

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0025/?ins
DAK:.....

INSERT 2-19

SECTION 1. 20.435 (7) (dh) of the statutes is amended to read:

20.435 (7) (dh) *Programs for senior citizens ; elder abuse services; benefit specialist program.* The amounts in the schedule for the programs for senior citizens, including but not limited to the purpose of distributing funds under s. 46.80 (2m) (b) to supplement any federal foster grandparent project funds received under 42 USC 5011 (a) and the purposes of ss. 46.80 (5) and 46.85; for direct services for elder ~~persons and other individuals~~ adults at risk under s. 46.90 (5m); and for the benefit specialist program for older persons under s. 46.81. Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department of health and family services may transfer funds between fiscal years under this paragraph. All funds allocated under ss. 46.80 (2m) (b) and (5), 46.81 (2) and 46.85 but not encumbered by December 31 of each year lapse to the general fund on the next January 1, unless transferred to the next calendar year by the joint committee on finance, but the department may carry forward funds allocated under s. 46.90 (5m) that are not encumbered by June 30 of each year for allocation under s. 46.90 (5m) in the following state fiscal year. For the purposes of this paragraph, funds are encumbered by December 31 if allocated for services received or for goods ordered by December 31.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (e), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327.

INSERT 3-7

with an elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral for investigation is made under s. 46.90 (5) (a) 1 or 55.043 (1r) (a) 1g,

INSERT 3-22

with an elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral for investigation is made under s. 46.90 (5) (a) 1 or 55.043 (1r) (a) 1g.

INSERT 4-12

with an elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral for investigation is made under s. 46.90 (5) (a) 1 or 55.043 (1r) (a) 1g.

INSERT 5-2

with an elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral for investigation is made under s. 46.90 (5) (a) 1 or 55.043 (1r) (a) 1g.

INSERT 5-9

SECTION 2. 46.283 (4) (h) of the statutes is amended to read:

46.283 (4) (h) Provide access to services under s. 46.90 and ch. 55 to a person who is eligible for the services, through cooperation with the ~~county~~ elder-adult-at-risk agency or the adult-at-risk agency or agencies that provide provides the services.

History: 1999 a. 9; 2001 a. 16, 103; 2003 a. 33.

SECTION 3. 46.286 (1) (intro.) of the statutes is amended to read:

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

History: 1999 a. 9, 185; 2001 a. 16, 109; 2003 a. 33.

SECTION 4. 46.286 (3) (a) (intro.) of the statutes is amended to read:

46.286 (3) (a) (intro.) Subject to pars. (c) and (d), a person is entitled to and may receive the family care benefit through enrollment in a care management organization if he or she is at least 18 years of age, has a physical disability, as defined

in s. 15.197 (4) (a) 2., a developmental disability, as defined in s. 51.01 (5) (a), or ~~infirmities of aging~~ degenerative brain disorder, as defined in s. 55.01 (3) (1v), is financially eligible, fulfills any applicable cost-sharing requirements and meets any of the following criteria:

History: 1999 a. 9, 185; 2001 a. 16, 109; 2003 a. 33.

SECTION 5. 46.286 (3) (a) 3. of the statutes is amended to read:

46.286 (3) (a) 3. Is functionally eligible at the intermediate level and is determined by an elder-adult-at-risk agency under s. 46.90 (2) or ~~specified in s. 55.01 (1t)~~ an adult-at-risk agency designated under s. 55.02 to be in need of protective services under s. 55.05 or protective placement under s. 55.06.

History: 1999 a. 9, 185; 2001 a. 16, 109; 2003 a. 33.

INSERT 6-2

****NOTE: I eliminated the definition of "degenerative brain disorder" proposed for s. 46.90 (1) (bg), because the term is not used in this section.

INSERT 6-6

****NOTE: Why isn't self-neglect included in this definition? Without it, a provision such as s. 46.90 (5) (f), which refers directly to an elder adult at risk, would not work if the elder adult at risk was incurring problems that are only related to self-neglect. Is that intentional?

INSERT 6-10

SECTION 6. 46.90 (1) (c) of the statutes is repealed.

INSERT 6-16

****NOTE: I added "humiliate" after "intimidate," to make the second clause congruent with the first.

INSERT 6-18

SECTION 7. 46.90 (1) (ed) of the statutes is created to read:

INSERT 8-9

SECTION 8. 46.90 (1) (g) of the statutes is amended to read:

46.90 (1) (g) "Self-neglect" means a significant danger to an ~~elder person's~~ individual's physical or mental health because the ~~elder person~~ individual is

responsible for his or her own care but ~~is unable~~ fails to provide obtain adequate care, including food, shelter, clothing, or medical or dental care.

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

INSERT 9-10

SECTION 9. 46.90 (3) (title) of the statutes is amended to read:

46.90 (3) (title) ~~COUNTY ELDER-ADULT-AT-RISK~~ AGENCY DUTIES.

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

INSERT 10-8

SECTION 10. 46.90 (4) (a) 2. of the statutes is repealed.

****NOTE: I have repealed this subdivision because it addresses self-neglect, which has been added to s. 46.90 (4) (ar) (renumbered from s. 46.90 (4) (a) 1., stats.). Is that what you wish?

INSERT 11-6

****NOTE: Please see my changes to this provision. Why is sexual assault included in this provision but not in subd. 1.?

INSERT 11-11

****NOTE: Note my change to the second sentence. I have assumed that "case file" refers to the file on the elder adult at risk that the person makes and keeps in the course of his or her professional duties. Is that correct, or is it, instead, a file that is maintained by the elder adult-at-risk agency?

INSERT 12-2

SECTION 11. 46.90 (4) (b) 1. b. of the statutes is amended to read:

46.90 (4) (b) 1. b. No person may discharge or otherwise retaliate or discriminate against any person individual on whose behalf another person has reported in good faith under this subsection.

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

INSERT 12-12

SECTION 12. 46.90 (4) (b) 2. c. of the statutes is amended to read:

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

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

INSERT 12-23

SECTION 13. 46.90 (5) (title) of the statutes is amended to read:

46.90 (5) (title) INVESTIGATIONS RESPONSE AND INVESTIGATION.

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

INSERT 13-22

****NOTE: I have changed "county department" to "elder-adult-at-risk agency" and "agency" to "investigative agency" in this subdivision, as agreed.

****NOTE: There still are differences in this subdivision from s. 55.043 (1r) (a) 1g. (although I understand that an elder-at-risk agency is required to respond or refer and an adult-at-risk agency is authorized to do so). Please look at the first sentence; which version do you prefer, or should they stay as they are? Please also see my addition of "that is not referred to the department" In the last sentence; correct? I have added "including, if necessary, by conducting an investigation" in the first sentence and made a similar, but not identical change in the first sentence of s. 55.043 (1r) (a) 1g.

INSERT 14-10

****NOTE: Note that I have reversed the order proposed for s. 46.90 (5) (a) 1. and 2., because it fits better chronologically. I have made numerous changes in this provision and in s. 55.043 (1r) (a) 2. in light of previous changes; please review very carefully, as we did not discuss this provision.

INSERT 14-14

****NOTE: I have changed "county department" to "elder-adult-at-risk agency" and "agency" to "investigative agency," as agreed.

INSERT 15-6

****NOTE: Please see my ****NOTE under s. 55.043 (1r) (b) 6. (intro.) (renumbered from s. 55.043 (1) (a) 5.).

INSERT 16-15

SECTION 14. 46.90 (5) (c) of the statutes is amended to read:

46.90 (5) (c) If an investigator so requests, The elder-adult-at-risk agency may request a sheriff or police officer shall to accompany the elder-adult-at-risk agency investigator or worker during visits to the elder person's residence and shall provide of the elder adult at risk or request other assistance as needed. If the request is made, a sheriff or police officer shall accompany the elder-adult-at-risk agency investigator or worker to the residence of the elder adult at risk and shall provide other assistance as requested or necessary.

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

****NOTE: This provision now corresponds to s. 55.043 (2) (a).

SECTION 15. 46.90 (5) (d) 1. of the statutes is renumbered 46.90 (5) (d) and amended to read:

46.90 (5) (d) If ~~any a~~ person ~~except the elder person in question~~ interferes with the response or investigation under sub. (5) or interferes with the delivery of protective services under ch. 55 to the elder adult at risk, the elder-adult-at-risk agency investigator or worker may apply for an order under ~~ch. 813 s. 813.123~~ prohibiting the interference.

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

****NOTE: This provision now corresponds to s. 55.043 (3).

SECTION 16. 46.90 (5) (d) 2. of the statutes is repealed.

SECTION 17. 46.90 (5) (f) of the statutes is amended to read:

INSERT 17-19

****NOTE: Note the differences between this provision and s. 55.043 (4) (am), as we discussed. Should any other changes be made?

SECTION 18. 46.90 (5m) (b) of the statutes is amended to read:

46.90 (5m) (b) If the ~~county agency designated under sub. (2) elder-adult-at-risk agency~~ is not the aging unit, the county agency in each county shall consult with and accept advice from the aging unit with respect to the distribution of the funds for direct services that are allocated under par. (a).

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

INSERT 18-2

****NOTE: Do my changes to this provision and other changes to s. 55.043 (4) (a) (renumbered s. 55.043 (4) (b) 1.) reflect your intent?

INSERT 18-15

****NOTE: Should self-neglect be included in this provision?

INSERT 18-20

****NOTE: To whom should the reference be made? Note that I added to "refer" "for action to bring a petition" for this provision and for s. 55.043 (4) (f) (renumbered s. 55.043 (4) (b) 6.); is it appropriate for an adult-at-risk agency to refer, or would it initiate a petition?

INSERT 19-11

****NOTE: Please read this paragraph very carefully in light of the discussion concerning "reports" vs. "departmental report forms." In particular, is the last sentence now as you intend? Section 55.043 (6) (am) now mirrors this provision.

INSERT 19-19

***NOTE: I deleted "with all client-identifying information removed," since it creates a substantive requirement in a definition--the requirement is taken care of under s. 46.90 (6) (bv).

SECTION 19. 46.90 (6) (b) (intro.) of the statutes is amended to read:

46.90 (6) (b) (intro.) ~~Reports of suspected abuse, material abuse, neglect or self-neglect and investigation reports under this section~~ Departmental report forms are confidential and may not be released by the county elder-adult-at-risk agency or other ~~investigating~~ investigative agency, except under the following circumstances ~~they may be released~~:

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

***NOTE: Please make sure that this paragraph (which deals with departmental report forms confidentiality and exceptions) and par. (bt) (which deals with records, including departmental report forms, confidentiality and exceptions) are distinguished as you have intended; I checked with Jane Raymond concerning this because I was unsure.

SECTION 20. 46.90 (6) (b) 1. of the statutes is amended to read:

INSERT 20-7

SECTION 21. 46.90 (6) (b) 2. of the statutes is amended to read:

46.90 (6) (b) 2. To the ~~protective services agency notified or other entity from~~ which assistance is requested under sub. (5) (f). Information obtained under this subdivision shall remain confidential.

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

SECTION 22. 46.90 (6) (b) 3. of the statutes is amended to read:

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

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

SECTION 23. 46.90 (6) (b) 4. of the statutes is amended to read:

46.90 (6) (b) 4. For purposes of research, if the research project has been approved by the department or the ~~county~~ elder-adult-at-risk agency and the researcher has provided assurances that the information will be used only for the purposes for which it was provided to the researcher, the information will not be released to a person not connected with the study under consideration, and the final product of the research will not reveal information that may serve to identify the individuals involved. ~~Such~~ The information shall remain confidential. In approving ~~research projects~~ the use of information under this subdivision, the department shall impose any additional safeguards needed to prevent unwarranted disclosure of information.

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.
****NOTE: Please review my changes. The department is only approving the use of the information under this subdivision, not the project itself.

SECTION 24. 46.90 (6) (b) 5. of the statutes is amended to read:

46.90 (6) (b) 5. Pursuant to Under a lawful order of a court of record.

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.
SECTION 25. 46.90 (6) (b) 6. of the statutes is amended to read:

INSERT 20-13

SECTION 26. 46.90 (6) (b) 7. of the statutes is amended to read:

INSERT 21-8

****NOTE: I did not make this paragraph a part of par. (b), as requested, because it differs from the par. (b) in the type of information that may be released.

INSERT 21-13

****NOTE: This provision and s. 55.043 (6) (br) (intro.) now refer to "departmental report forms," in conformity with the changes made to ss. 46.90 (6) (b) and 55.043 (6) (b).

INSERT 21-18

****NOTE: I don't understand why a minor is specified in this provision. Why would the application be that narrow, i.e., what if release is harmful to a 22-year-old who resides with the subject of the departmental report form?

INSERT 22-4

****NOTE: Note that I added "Subject to pars. (b), (bd), and (br)" to this provision and to s. 55.043 (6) (bt) (intro.). Those paragraphs allow limited release of information that is, by definition, a part of a record, so otherwise this provision, which limits release of records, would be in conflict with them in some respects.

INSERT 22-19

****NOTE: I'm not quite sure what this provision and its correspondent (s. 55.043 (6) (bt) 5.) do--it appears as though they permit the alleged perpetrator access to the entire record if the alleged victim needs to be moved. Did you intend that the application be so broad? It appears to conflict with ss. 46.90 (6) (b) 1. and 55.043 (6) (b) 1.

INSERT 22-23

****NOTE: I don't understand this subdivision or s. 55.043 (6) (bt) 6.; they seem to provide records to the BOALTC without condition; why should BOALTC be mentioned at all, if staff members are also provided unfettered access under s. 46.90 (6) (b) 10. and s. 55.043 (6) (bt) 10.? Also, please see my change to the term "administrative agency" proposed; I think it would help this draft to have "agency" defined; I would recommend the definition in s. 16.417 (1) (a), stats.

INSERT 23-9

****NOTE: Please see the ****NOTE under s. 46.90 (6) (bt) 6.

INSERT 23-16

****NOTE: The language of s. 968.26 does not provide for proceedings that are conducted by a tribal court or an administrative agency, so I omitted them from the provision proposed as subd. 13. Having done so, the provision was then redundant to the following provision ("Under a lawful order of a court of record"), so I omitted it entirely. This also applies to its correspondent, proposed as s. 55.043 (6) (bt) 13.

INSERT 24-3

****NOTE: I changed "section" to "subsection" in this provision and in s. 55.043 (6) (bw); correct?

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

****NOTE: I separated this provision from the penalty language of s. 46.90 (6) (c) (renumbered s. 46.90 (9) (a); s. 55.043 (6) (by) corresponds to it.

INSERT 24-14

SECTION 27. 46.90 (6) (c) 2. of the statutes is renumbered 46.90 (9) (b) and amended to read:

46.90 (9) (b) In any action brought under ~~subd. 1.~~ par. (a) in which the court determines that the violator acted in a manner that was knowing and willful, the violator shall be liable for such damages as may be proved together with exemplary

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

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

SECTION 28. 46.90 (6) (c) 3. of the statutes is renumbered 46.90 (9) (c) and amended to read:

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

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

****NOTE: I renumbered s. 46.90 (6) (c) 1., 2., and 3., stats., as 46.90 (9) (a), (b), and (c) because statutes generally include penalties as one of the last provisions created in a section. Section 55.043 (9m) corresponds to it. Please review.

SECTION 29. 46.90 (7) of the statutes is amended to read:

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

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

INSERT 24-18

SECTION 30. 46.90 (8) (b) of the statutes is amended to read:

46.90 (8) (b) The department shall prepare and distribute sample departmental report forms for use by ~~county~~ elder-adult-at-risk agencies.

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

SECTION 31. 46.90 (8) (c) and (d) of the statutes are amended to read:

INSERT 25-7

SECTION 32. 46.90 (9) (title) and (e) of the statutes are created to read:

46.90 (9) (title) PENALTIES.

(e) Whoever intentionally violates sub. (4) (ad) by failure to report as required may be fined not more than \$500 or imprisoned not more than 6 months or both.

SECTION 33. 49.498 (3) (b) 1. of the statutes is amended to read:

49.498 (3) (b) 1. Inform each resident, orally and in writing at the time of admission to the nursing facility, of the resident's legal rights during the stay at the nursing facility, including a description of the protection of personal funds under sub. (8) and a statement that a resident may file a complaint with the department under s. 146.40 (4r) (a) concerning ~~misappropriation of property or~~ financial exploitation, neglect, or abuse of a resident.

History: 1989 a. 31; 1991 a. 32, 39; 1993 a. 16; 1995 a. 27, 407; 1997 a. 27; 1999 a. 22; 2003 a. 33.

INSERT 25-19

SECTION 34. 51.01 (2g) (b) of the statutes is amended to read:

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

History: 1975 c. 430 ss. 11, 81; 1977 c. 26; 1977 c. 203 s. 106; 1977 c. 428; 1981 c. 79 s. 17; 1983 a. 189 s. 329 (19); 1983 a. 441; 1985 a. 29 s. 3202 (23); 1985 a. 265, 307; 1993 a. 445; 1995 a. 27; 1997 a. 47; 1999 a. 9.

SECTION 35. 51.01 (3g) of the statutes is amended to read:

51.01 (3g) "Chronic mental illness" means a mental illness which is severe in degree and persistent in duration, which causes a substantially diminished level of functioning in the primary aspects of daily living and an inability to cope with the ordinary demands of life, which may lead to an inability to maintain stable adjustment and independent functioning without long-term treatment and support and which may be of lifelong duration. "Chronic mental illness" includes

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

History: 1975 c. 430 ss. 11, 81; 1977 c. 26; 1977 c. 203 s. 106; 1977 c. 428; 1981 c. 79 s. 17; 1983 a. 189 s. 329 (19); 1983 a. 441; 1985 a. 29 s. 3202 (23); 1985 a. 265, 307; 1993 a. 445; 1995 a. 27; 1997 a. 47; 1999 a. 9.

SECTION 36. 51.01 (5) (a) of the statutes is amended to read:

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

History: 1975 c. 430 ss. 11, 81; 1977 c. 26; 1977 c. 203 s. 106; 1977 c. 428; 1981 c. 79 s. 17; 1983 a. 189 s. 329 (19); 1983 a. 441; 1985 a. 29 s. 3202 (23); 1985 a. 265, 307; 1993 a. 445; 1995 a. 27; 1997 a. 47; 1999 a. 9.

SECTION 37. 51.30 (4) (b) 17. of the statutes is amended to read:

51.30 (4) (b) 17. To the ~~county~~ elder-adult-at-risk agency designated under s. 46.90 (2) or other investigating agency under s. 46.90 for the purposes of s. 46.90 (4) ~~(a)~~ and (5), to the county department, as defined in s. 48.02 (2g), or the sheriff or police department for the purposes of s. 48.981 (2) and (3), or to the ~~county protective services~~ adult-at-risk agency designated under s. 55.02 for purposes of s. 55.043. The treatment record holder may release treatment record information by initiating contact with the ~~county protective services~~ elder-adult-at-risk agency, adult-at-risk agency, or county department, as defined in s. 48.02 (2g), without first

receiving a request for release of the treatment record from the ~~county protective services elder-adult-at-risk agency, adult-at-risk agency,~~ or county department.

History: 1975 c. 430; 1977 c. 26 s. 75; 1977 c. 61, 428; 1979 c. 110 s. 60 (1); 1983 a. 27, 292, 398, 538; 1985 a. 29, 176; 1985 a. 292 s. 3; 1985 a. 332 ss. 97, 98, 251 (1); 1987 a. 352, 355, 362, 367, 399, 403; 1989 a. 31, 334, 336; 1991 a. 39, 189; 1993 a. 196, 445, 479; 1995 a. 169, 440; 1997 a. 35, 231, 237, 283, 292; 1999 a. 32, 78, 79, 109; 2001 a. 16, 38.

INSERT 27-13

SECTION 38. 55.001 of the statutes, as affected by 2003 Wisconsin Act 33, is amended to read:

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

NOTE: NOTE: This section is shown as amended eff. 1-1-05 by 2003 Wis. Act 33. Prior to 1-1-05 it reads:NOTE:

55.001 Declaration of policy. The legislature recognizes that many citizens of the state, because of the infirmities of aging, chronic mental illness, mental retardation, other developmental disabilities or like incapacities incurred at any age, are in need of protective services. These services should, to the maximum degree of feasibility under programs, services and resources that the county board of supervisors is reasonably able to provide within the limits of available state and federal funds and of county funds required to be appropriated to match state funds, allow the individual the same rights as other citizens, and at the same time protect the individual from exploitation, abuse and degrading treatment. This chapter is designed to establish those services and assure their availability to all persons when in need of them, and to place the least possible restriction on personal liberty and exercise of constitutional rights consistent with due process and protection from abuse, exploitation and neglect.

History: 1973 c. 284; 1979 c. 221; 1995 a. 92; 2003 a. 33.

****NOTE: Note that in this section I did not make the more extensive changes that are made in LRB-4212. I did, however, strike through the term "mental retardation" and added "financial" to "exploitation." Okay? Any other changes?

INSERT 27-24

****NOTE: Why isn't self-neglect included in this definition? Without it, a provision such as s. 55.043 (6) (f), which refers directly to an adult at risk, would not work if the adult at risk was incurring problems associated only with self-neglect. Is this intentional?

INSERT 28-3

SECTION 39. 55.01 (1t) of the statutes is repealed.

INSERT 28-7

SECTION 40. 55.01 (2) of the statutes is amended to read:

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

History: 1973 c. 284; 1975 c. 393, 430; 1979 c. 221; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1991 a. 316; 1993 a. 445; 2003 a. 33.

INSERT 28-9

SECTION 41. 55.01 (3) of the statutes is repealed.

INSERT 28-18

SECTION 42. 55.02 of the statutes is amended to read:

55.02 Protective service system; establishment. The department shall develop a statewide system of protective service for ~~mentally retarded and other~~ developmentally disabled persons, for aged infirm persons, for chronically mentally ill persons, and for persons with ~~other like incapacities~~ degenerative brain disorders incurred at any age in accordance with rules promulgated by the department. The protective service system shall be designed to encourage independent living and to

avoid protective placement whenever possible. The system shall use the planning and advice of agencies, including the county department under s. 46.215, 46.22, 46.23, 51.42, or 51.437. The chairperson of each county board of supervisors shall designate a county department under s. 46.215, 46.22, 51.42, or 51.437 that is providing services in his or her county or a joint mechanism of these county departments to have the responsibility for local planning for the protective service system. ~~The chairperson of the Milwaukee County board of supervisors~~ Each county board shall designate the county department under s. 46.215 an agency to serve as the ~~county protective services~~ adult-at-risk agency for purposes of s. 55.043. The department and these county departments shall cooperate in developing a coordinated system of services. The department shall provide direct services and enter into contracts with any responsible public or private agency for provision of protective services. In each county, the county department designated under this section shall determine the reporting requirements applicable to the county under s. 880.38 (3).

History: 1973 c. 284; 1975 c. 393; 1979 c. 221; 1981 c. 379; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1985 a. 332 s. 251 (3); 1993 a. 445; 2001 a. 103.
****NOTE: Please review.

SECTION 43. 55.043 (title) of the statutes is amended to read:

55.043 (title) County protective services Adult-at-risk agency.

History: 1993 a. 445; 1997 a. 27; 2001 a. 74, 103.

SECTION 44. 55.043 (1) (title) of the statutes is repealed.

SECTION 45. 55.043 (1) (a) (intro.) of the statutes is renumbered 55.043 (1r) (a) 1g. and amended to read:

55.043 (1r) (a) 1g. ~~If a county protective services~~ Except as otherwise provided, if an adult-at-risk agency has probable cause reason to believe that ~~there is~~ misappropriation of property or an adult at risk has been the subject of abuse,

~~financial exploitation, neglect, or abuse of a vulnerable adult, the county protective services self-neglect, the adult-at-risk agency may conduct an investigation in Milwaukee County respond, including by conducting an investigation, to determine if the vulnerable adult in question whether the adult at risk is in need of protective services. The county protective services agency shall conduct the investigation in accordance with standards established by the department for conducting the investigations. If an adult-at-risk agency has reason to believe that there is abuse, financial exploitation, or neglect of an adult at risk who is a client of an entity, as defined in s. 50.065, and if the person suspected of perpetrating the alleged abuse, financial exploitation, or neglect is a caregiver or nonclient resident of the entity, the adult-at-risk agency shall refer the report within 24 hours after the report is received to the department for investigation. The department shall coordinate its investigatory efforts with other investigatory agencies or authorities as appropriate. An adult-at-risk agency's response to or another investigative agency's investigation of a report of abuse, financial exploitation, neglect, or self-neglect that is not referred to the department shall be commenced within 24 hours after a report is received, excluding Saturdays, Sundays, and legal holidays. The investigation shall include at least one of the following:~~

History: 1993 a. 445; 1997 a. 27; 2001 a. 74, 103.

****NOTE: Please see the ****NOTE under s. 46.90 (5) (a) 1.

SECTION 46. 55.043 (1) (a) 1. of the statutes is renumbered 55.043 (1r) (b) 2. and amended to read:

55.043 (1r) (b) 2. Observation of ~~or an interview with the vulnerable adult, in private to the extent practicable, and the adult at risk,~~ with or without consent of his or her guardian or agent under an activated power of attorney for health care, if any.

History: 1993 a. 445; 1997 a. 27; 2001 a. 74, 103.

****NOTE: This provision now mirrors s. 46.90 (5)(b) 2.

SECTION 47. 55.043 (1) (a) 2. of the statutes is renumbered 55.043 (1r) (b) 1. and amended to read:

55.043 (1r) (b) 1. A visit to the residence of the ~~vulnerable~~ adult at risk.

History: 1993 a. 445; 1997 a. 27; 2001 a. 74, 103.

SECTION 48. 55.043 (1) (a) 3. of the statutes is renumbered 55.043 (1r) (b) 4. and amended to read:

55.043 (1r) (b) 4. An interview with the guardian or agent under an activated power of attorney for health care, if any, and with the caretaker, if any, any caregiver of the vulnerable adult at risk.

History: 1993 a. 445; 1997 a. 27; 2001 a. 74, 103.

****NOTE: This subdivision now conforms to s. 46.90 (5) (b) 4.

SECTION 49. 55.043 (1) (a) 4. of the statutes is renumbered 55.043 (1r) (b) 5. and amended to read:

55.043 (1r) (b) 5. A review of the treatment and patient health care records of the ~~vulnerable~~ adult at risk.

History: 1993 a. 445; 1997 a. 27; 2001 a. 74, 103.

SECTION 50. 55.043 (1) (a) 5. of the statutes is renumbered 55.043 (1r) (b) 6. (intro.) and amended to read:

55.043 (1r) (b) 6. (intro.) A review of ~~these~~ any financial records, ~~if any,~~ of the ~~vulnerable~~ adult at risk that are maintained by ~~the caretaker or landlord~~ a financial institution, as defined in s. 705.01 (3); by an entity, as defined in s. 50.065; by any caregiver of the vulnerable adult at risk; or by a member of the immediate family of the vulnerable adult, at risk or the caretaker or the landlord caregiver. The records shall be released without informed consent in either of the following circumstances:

History: 1993 a. 445; 1997 a. 27; 2001 a. 74, 103.

****NOTE: This definition of "financial institution" is the same as the one you reference in s. 46.90 (4) (a) 2. Okay? Is my addition of "entity, as defined in s. 50.065" okay?

SECTION 51. 55.043 (1) (b) (intro.) of the statutes is renumbered 55.043 (1r) (c) (intro.) and amended to read:

55.043 (1r) (c) (intro.) The ~~county protective services~~ adult-at-risk agency or other investigative agency may transport the ~~vulnerable~~ adult at risk for performance of a medical examination by a physician if any of the following applies:

History: 1993 a. 445; 1997 a. 27; 2001 a. 74, 103.

SECTION 52. 55.043 (1) (b) 1. of the statutes is renumbered 55.043 (1r) (c) 1. and amended to read:

55.043 (1r) (c) 1. The ~~vulnerable~~ adult at risk or his or her guardian or agent under an activated power of attorney for health care, if any, consents to the examination.

History: 1993 a. 445; 1997 a. 27; 2001 a. 74, 103.

SECTION 53. 55.043 (1) (b) 2. (intro.) of the statutes is renumbered 55.043 (1r) (c) 2. (intro.) and amended to read:

55.043 (1r) (c) 2. (intro.) The ~~vulnerable~~ adult at risk is incapable of consenting to the examination and one of the following applies:

History: 1993 a. 445; 1997 a. 27; 2001 a. 74, 103.

SECTION 54. 55.043 (1) (b) 2. a. of the statutes is renumbered 55.043 (1r) (c) 2. a. and amended to read:

55.043 (1r) (c) 2. a. The ~~vulnerable~~ adult at risk has no guardian or agent under an activated power of attorney for health care.

History: 1993 a. 445; 1997 a. 27; 2001 a. 74, 103.

SECTION 55. 55.043 (1) (b) 2. b. of the statutes is renumbered 55.043 (1r) (c) 2. c. and amended to read:

55.043 (1r) (b) 2. c. The ~~vulnerable adult's guardian refuses to consent to the examination, but the~~ examination is authorized by order of a court.

History: 1993 a. 445; 1997 a. 27; 2001 a. 74, 103.

INSERT 29-23

SECTION 56. 55.043 (1r) (title) of the statutes is created to read:

46.90 (1r) (title) RESPONSE AND INVESTIGATION.

SECTION 57. 55.043 (1r) (a) 2. of the statutes is created to read:

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

***NOTE: Please see the ***NOTE under s. 46.90 (5) (a) 2.

SECTION 58. 55.043 (1r) (b) (intro.) of the statutes is created to read:

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

***NOTE: This provision now mirrors s. 46.90 (5) (b) (intro.). Please see the ***NOTE under that provision.

SECTION 59. 55.043 (1r) (b) 3. of the statutes is created to read:

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

SECTION 60. 55.043 (1r) (b) 6. a. of the statutes is created to read:

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

***NOTE: This subdivision unit now conforms to s. 46.90 (5) (b) 6. a.; correct?

SECTION 61. 55.043 (1r) (b) 6. b. of the statutes is created to read:

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

SECTION 62. 55.043 (1r) (c) 2. b. of the statutes is created to read:

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

SECTION 63. 55.043 (1r) (d) of the statutes is created to read:

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

***NOTE: This provision now mirrors s. 46.90 (5) (h).

INSERT 32-25

SECTION 64. 55.043 (2) (b) of the statutes is created to read:

55.043 (2) (b) If the adult-at-risk agency worker or investigator or other agency investigator has reason to believe that substantial physical harm, irreparable injury, or death may occur to an adult at risk, the worker or investigator

shall either initiate a protective services action under this chapter or contact law enforcement or another public agency, as appropriate.

****NOTE: This provision now corresponds to s. 46.90 (5) (f), except that the adult-at-risk agency is to initiate a protective services action, rather than to request immediate assistance in doing so.

INSERT 33-5

SECTION 65. 55.043 (4) (title) of the statutes is amended to read:

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

History: 1993 a. 445; 1997 a. 27; 2001 a. 74, 103.

SECTION 66. 55.043 (4) (intro.) of the statutes is renumbered 55.043 (4) (b) (intro.) and amended to read:

INSERT 33-11

SECTION 67. 55.043 (4) (a) of the statutes is renumbered 55.043 (4) (b) 1. and amended to read:

INSERT 33-15

SECTION 68. 55.043 (4) (am) of the statutes is created to read:

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

SECTION 69. 55.043 (4) (b) of the statutes is renumbered 55.043 (4) (b) 2. and amended to read:

INSERT 33-19

SECTION 70. 55.043 (4) (c) of the statutes is renumbered 55.043 (4) (b) 3. and amended to read:

INSERT 34-1

SECTION 71. 55.043 (4) (d) of the statutes is renumbered 55.043 (4) (b) 4. and amended to read:

INSERT 34-3

SECTION 72. 55.043 (4) (e) of the statutes is renumbered 55.043 (4) (b) 5. and amended to read:

INSERT 34-7

****NOTE: Should self-neglect be included in this provision?

SECTION 73. 55.043 (4) (f) of the statutes is renumbered 55.043 (4) (b) 6. and amended to read:

INSERT 34-13

****NOTE: To whom should the reference be made? Do you mean "refer for action to bring a petition?"

INSERT 35-15

****NOTE: Please see my changes to this provision. Why is sexual assault included in this provision but not in subd. 1.?

INSERT 35-19

****NOTE: Note my change to the second sentence. I have assumed that "case file" refers to the file on the elder adult at risk that the person makes and keeps in the course of his or her professional duties. Is that correct, or is it, instead, a file that is maintained by the elder adult-at-risk agency?

INSERT 36-2

****NOTE: Your proposal had numbered this paragraph 55.043 (1m) (br) 1., but no 55.043 (1m) (br) 2. was included. Had you intended to have one?

INSERT 36-22

****NOTE: Please note that I deleted the creation of s. 55.043 (1m) (c) 2. a. The counterpart to this provision, s. 46.90 (4) (b) 2. a., was repealed in 2003 Wisconsin Act 33, and the personnel commission was abolished.

INSERT 37-9

****NOTE: I have now conformed this paragraph to s. 46.90 (4) (c).

INSERT 37-12

****NOTE: I deleted "other than the adult-at-risk agency," to conform this provision to s. 46.90 (4) (d) and because I think that an adult-at-risk agency is not a state official, although I may be incorrect in my reading of s. 46.90 (1) (gr). Please review.

INSERT 37-15

****NOTE: This paragraph now conforms to 46.90 (4) (e).

INSERT 38-12

SECTION 74. 55.043 (5) of the statutes is repealed. ✓

****NOTE: Please see the ****NOTE under s. 813.123 (11).

INSERT 40-7

****NOTE: Please review my changes. The department is only approving the use of the information under this subdivision, not the project itself. ✓

INSERT 40-22

****NOTE: This subdivision now corresponds to s. 46.90 (6) (b) 8. in current law. ✓

INSERT 42-21

****NOTE: Please see my change to the term "administrative agency" proposed; I think it would help this draft to have "agency" defined; I would recommend the definition in s. 16.417 (1) (a), stats. ✓

INSERT 44-3A

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

SECTION 75. 55.043 (7) of the statutes is created to read:

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

INSERT 44-22

SECTION 76. 55.043 (9) of the statutes is repealed.

INSERT 44-23

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

****NOTE: I renumbered the material proposed as s. 55.043 (3m) (c) 1. c. and (5) (f) as s. 55.043 (9m) because statutes generally include penalties as one of the last provisions created in a section. Please review.

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

***NOTE: As agreed, I drafted this penalty, which corresponds to s. 46.90 (9) (e).

SECTION 77. 55.06 (2) (c) of the statutes is amended to read:

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

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33, 326.

SECTION 78. 55.06 (11) (a) of the statutes is amended to read:

55.06 (11) (a) If, from personal observation of a sheriff, police officer, fire fighter, guardian, if any, or authorized representative of a board designated under s. 55.02 or an agency designated by it, it appears probable that an individual will suffer irreparable injury or death or will present a substantial risk of serious physical harm to others as a result of developmental disabilities, ~~infirmities of aging~~ degenerative brain disorder, chronic mental illness or other like incapacities if not immediately placed, the person making the observation may take into custody and transport the individual to an appropriate medical or protective placement facility. The person making placement shall prepare a statement at the time of detention providing specific factual information concerning the person's observations and the basis for emergency placement. The statement shall be filed with the director of the facility and shall also be filed with any petition under sub. (2). At the time of placement the individual shall be informed by the director of the facility or the director's designee, both orally and in writing, of his or her right to contact an

attorney and a member of his or her immediate family and the right to have an attorney provided at public expense, as provided under s. 967.06 and ch. 977, if the individual is a child or is indigent. The director or designee shall also provide the individual with a copy of the statement by the person making emergency placement.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33, 326.

SECTION 79. 106.54 (5) of the statutes is amended to read:

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

History: 1971 c. 185 ss. 1, 7; Stats. 1971 s. 101.222; 1977 c. 29; 1981 c. 360; 1983 a. 398; 1989 a. 47; 1995 a. 27 s. 3689; Stats. 1995 s. 106.06; 1997 a. 27, 131; 1999 a. 82 s. 93; Stats. 1999 s. 106.54; 1999 a. 176 s. 1; 2001 a. 26.

INSERT 45-12

SECTION 80. 146.40 (4g) (a) 3. of the statutes is amended to read:

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

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74.

SECTION 81. 146.40 (4r) (a) of the statutes is amended to read:

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

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74.

SECTION 82. 146.40 (4r) (am) 1. of the statutes is amended to read:

146.40 (4r) (am) 1. Except as provided in sub. 2., an entity shall report to the department any allegation of ~~misappropriation of the property~~ financial exploitation

of a client or of neglect or abuse of a client by any person employed by or under contract with the entity if the person is under the control of the entity.

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74.

SECTION 83. 146.40 (4r) (am) 2. of the statutes is amended to read:

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

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74.

SECTION 84. 146.40 (4r) (am) 3. of the statutes is amended to read:

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

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74.

SECTION 85. 146.40 (4r) (b) of the statutes is amended to read:

146.40 (4r) (b) Except as provided in pars. (em) and (err), the department shall review and investigate any report received under par. (a) or (am) and, if the allegation is substantiated, make specific, documented findings concerning the ~~misappropriation of property~~ financial exploitation or the neglect or abuse. The department shall in writing by certified mail notify the person specified in the report that the person's name and the department's findings about the person shall be listed in the registry under sub. (4g) (a) 2. and 3. unless the person contests the listings in a hearing before the division of hearings and appeals created under s. 15.103 (1). The written notification shall describe the investigation conducted by the department,

enumerate the findings alleging ~~misappropriation of property~~ financial exploitation or neglect or abuse of a client and explain the consequence to the person specified in the report of waiving a hearing to contest the findings. The person specified in the report shall have 30 days after receipt of the notification to indicate to the department in writing whether he or she intends to contest the listing or to waive the hearing.

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74.

SECTION 86. 146.82 (2) (a) 7. of the statutes is amended to read:

146.82 (2) (a) 7. To a county ~~an elder-adult-at-risk~~ agency designated under s. 46.90 (2) or other investigating agency under s. 46.90 for purposes of s. 46.90 (4) (a) and (5) or to ~~the county protective services~~ an adult-at-risk agency designated under s. 55.02 for purposes of s. 55.043. The health care provider may release information by initiating contact with the county ~~elder-adult-at-risk~~ agency or ~~county protective services~~ adult-at-risk agency without receiving a request for release of the information from the county ~~elder-adult-at-risk~~ agency or ~~county protective services~~ adult-at-risk agency.

History: 1979 c. 221; 1983 a. 398; 1985 a. 29, 241, 332, 340; 1987 a. 40, 70, 127, 215, 233, 380, 399; 1989 a. 31, 102, 334, 336; 1991 a. 39; 1993 a. 16, 27, 445, 479; 1995 a. 98, 169, 417; 1997 a. 35, 114, 231, 272, 292, 305; 1999 a. 32, 78, 83, 114, 151; 2001 a. 38, 59, 69, 105; 2003 a. 281.

SECTION 87. 813.123 (title) of the statutes is amended to read:

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

History: 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

SECTION 88. 813.123 (1) (a) of the statutes is amended to read:

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

History: 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

INSERT 45-19

SECTION 89. 813.123 (1) (b) of the statutes is amended to read:

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

History: 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

INSERT 45-21

SECTION 90. 813.123 (1) (c) of the statutes is repealed.

SECTION 91. 813.123 (1) (cg) of the statutes is created to read:

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

INSERT 46-1

SECTION 92. 813.123 (1) (ep) of the statutes is created to read:

813.123 (1) (ep) "Individual at risk" means an elder adult at risk or an adult
at risk.

INSERT 46-6

SECTION 93. 813.123 (1) (g) of the statutes is amended to read:

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

History: 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

INSERT 47-2

SECTION 94. 813.123 (2) of the statutes is renumbered 813.123 (2) (a) and
amended to read:

813.123 (2) (a) No action under this section may be commenced by complaint
and summons. An action under this section may be commenced only by a petition
described under sub. (6). The action commences with service of the petition upon the
respondent if a copy of the petition is filed before service or promptly after service.
The ~~vulnerable adult, a parent, an adult sibling, an adult child or the legal guardian
of the vulnerable adult or a county protective services agency~~ individual at risk, any
person acting on behalf of an individual at risk, an elder-adult-at-risk agency, or an
adult-at-risk agency may be a petitioner under this section. If the petition is filed
by a person other than the individual at risk, the petitioner shall serve a copy of the

petition on the individual at risk. Section 813.06 does not apply to an action under this section. The respondent may respond to the petition either in writing before or at the hearing on the issuance of the injunction or orally at that hearing.

History: 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

INSERT 47-7

****NOTE: Is the "if" clause in this provision intended to modify both kinds of objections? If so, it should be placed at the beginning of the provision, rather than the end.

INSERT 47-25

****NOTE: Is my change to "upon appeal" in this provision correct, or is the record of any action really supposed to be available to all of the parties, etc., only if the case is appealed?

INSERT 51-11

SECTION 95. 813.123 (4) (a) (intro.) of the statutes is amended to read:

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

History: 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

SECTION 96. 813.123 (4) (a) 2. of the statutes is amended to read:

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

a. That the respondent has interfered with, or, based on prior conduct of the respondent, may interfere with, an investigation of the ~~vulnerable adult under s. 55.043,~~ individual at risk; the delivery of protective services to the ~~vulnerable adult~~ individual at risk under s. 55.05 or a protective placement of the ~~vulnerable adult~~

individual at risk under s. 55.06; or the delivery of services to an elder adult at risk under s. 46.90 (5m).

History: 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

****NOTE: This draft repeals s. 46.90 (5) (d) 2. That provision states, "The court shall grant the order upon a showing that there is reasonable cause to believe that abuse, material abuse, neglect or self-neglect has occurred *and that the interference complained of, if continued, would make it difficult to determine whether abuse, material abuse, neglect or self-neglect has occurred, is occurring or may recur.* (Emphasis mine.) Should any of the italicized standard be placed in s. 813.123 (4) (a) 2. a.?"

SECTION 97. 812.123 (4) (a) 2. b. of the statutes is created to read:

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

SECTION 98. 813.123 (4) (ar) of the statutes is created to read:

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

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

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

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

****NOTE: Why "temporarily"? Several different persons may be petitioners; why would they necessarily be temporary occupants?

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

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

****NOTE: I have greatly revised the treatment of s. 813.123 (4) (a) and (ar) from the proposal. Since one may treat a unit of the statutes only once (e.g., one may not both renumber s. 813.123 (4) (a) 2. and create s. 813.123 (4) (a) 2., and since one must treat statutes in sequence, the end result would have been very confusing to read in the bill. I have, instead, created s. 813.123 (4) (ar) to specify what the TRO may order the respondent to do, rather than the criteria for issuance of the TRO.

SECTION 99. 813.123 (5) (a) (intro.) of the statutes is amended to read:

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

History: 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

SECTION 100. 813.123 (5) (a) 3. a. of the statutes is amended to read:

813.123 (5) (a) 3. a. That the respondent has interfered with, or, based upon prior conduct of the respondent, may interfere with, an investigation of the ~~vulnerable elder adult at risk under s. 46.90 or the adult at risk~~ under s. 55.043 and that the interference complained of, if continued, would make it difficult to determine if ~~misappropriation of property or abuse, or neglect~~ financial exploitation,

neglect, harassment, or stalking of an individual at risk or mistreatment of an animal is occurring or may recur.

History: 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

SECTION 101. 813.123 (5) (a) 3. b. of the statutes is amended to read:

813.123 (5) (a) 3. b. That the respondent has interfered with the delivery to the ~~vulnerable adult~~ individual at risk of protective services under s. 55.05 or a protective placement of the ~~vulnerable adult~~ individual at risk under s. 55.06 after the offer of protective services or protective placement has been made and the ~~vulnerable adult~~ individual at risk or his or her guardian, if any, has consented to receipt of the protective services or protective placement; or that the respondent has interfered with the delivery of services under s. 46.90 (5m).

History: 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

SECTION 102. 813.123 (5) (a) 3. c. of the statutes is created to read:

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

SECTION 103. 813.123 (5) (ar) of the statutes is created to read:

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

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

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

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

****NOTE: Please see the ****NOTE under s. 813.123 (4) (ar) 3.

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

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

****NOTE: Please see the ****NOTE under s. 813.123 (4) (ar) 5.; the same principles apply.

INSERT 52-20

****NOTE: I have greatly simplified this provision; please review.

INSERT 53-10

SECTION 104. 813.123 (11) of the statutes is repealed.

****NOTE: Section 813.123 (11), stats., is extremely similar to s. 55.043 (5), stats. (although sc. 55.043 (5) also mentions hospitals). At your direction, I repealed s. 55.043 (5); in ss. 46.90 (5) (a) 1. and 55.043 (1r) (a) 1g. under this draft these cases are referred to DHFS for investigation, but there is no indication otherwise that DHFS would not want to use the procedures under s. 813.123. There is nothing in the legislative history that provides a rationale for the existence of these statutes. I also have consulted Bob Nelson, who drafts in courts. His conclusion was that s. 893.82 (3) would apply, as far as notice goes, and that s. 893.80 is probably inapplicable to an injunction or TRO, as opposed to a claim for damages. Therefore, I have repealed s. 813.123 (11), stats. Please review.

SECTION 105. 880.01 (2) of the statutes is amended to read:

880.01 (2) "Developmentally disabled person" means any individual having a disability attributable to mental retardation, cerebral palsy, epilepsy, autism or another neurological condition closely related to mental retardation or requiring treatment similar to that required for mentally retarded individuals, which has continued or can be expected to continue indefinitely, substantially impairs the individual from adequately providing for his or her own care or custody and constitutes a substantial handicap to the afflicted individual. The term does not

include a person affected by senility which is primarily caused by the process of aging or ~~the infirmities of aging~~ degenerative brain disorder.

History: 1971 c. 41 s. 8; 1971 c. 228 s. 36; Stats. 1971 s. 880.01; 1973 c. 284; 1975 c. 430; 1981 c. 379; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1987 a. 366; 1993 a. 486; 1995 a. 268.

SECTION 106. 880.01 (4) of the statutes is amended to read:

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

History: 1971 c. 41 s. 8; 1971 c. 228 s. 36; Stats. 1971 s. 880.01; 1973 c. 284; 1975 c. 430; 1981 c. 379; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1987 a. 366; 1993 a. 486; 1995 a. 268.

SECTION 107. 880.01 (5) of the statutes is renumbered 880.01 (1t) and amended to read:

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

History: 1971 c. 41 s. 8; 1971 c. 228 s. 36; Stats. 1971 s. 880.01; 1973 c. 284; 1975 c. 430; 1981 c. 379; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1987 a. 366; 1993 a. 486; 1995 a. 268.

****NOTE: It was unclear to me whether you wished to have "infirmities of aging" eliminated from ch. 880. Please review.

SECTION 108. 895.85 (2) of the statutes is amended to read:

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

History: 1995 a. 17; 1997 a. 71; 1999 a. 79.

INSERT 53-14

SECTION 109. 940.225 (5) (ab) of the statutes is renumbered 940.225 (5) (acm).

INSERT 53-23

SECTION 110. 940.285 (1) (ag) of the statutes is created to read:

INSERT 54-11

SECTION 111. 940.285 (1) (dc) of the statutes is created to read:

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

SECTION 112. 940.285 (1) (dg) of the statutes is created to read:

940.285 (1) (dg) "Individual at risk" means an elder adult at risk or an adult at risk.

SECTION 113. 940.285 (1) (e) of the statutes is repealed.

INSERT 55-6

****NOTE: I eliminated the definition of "degenerative brain disorder" proposed for s. 940.295 (1) (cd). Because s. 940.295 (1) (t), stats., is repealed and because the definition of "adult at risk" refers back to s. 55.01 (1e), the term is not used in this section.

INSERT 55-10

****NOTE: I did not draft a definition of "intentionally", as proposed. Language in s. 939.23 (1), stats., makes the definitions in that section applicable to s. 940.295 when criminal intent is an element of a crime.

INSERT 55-17

****NOTE: After having consulted with Mike Dsida, one of the criminal law drafters, I added "an act, omission, or course of" to this provision. Please review.

INSERT 55-24

SECTION 114. 940.295 (3) (a) 3. of the statutes is amended to read:

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

History: 1993 a. 445; 1995 a. 225; 1997 a. 180; 1999 a. 9; 2001 a. 57, 59, 109.

****NOTE: Please review my amendment of this provision.

SECTION 115. 940.295 (3) (b) 1g. of the statutes is amended to read:

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

felony. Any person violating par. (a) 3. under circumstances that cause death to a ~~vulnerable person~~ an individual at risk is guilty of a Class D felony.

History: 1993 a. 445; 1995 a. 225; 1997 a. 180; 1999 a. 9; 2001 a. 57, 59, 109.

SECTION 116. 940.295 (3) (b) 1m. of the statutes is amended to read:

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

History: 1993 a. 445; 1995 a. 225; 1997 a. 180; 1999 a. 9; 2001 a. 57, 59, 109.

SECTION 117. Initial applicability.

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

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

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

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

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

(6) **INDIVIDUAL AT RISK RESTRAINING ORDERS AND INJUNCTIONS.** The treatment of section 813.123 (title), (1) (a), (ae), (am), (b), (br), (c), (cg), (dm), (eg), (ep), (f), (g), (gr), (gs), and (h), (2), (3) (b) (intro.), 1., 2., and 3., (c) (intro.), (4) (a) (intro.) and 2., (4) (ar), (5) (a) (intro.), 3. a., b., and c., (ar), (c) 1., 2., and 3., (6) (a) and (c), (7), (9) (intro.), and (11) of the statutes and the creation of section 813.123 (2) (b) and (4) (a) 2. b. first apply to actions for restraining orders and injunctions for individuals at risk commenced on the effective date of this subsection.

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

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

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

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