51.61 (7), 55.043 (9m) (a) and (b), 103.96 (2), 134.93 (5), 146.84 (1)  
15 (b) and (bm), 153.85, 252.14 (4), 252.15 (8) (a), 610.70 (7) (b), 943.245 (2) and (3) and  
16 943.51 (2) and (3).

17 **SECTION 217.** 940.225 (2) (j) of the statutes is created to read:

18 940.225 (2) (j) Is a licensee, employee, or nonclient resident of an entity, as  
19 defined in s. 48.685 (1) (b) or 50.065 (1) (c), and has sexual contact or sexual  
20 intercourse with a client of the entity.

21 **SECTION 218.** 940.225 (5) (ab) of the statutes is renumbered 940.225 (5) (acm).

22 **SECTION 219.** 940.225 (5) (abm) and (ak) of the statutes are created to read:

23 940.225 (5) (abm) “Client” means an individual who receives direct care or  
24 treatment services from an entity.

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1 (ak) “Nonclient resident” means an individual who resides, or is expected to  
2 reside, at an entity, who is not a client of the entity, and who has, or is expected to  
3 have, regular, direct contact with the clients of the entity.

4 **SECTION 220.** 940.285 (title) of the statutes is amended to read:

5 **940.285 (title) Abuse of ~~vulnerable adults~~ individuals at risk.**

6 **SECTION 221.** 940.285 (1) (a) of the statutes is repealed.

7 **SECTION 222.** 940.285 (1) (ag) of the statutes is created to read:

8 940.285 (1) (ag) “Abuse” means any of the following:

- 9 1. Physical abuse, as defined in s. 46.90 (1) (fg).
- 10 2. Emotional abuse, as defined in s. 46.90 (1) (cm).
- 11 3. Sexual abuse, as defined in s. 46.90 (1) (gd).
- 12 4. Treatment without consent, as defined in s. 46.90 (1) (h).
- 13 5. Unreasonable confinement or restraint, as defined in s. 46.90 (1) (i).
- 14 6. Deprivation of a basic need for food, shelter, clothing, or personal or health  
15 care, including deprivation resulting from the failure to provide or arrange for a basic  
16 need by a person who has assumed responsibility for meeting the need voluntarily  
17 or by contract, agreement, or court order.

18 **SECTION 223.** 940.285 (1) (am) of the statutes is created to read:

19 940.285 (1) (am) “Adult at risk” has the meaning given in s. 55.01 (1e).

20 **SECTION 224.** 940.285 (1) (b), (bm), (c) and (d) of the statutes are repealed.

21 **SECTION 225.** 940.285 (1) (dc) of the statutes is created to read:

22 940.285 (1) (dc) “Elder adult at risk” has the meaning given in s. 46.90 (1) (br).

23 **SECTION 226.** 940.285 (1) (dg) of the statutes is created to read:

24 940.285 (1) (dg) “Individual at risk” means an elder adult at risk or an adult  
25 at risk.

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## SECTION 227

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1 SECTION 227. 940.285 (1) (e) of the statutes is repealed.

2 SECTION 228. 940.285 (2) (title) and (a) 1. to 3. of the statutes are amended to  
3 read:

4 940.285 (2) (title) ~~MALTREATMENT ABUSE~~; PENALTIES.

5 (a) 1. Intentionally subjects ~~a vulnerable adult~~ an individual at risk to  
6 maltreatment abuse.

7 2. Recklessly subjects ~~a vulnerable adult~~ an individual at risk to maltreatment  
8 abuse.

9 3. Negligently subjects ~~a vulnerable adult~~ an individual at risk to  
10 maltreatment abuse.

11 SECTION 229. 940.295 (1) (a) of the statutes is renumbered 940.295 (1) (am).

12 SECTION 230. 940.295 (1) (ad) of the statutes is created to read:

13 940.295 (1) (ad) "Abuse" has the meaning given in s. 46.90 (1) (a).

14 SECTION 231. 940.295 (1) (ag) of the statutes is created to read:

15 940.295 (1) (ag) "Adult at risk" has the meaning given in s. 55.01 (1e).

16 SECTION 232. 940.295 (1) (b) of the statutes is amended to read:

17 940.295 (1) (b) "Bodily harm" has the meaning given in s. ~~939.22 (4)~~ 46.90 (1)  
18 (aj).

19 SECTION 233. 940.295 (1) (cm) of the statutes is repealed.

20 SECTION 234. 940.295 (1) (hm) of the statutes is repealed.

21 SECTION 235. 940.295 (1) (j) of the statutes is repealed.

22 SECTION 236. 940.295 (1) (jm) of the statutes is repealed.

23 SECTION 237. 940.295 (1) (k) of the statutes is repealed and recreated to read:

24 940.295 (1) (k) "Neglect" has the meaning given in s. 46.90 (1) (f).

25 SECTION 238. 940.295 (1) (km) of the statutes is repealed and recreated to read:

**ASSEMBLY BILL 539**

1           940.295 (1) (km) “Negligence” means an act, omission, or course of conduct that  
2           the actor should realize creates a substantial and unreasonable risk of death, great  
3           bodily harm, or bodily harm to another person.

4           **SECTION 239.** 940.295 (1) (kp) of the statutes is repealed.

5           **SECTION 240.** 940.295 (1) (n) of the statutes is repealed.

6           **SECTION 241.** 940.295 (1) (o) of the statutes is amended to read:

7           940.295 (1) (o) “Recklessly” means conduct ~~which~~ that creates a situation of  
8           unreasonable risk of death or harm to and demonstrates a conscious disregard for  
9           the safety of the patient or resident.

10          **SECTION 242.** 940.295 (1) (t) of the statutes is repealed.

11          **SECTION 243.** 940.295 (3) (a) 3. of the statutes is amended to read:

12          940.295 (3) (a) 3. ~~Negligently abuses~~ Abuses ~~or neglects, with negligence,~~ a  
13          patient or a resident.

14          **SECTION 244.** 940.295 (3) (b) 1g. of the statutes is amended to read:

15          940.295 (3) (b) 1g. Any person violating par. (a) 1. or 2. under circumstances  
16          that cause death to ~~a vulnerable person~~ an individual at risk is guilty of a Class C  
17          felony. Any person violating par. (a) 3. under circumstances that cause death to ~~a~~  
18          vulnerable person an individual at risk is guilty of a Class D felony.

19          **SECTION 245.** 940.295 (3) (b) 1m. of the statutes is amended to read:

20          940.295 (3) (b) 1m. Any person violating par. (a) under circumstances that  
21          cause great bodily harm to ~~a vulnerable person~~ an individual at risk is guilty of a  
22          Class E felony.

23          **SECTION 246.** 943.20 (2) (a) of the statutes is renumbered 943.20 (2) (ag).

24          **SECTION 247.** 943.20 (2) (ac) of the statutes is created to read:

25          943.20 (2) (ac) “Adult at risk” has the meaning given in s. 55.01 (1e).

INS.  
AA5-21

**ASSEMBLY BILL 539****SECTION 248**

1           **SECTION 248.** 943.20 (2) (ad) of the statutes is created to read:

2           943.20 (2) (ad) “Elder adult at risk” has the meaning given in s. 46.90 (1) (br).

3           **SECTION 249.** 943.20 (2) (ae) of the statutes is created to read:

4           943.20 (2) (ae) “Individual at risk” means an elder adult at risk or an adult at  
5 risk.

6           **SECTION 250.** 943.20 (2) (e) of the statutes is repealed.

7           **SECTION 251.** 943.20 (3) (d) 6. of the statutes is amended to read:

8           943.20 (3) (d) 6. The property is taken from a patient or resident of a facility  
9 or program under s. 940.295 (2) or from ~~a vulnerable adult~~ an individual at risk.

10           **SECTION 252. Initial applicability.**

11           (1) ELDER-ADULT-AT RISK REPORTS. The treatment of sections 20.435 (7) (dh),  
12 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm), 46.23 (3) (e), 46.283 (4) (h), 46.90 (1) (a),  
13 (aj), (an), (b), (br), (bt), (c), (cm), (d), (e), (ed), (eg), (er), (f), (fg), (g), (gd), (gf), (gr), (h),  
14 and (i), (2), (3) (title), (a), (b), and (c), (4) (a) 1. and 2., (ab), (ad), (ae), (b) 1. b., c., and  
15 cm. and 2. c., (c), (d), and (e), (5) (title), (b) (intro.) and 1. to 5., (br), (c), (d) 1. and 2.,  
16 (f), (g), and (h), (5m) (title), (a), (b), (br), and (c), (6) (a), (ac), (b) (intro.), 1., 2., 3., 4.,  
17 5., 6., 7., 9., and 10., (bd), (br), (bt), (bv), (bw), (by), (c) 1., 2., and 3., (7), (8) (a), (b), (c),  
18 and (d), and (9) (title) and (e), 51.42 (3) (e), and 51.437 (4r) (b) of the statutes, the  
19 renumbering and amendment of section 46.90 (5) (a) of the statutes, and the creation  
20 of section 46.90 (5) (a) 2. and (b) 6. of the statutes first apply to reports of alleged  
21 abuse, financial exploitation, neglect, or self-neglect received on the effective date  
22 of this subsection.

23           (2) CRIMINAL HISTORY AND PATIENT ABUSE RECORD SEARCH. The treatment of  
24 section 50.065 (1) (br) and (cg), (4m) (a) 3. and (b) 3., and (7) (c) of the statutes first

AA5-22

## ASSEMBLY BILL 539

AA5-22

1 applies to findings made by units of government or state agencies on the effective  
2 date of this subsection.

3 (3) EMERGENCY DETENTIONS AND CIVIL COMMITMENTS. The treatment of section  
4 51.01 (2g) (b), (3g), and (5) (a) of the statutes first applies to emergency detentions  
5 and civil commitments made on the effective date of this subsection.

6 (4) REQUESTS FOR SERVICE. The treatment of section 51.62 (1) (ag), (ar), and (br)  
7 and (3) (a) 2m. of the statutes first applies to requests for service made to the  
8 protection and advocacy agency on the effective date of this subsection.

9 (5) ADULT-AT-RISK REPORTS. The treatment of sections 55.001, 55.01 (1), (1e),  
10 (1f), (1m), (1p), (1t), (1v), (2), (2s), (3), (4g), (4p), (4r), (6), (6d), (6g), and (7), 55.02,  
11 55.043 (title), (1) (title), (a) (intro.), 1., 2., 3., 4., and 5., (b) (intro.), 1. and 2. (intro.),  
12 a., and b., (1d), (1g), (1m), (1r) (title), (a) 2., (b) (intro.), 3., and 6. a. and b., (c) 2. b.,  
13 and (d), (3), (4) (title), (intro.), (a), (am), (b), (c), (d), (e), and (f), (5), (5g), (6), (7), (8),  
14 (9), and (9m), 55.06 (2) (c) and (11) (a), and 106.54 (5) of the statutes, the renumbering  
15 and amendment of section 55.043 (2) of the statutes, and the creation of section  
16 55.043 (2) (b) of the statutes first apply to reports of alleged abuse, financial  
17 exploitation, neglect, or self-neglect received on the effective date of this subsection.

18 (6) REPORTS TO DEPARTMENT. The treatment of section 146.40 (1) (ab) and (aw),  
19 (4g) (a) 3., and (4r) (a), (am) 1., 2., and 3., and (b) of the statutes first applies to reports  
20 made to the department of health and family services on the effective date of this  
21 subsection.

AA5-23

22 (7) INDIVIDUAL-AT-RISK RESTRAINING ORDERS AND INJUNCTIONS. The treatment of  
23 section 813.123 (title), (1) (a), (ae), (am), (b), (br), (c), (cg), (dm), (eg), (ep), (f), (fm), (g),  
24 (gr), (gs), and (h), (3) (b) (intro.), 1., 2., and 3. and (c) (intro.), (4) (a) (intro.) and 2.,  
25 (ar), (5) (a) (intro.), 3. a., b., and c., (ar), (c) 1., 2., and 3., (6) (a) and (c), (7), (9) (intro.),

**ASSEMBLY BILL 539****SECTION 252**

1 and (11) of the statutes, the renumbering and the amendment of section 813.123 (2)  
2 of the statutes, and the creation of section 813.123 (2) (b) and (4) (a) 2. b. of the  
3 statutes first apply to actions for restraining orders and injunctions for individuals  
4 at risk commenced on the effective date of this subsection.

5 (8) PETITIONS FOR GUARDIANSHIP. The treatment of section 880.01 (2), (4), and  
6 (5) of the statutes first applies to petitions for guardianship submitted on the  
7 effective date of this subsection.

8 (9) SEXUAL ASSAULTS OF ENTITY CLIENTS. The treatment of section 940.225 (2) (j)  
9 and (5) (ab), (abm), and (ak) of the statutes first applies to violations committed on  
10 the effective date of this subsection.

11 (10) ABUSE OF INDIVIDUALS AT RISK. The treatment of section 940.285 (title), (1)  
12 (a), (ag), (am), (b), (bm), (c), (d), (dc), (dg), and (e) and (2) (title) and (a) 1. to 3. of the  
13 statutes first applies to violations committed on the effective date of this subsection.

14 (11) ABUSE AND NEGLECT OF PATIENTS AND RESIDENTS. The treatment of section  
15 940.295 (1) (a), (ad), (ag), (b), (cm), (hm), (j), (jm), (k), (km), (kp), (n), (o), and (t) and  
16 (3) (a) 3. and (b) 1g. and 1m. of the statutes first applies to violations committed on  
17 the effective date of this subsection.

18 (12) THEFT OF PROPERTY OF INDIVIDUALS AT RISK. The treatment of section 943.20  
19 (2) (a), (ac), (ad), (ae), and (e) and (3) (d) 6. of the statutes first applies to violations  
20 committed on the effective date of this subsection.

21

(END)

INSERT AA7-1

**ASSEMBLY AMENDMENT 1,  
TO 2005 ASSEMBLY BILL 539**

September 22, 2005 - Offered by Representative KESSLER.

1 At the locations indicated, amend the bill as follows:

2 ✓ **1.** Page 35, line 8: after "healing" insert "in lieu of medical care". AA1-1

3 ✓ **2.** Page 61, line 21: after "healing" insert "in lieu of medical care". AA1-2

4 ✓ **3.** Page 78, line 1: after that line insert: AA1-3

5 "SECTION 227m. 940.285 (1m) of the statutes is created to read:

6 940.285 (1m) EXCEPTION. Nothing in this section may be construed to mean  
7 that a vulnerable adult is abused solely because he or she consistently relies upon  
8 treatment by spiritual means through prayer for healing, in lieu of medical care, in  
9 accordance with his or her religious tradition."

10

(END)

**ASSEMBLY AMENDMENT 3,  
TO 2005 ASSEMBLY BILL 539**

February 1, 2006 - Offered by COMMITTEE ON AGING AND LONG-TERM CARE.

- 1 At the locations indicated, amend the bill as follows:
- 2 ✓ 1. Page 19, line 14: after "(ab)" insert "to whom any of the following applies". AA3-1
- 3 ✓ 2. Page 19, line 14: after "as" insert "provided in par. (ad)". AA3-2
- 4 ✓ 3. Page 19, line 15: delete that line and substitute:
- 5 "1. If the person believes that filing a report would not be in the best". AA3-3
- 6 4. Page 19, line 18: after that line insert:
- 7 ✓ "2. If a health care provider provides treatment by spiritual means through
- 8 prayer for healing in lieu of medical care in accordance with his or her religious
- 9 tradition and his or her communications with patients are required by his or her
- 10 religious denomination to be held confidential." AA3-4
- 11 ✓ 5. Page 49, line 22: after "(a)" insert "to whom any of the following applies". AA3-5
- 12 ✓ 6. Page 49, line 23: delete that line and substitute "par. (b):" AA3-6

AA 3-6

1 1. If the person believes that filing a report would not be in the best interest  
2 of".

3 **7.** Page 49, line 25: after that line insert:

AA 3-7

4 "2. If a health care provider provides treatment by spiritual means through  
5 prayer for healing in lieu of medical care in accordance with his or her religious  
6 tradition and his or her communications with patients are required by his or her  
7 religious denomination to be held confidential."

8 (END)

**ASSEMBLY AMENDMENT 4,  
TO 2005 ASSEMBLY BILL 539**

February 1, 2006 - Offered by COMMITTEE ON AGING AND LONG-TERM CARE.

AA4-1

1 At the locations indicated, amend the bill as follows:

2 ✓ **1.** Page 20, line 24: after "agency." insert "The requirement under this  
3 paragraph does not apply to an employee of the board on aging and long-term care  
4 who determines that his or her referral would be in violation of 42 USC 3058g (d)."

5 ✓ **2.** Page 51, line 9: after "agency." insert "The requirement under this  
6 paragraph does not apply to an employee of the board on aging and long-term care  
7 who determines that his or her referral would be in violation of 42 USC 3058g (d)."

8 (END)

AA4-2



State of Wisconsin  
2005-2006 LEGISLATURE

**CORRECTIONS IN:**

**2005 ASSEMBLY BILL 539**

Prepared by the Legislative Reference Bureau  
(May 9, 2006)

In enrolling, the following corrections were made:

Assembly Bill 539:

1. Page 38, line 17: delete "illness" and substitute "illness".

Assembly Amendment 5 to Assembly Bill 539:

1. Page 2, line 20: delete "landlord" and substitute "landlord".

(END)

**ASSEMBLY AMENDMENT 5,  
TO 2005 ASSEMBLY BILL 539**

February 1, 2006 – Offered by COMMITTEE ON AGING AND LONG-TERM CARE.

AA5-1

1 At the locations indicated, amend the bill as follows:

2 ✓ **1.** Page 14, line 14: after that line insert:

3 “4. Unauthorized use of an individual’s personal identifying information or  
4 documents, as prohibited in s. 943.201.

5 5. Unauthorized use of an entity’s identifying information or documents, as  
6 prohibited in s. 943.203.

7 6. Forgery, as prohibited in s. 943.38.

8 7. Financial transaction card crimes, as prohibited in s. 943.41.”

9 ✓ **2.** Page 33, line 3: after “55,” insert “813,”

AA5-2

10 ✓ **3.** Page 36, line 14: delete the material beginning with that line and ending  
11 with page 38, line 11.

12 ✓ **4.** Page 38, line 17: delete “that which” and substitute “which that”.

AA5-4

AA5-5

1 ✓ **5.** Page 39, line 10: delete "senility which is primarily caused by the process  
2 of aging or" and substitute "~~senility which is primarily caused by the process of aging~~  
3 ~~or~~".

4 ✓ **6.** Page 42, line 2: delete "abuse, and degrading treatment" and substitute  
5 "~~abuse and degrading treatment, neglect, and self-neglect~~".

6 ✓ **7.** Page 42, line 6: delete "exploitation and neglect" and substitute "~~financial~~  
7 ~~exploitation and, neglect, and self-neglect~~".

8 ✓ **8.** Page 43, line 11: delete lines 11 to 13 and substitute "constitutes a  
9 substantial handicap to the afflicted individual. The term does not include a person  
10 ~~affected by senility which is primarily caused by the process of aging or the~~  
11 ~~infirmities of aging with degenerative brain disorder~~".

12 ✓ **9.** Page 44, line 8: delete lines 8 to 11 and substitute "develop a statewide  
13 system of protective ~~service services~~ for ~~mentally retarded and other~~  
14 ~~developmentally disabled persons, for aged infirm persons, for persons with~~  
15 ~~degenerative brain disorders~~, chronically mentally ill persons, and ~~for~~ persons with  
16 other like incapacities incurred at any age, in accordance with rules promulgated by  
17 the department. The".

18 ✓ **10.** Page 44, line 20: delete "the" and substitute "the".

19 ✓ **11.** Page 47, line 3: delete that line and substitute "~~of the vulnerable adult, the~~  
20 ~~caretaker or the landlord~~ at risk. The".

21 ✓ **12.** Page 51, line 15: delete the material beginning with "authorized" and  
22 ending with "respond" on line 16 and substitute "required to refer".

23 ✓ **13.** Page 60, line 16: after "55," insert "813".

AA5-13

AA5-6

AA5-7

AA5-8

AA5-9

AA5-10

AA5-11

AA5-12

AA5-14

1 ✓ **14.** Page 63, line 20: after "If," insert "upon a credible report to or".

AA5-15

2 ✓ **15.** Page 64, line 1: delete "person making" and substitute "person making  
3 individual under this paragraph who received the credible report or who personally  
4 made".

5 ✓ **16.** Page 64, line 18: delete the material beginning with that line and ending  
6 with page 66, line 21.

AA5-17

7 ✓ **17.** Page 71, line 5: delete "material abuse" and substitute "financial  
8 exploitation".

AA5-18

9 ✓ **18.** Page 71, line 24: delete lines 24 and 25 and substitute "enforcement officer  
10 to contact the individual at risk.".

AA5-19

11 ✓ **19.** Page 73, line 20: delete lines 20 and 21 and substitute "enforcement officer  
12 to contact the individual at risk.".

AA5-20

13 ✓ **20.** Page 75, line 20: delete lines 20 to 22 and substitute "constitutes a  
14 substantial handicap to the afflicted individual. The term does not include a person  
15 affected by senility which is primarily caused by the process of aging or the  
16 infirmities of aging with degenerative brain disorder, as defined in s. 55.01 (1v).".

17 ✓ **21.** Page 79, line 12: delete "or neglects, with negligence," and substitute "  
18 with negligence, or neglects".

AA5-21

19 ✓ **22.** Page 80, line 23: delete the material beginning with that line and ending  
20 with page 81, line 2.

21 ✓ **23.** Page 81, line 18: delete lines 18 to 21.

22

(END)



**ASSEMBLY AMENDMENT 7,  
TO 2005 ASSEMBLY BILL 539**

March 2, 2006 - Offered by Representative JESKEWITZ.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 82, line 20: after that line insert:

3 **"SECTION 252m. Effective date.**

4 (1) This act takes effect on the first day of the 7th month beginning after  
5 publication."

6

(END)

AA 7-1



State of Wisconsin  
2005-2006 LEGISLATURE

*Rough Draft*

**CORRECTIONS IN:**

**2005 ASSEMBLY BILL 539**

Prepared by the Legislative Reference Bureau  
(May 9, 2006)

In enrolling, the following corrections were made:

Assembly Bill 539:

1. Page 38, line 17: delete "illness" and substitute "illness".

Assembly Amendment 5 to Assembly Bill 539:

1. Page 2, line 20: delete "landlord" and substitute "landlord".

(END)



State of Wisconsin  
2005-2006 LEGISLATURE

**CORRECTIONS IN:**

**2005 ASSEMBLY BILL 539**

Prepared by the Legislative Reference Bureau  
(May 9, 2006)

In enrolling, the following corrections were made:

Assembly Bill 539:

1. Page 38, line 17: delete "illness" and substitute "illness".

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1. Page 2, line 20: delete "landlord" and substitute "landlord".

(END)