

2005 Senate Bill 226

Date of enactment: **May 23, 2006**
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2005 WISCONSIN ACT 444

AN ACT *to repeal* 51.13 (1) (f) and 51.13 (2); *to renumber and amend* 51.13 (4) (g) 1., 51.13 (6) (a) and 51.13 (7) (b); *to consolidate, renumber and amend* 51.13 (3) (a) and (c); *to amend* 51.13 (1) (title), 51.13 (1) (a), 51.13 (1) (b), 51.13 (1) (c) 3., 51.13 (1) (d), 51.13 (1) (e), 51.13 (3) (b), 51.13 (4) (a) (intro.), 51.13 (4) (c), 51.13 (4) (d), 51.13 (4) (g) (intro.), 51.13 (4) (h) (intro.), 51.13 (6) (c), 51.13 (7) (title), 51.13 (7) (a), 51.13 (7) (c), 51.14 (title), 51.14 (1), 51.14 (3) (a), 51.14 (3) (b) 3., 51.14 (3) (f), 51.14 (3) (g), 51.14 (3) (h) (intro.), 51.14 (3) (h) 1., 51.14 (3) (j), 51.14 (4) (a), 51.14 (4) (g) (intro.), 51.22 (2), 51.30 (5) (b) 2., 51.35 (3) (a), 51.35 (3) (b), 51.35 (3) (g), 51.35 (4) (d), 51.45 (10) (am), 51.45 (11) (a) and 51.61 (6); and *to create* 51.13 (4) (g) 1. a., 51.13 (4) (g) 1. b., 51.13 (4) (g) 1. c., 51.13 (4) (g) 4., 51.13 (7) (b) 3. and 51.14 (7) of the statutes; **relating to:** informed consent for minors for inpatient and outpatient treatment for mental illness and developmental disability.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 2. 51.13 (1) (title) of the statutes is amended to read:

51.13 (1) (title) ~~ADMISSION THROUGH BOARD OR DEPARTMENT.~~

SECTION 3. 51.13 (1) (a) of the statutes is amended to read:

51.13 (1) (a) Except as provided in par. (c) and s. ss. 51.45 (2m) and 51.47, the application for ~~voluntary~~ admission of a minor who is 14 years of age or older to an approved inpatient treatment facility for the primary purpose of treatment for alcoholism or drug abuse and the application for ~~voluntary~~ admission of a minor who is under 14 years of age to an approved inpatient treatment facility for the primary purpose of treatment for mental illness, developmental disability, alcoholism, or drug abuse shall be executed by a parent who has legal custody of the minor or the minor's guardian. Any statement or conduct by a minor who is the subject of an application

for ~~voluntary~~ admission under this paragraph indicating that the minor does not agree to admission to the facility shall be noted on the face of the application and shall be noted in the petition required by sub. (4).

SECTION 4. 51.13 (1) (b) of the statutes is amended to read:

51.13 (1) (b) The application for ~~voluntary~~ admission of a minor who is 14 years of age or older to an approved inpatient treatment facility for the primary purpose of treatment for mental illness or developmental disability shall be executed by the minor and a parent who has legal custody of the minor or the minor's guardian, except as provided in par. (c) 1., except that, if the minor refuses to execute the application, a parent who has legal custody of the minor or the minor's guardian may execute the application on the minor's behalf.

SECTION 5. 51.13 (1) (c) 3. of the statutes is amended to read:

51.13 (1) (c) 3. The court may, at the minor's request, temporarily approve the admission under subd. 1. or 2. pending hearing on the petition. If a hearing is held under

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

subd. 1. or 2., no review or hearing under sub. (4) is required.

SECTION 6. 51.13 (1) (d) of the statutes is amended to read:

51.13 (1) (d) A minor against whom a petition or statement has been filed under s. 51.15, 51.20, or 51.45 (12) or (13) may be admitted under this section. The court may permit the minor to become a voluntary patient under this section upon approval by the court of an application executed under par. (a), (b), or (c). The court shall then dismiss the proceedings under s. 51.15, 51.20, or 51.45 (12) or (13). If a hearing is held under this subsection, no hearing under sub. (4) is required.

SECTION 7. 51.13 (1) (e) of the statutes is amended to read:

51.13 (1) (e) A minor may be admitted immediately upon the approval of the application executed under par. (a) or (b) by the treatment director of the facility or his or her designee or, in the case of a center for the developmentally disabled, the director of the center or his or her designee, and, if the county department is to be responsible for the cost of the minor's therapy and treatment, the director of the appropriate county department under s. 51.42 or 51.437 if the county department is to be responsible for the cost of the minor's therapy and treatment. Admission under par. (c) or (d) shall also be approved, within 14 days of the minor's admission, by the treatment director of the facility or his or her designee, or in the case of a center for the developmentally disabled, the director of the center or his or her designee and, if the county department is to be responsible for the cost of the minor's therapy and treatment, the director of the appropriate county department under s. 51.42 or 51.437.

(em) Approval under par. (e) shall be based upon an informed professional opinion that the minor is in need of psychiatric services or services for developmental disability, alcoholism, or drug abuse, that the treatment facility offers inpatient therapy or treatment that is appropriate for the minor's needs, and that inpatient care in the facility is the least restrictive therapy or treatment consistent with the minor's needs. In the case of a minor who is being admitted for the primary purpose of treatment for alcoholism or drug abuse, approval shall also be based on the results of an alcohol or other drug abuse assessment that conforms to the criteria specified in s. 938.547 (4).

SECTION 8. 51.13 (1) (f) of the statutes is repealed.

SECTION 9. 51.13 (2) of the statutes is repealed.

SECTION 10. 51.13 (3) (a) and (c) of the statutes are consolidated, renumbered 51.13 (3) (am) and amended to read:

51.13 (3) (am) Prior to admission if possible, or as soon thereafter as possible, the minor who is admitted under sub. (1) (a) or (b) and the minor's parent or guardian shall be informed by the director of the facility or his or her designee, both orally and in writing, in easily

understandable language, of the review procedure in sub. (4), including the standards to be applied by the court and the possible dispositions; the minor's right to an independent evaluation, if ordered by the court; the minor's right to be informed about how to contact the state protection and advocacy agency designated under s. 51.62 (2) (a); the right under sub. (4) (d) to a hearing upon request under sub. (4), and; the minor's right to appointed counsel as provided in sub. (4) (d) if a hearing is held. ~~(e) A minor 14 years of age or older who has been admitted to an inpatient facility for the primary purpose of treatment for alcoholism or drug abuse, a minor under 14 years of age who has been admitted to an inpatient treatment facility for the primary purpose of treatment for mental illness, developmental disability, alcoholism, or drug abuse, and the minor's parent or guardian shall also be informed by the director or his or her designee, both orally and in writing, in easily understandable language, of; for a minor other than a minor specified under par. (b), the right of the minor or parent or guardian to request the minor's discharge as provided in or limited by sub. (7) (b); and of the minor's right to a hearing to determine continued appropriateness of the admission as provided in sub. (7) (c).~~

SECTION 11. 51.13 (3) (b) of the statutes is amended to read:

51.13 (3) (b) ~~A minor 14 years of age or older who has been admitted to an inpatient treatment facility for the primary purpose of treatment for mental illness or developmental disability~~ Prior to or at admission, a minor who is voluntarily admitted under sub. (1) (c) 1. or 2., and the minor's parent or guardian, if available, shall also be informed by the director or his or her designee, both orally and in writing, in easily understandable language, of the minor's right to request discharge and to be discharged within 48 hours of the request, as provided under sub. (7) (b), if no petition or statement is filed for emergency detention, or if no petition is filed for emergency commitment, involuntary commitment, or protective placement, and the minor's right to consent to or refuse treatment as provided in s. 51.61 (6).

SECTION 12. 51.13 (4) (a) (intro.) of the statutes is amended to read:

51.13 (4) (a) (intro.) Within 3 days after the admission of a minor under sub. (1), or within 3 days after an application is executed for admission of the minor, whichever occurs first, the treatment director of the facility to which the minor is admitted or his or her designee or, in the case of a center for the developmentally disabled, the director of the center or his or her designee, shall file a verified petition for review of the admission in the court assigned to exercise jurisdiction under chs. 48 and 938 in the county in which the facility is located. A copy of the application for admission and of any relevant professional evaluations shall be attached to the petition. The petition shall contain all of the following:

SECTION 13. 51.13 (4) (c) of the statutes is amended to read:

51.13 (4) (c) A copy of the petition shall be provided by the petitioner to the minor and, if available, his or her parents or guardian within 5 days after admission.

SECTION 14. 51.13 (4) (d) of the statutes is amended to read:

51.13 (4) (d) Within 5 days after the filing of the petition, the court assigned to exercise jurisdiction under chs. 48 and 938 shall determine, based on the allegations of the petition and accompanying documents, whether there is a prima facie showing that the minor is in need of psychiatric services, or services for developmental disability, alcoholism, or drug abuse, that whether the treatment facility offers inpatient therapy or treatment that is appropriate to the minor's needs; and that whether inpatient care in the treatment facility is the least restrictive therapy or treatment consistent with the needs of the minor; and, if the minor is 14 years of age or older and has been admitted to the treatment facility for the primary purpose of treatment for mental illness or developmental disability, whether the admission is voluntary on the part of the minor was made under an application executed by the minor and the minor's parent or guardian. If such a showing is made, the court shall permit voluntary admission. If the court is unable to make those determinations based on the petition and accompanying documents, the court may dismiss the petition as provided in par. (h); order additional information, including an independent evaluation, to be produced as necessary for the court to make those determinations within 14 7 days, exclusive of weekends and legal holidays, after admission or application for admission, whichever is sooner; or hold a hearing within 14 7 days, exclusive of weekends and legal holidays, after admission or application for admission, whichever is sooner. If a notation of the minor's unwillingness appears on the face of the petition, if the admission was made under an application executed by the minor's parent or guardian despite the minor's refusal, or if a hearing has been requested by the minor or by the minor's counsel, parent, or guardian, the court shall order an independent evaluation of the minor and hold a hearing to review the admission, within 14 7 days, exclusive of weekends and legal holidays, after admission or application for admission, whichever is sooner, and shall appoint counsel to represent the minor if the minor is unrepresented. If the court considers it necessary, the court shall also appoint a guardian ad litem to represent the minor. The minor shall be informed about how to contact the state protection and advocacy agency designated under s. 51.62 (2) (a).

SECTION 15. 51.13 (4) (g) (intro.) of the statutes is amended to read:

51.13 (4) (g) (intro.) If the court finds, under a hearing under par. (d), that the minor is in need of psychiatric services or services for developmental disability, alco-

holism, or drug abuse in an inpatient facility, that the inpatient facility to which the minor is admitted offers therapy or treatment that is appropriate for the minor's needs and that is the least restrictive therapy or treatment consistent with the minor's needs, and, in the case of a minor 14 years of age or older who is being admitted for the primary purpose of treatment for mental illness or developmental disability, that the application is voluntary on the part of the minor, the court shall permit voluntary admission. If the court finds that the therapy or treatment in the inpatient facility to which the minor is admitted is not appropriate or is not the least restrictive therapy or treatment consistent with the minor's needs, the court may order placement in or transfer to another more appropriate or less restrictive inpatient facility, except that the court may not permit or order placement in or transfer to the northern or southern centers for the developmentally disabled of a minor unless the department gives approval for the placement or transfer, and if the order of the court is shall first be approved by all of the following if applicable:

SECTION 16. 51.13 (4) (g) 1. of the statutes is renumbered 51.13 (4) (g) 1. (intro.) and amended to read:

51.13 (4) (g) 1. The minor if he or she is 14 years of age or older and is being admitted for For the primary purpose of treatment for mental illness or developmental disability, any of the following, as applicable:

SECTION 17. 51.13 (4) (g) 1. a. of the statutes is created to read:

51.13 (4) (g) 1. a. For a minor who is under 14 years of age, a parent who has legal custody of the minor or the minor's guardian.

SECTION 18. 51.13 (4) (g) 1. b. of the statutes is created to read:

51.13 (4) (g) 1. b. For a minor who is 14 years of age or older, the minor and a parent who has legal custody of the minor or the minor's guardian, except that, if the minor refuses approval, a parent who has legal custody of the minor or the minor's guardian may provide approval on the minor's behalf.

SECTION 19. 51.13 (4) (g) 1. c. of the statutes is created to read:

51.13 (4) (g) 1. c. For a minor admitted under sub. (1) (c) 1. or 2., the minor.

SECTION 20. 51.13 (4) (g) 4. of the statutes is created to read:

51.13 (4) (g) 4. The department.

SECTION 21. 51.13 (4) (h) (intro.) of the statutes is amended to read:

51.13 (4) (h) (intro.) If the court does not permit voluntary admission under par. (g), it shall do one of the following:

SECTION 22. 51.13 (6) (a) of the statutes is renumbered 51.13 (6) (a) 1. and amended to read:

51.13 (6) (a) 1. A Subject to subd. 2. or 3., as applicable, a minor may be admitted to an inpatient treatment

facility without review under sub. (4) of the application under sub. (4), for diagnosis and evaluation or for dental, medical, or psychiatric services, for a period not to exceed 12 days. The application for short-term admission of a minor shall be executed by the minor's parent with legal custody of the minor or the minor's guardian, and if unless sub. (1) (c) applies.

2. If the minor is 14 years of age or older and is being admitted for the primary purpose of diagnosis, evaluation, or services for mental illness or developmental disability, the application shall be executed by the minor's parent or guardian and the minor, except that, if the minor refuses to execute the application, the parent or the guardian may execute the application. Admission under this subdivision of a minor who refuses to execute the application is reviewable under sub. (4) (d). If a review is requested or required, the treatment director of the facility to which the minor is admitted or his or her designee or, in the case of a center for the developmentally disabled, the director of the center or his or her designee shall file a verified petition for review of the admission on behalf of the minor.

3. A minor may not be readmitted to an inpatient treatment facility for psychiatric services under this paragraph within 120 days of a previous admission under this paragraph.

SECTION 23. 51.13 (6) (c) of the statutes is amended to read:

51.13 (6) (c) At the end of the 12-day period, the minor shall be released unless an application has been filed for ~~voluntary admission under sub. (1) or a petition or~~ a statement has been filed for emergency detention, ~~or a petition has been filed for~~ emergency commitment, involuntary commitment, or protective placement.

SECTION 24. 51.13 (7) (title) of the statutes is amended to read:

51.13 (7) (title) DISCHARGE OR CONTINUED APPROPRIATENESS OF ADMISSION.

SECTION 25. 51.13 (7) (a) of the statutes is amended to read:

51.13 (7) (a) If a minor is admitted to an inpatient treatment facility while under 14 years of age, and if upon reaching age 14 is in need of further inpatient care and treatment primarily for mental illness or developmental disability, the director of the facility shall request the minor and the minor's parent or guardian to execute an application for ~~voluntary admission. If the minor refuses,~~ the minor's parent or guardian may execute the application on the minor's behalf. Such an application may be executed within 30 days prior to a minor's 14th birthday. If the application is executed, a petition for review shall be filed in the manner prescribed in sub. (4), unless such a review has been held within the last 120 days. If the application is not executed by the time of the minor's 14th birthday, the minor shall be discharged unless a petition or statement is filed for emergency detention, emer-

gency commitment, involuntary commitment, or protective placement by the end of the next day in which the court transacts business.

SECTION 26. 51.13 (7) (b) of the statutes is renumbered 51.13 (7) (b) 1. and amended to read:

51.13 (7) (b) 1. Any ~~minor 14 years of age or older who is voluntarily admitted under this section for the primary purpose of treatment for mental illness or developmental disability, and any minor who is voluntarily admitted under sub. (1) (c) 1. or 2., may request discharge in writing. In the case of~~

2. ~~For a minor 14 years of age or older who is voluntarily admitted under this section sub. (1) (a) or (b) for the primary purpose of treatment for alcoholism or drug abuse or a minor under 14 years of age who is voluntarily admitted under this section sub. (1) (a) or (b) for the primary purpose of treatment for mental illness, developmental disability, alcoholism, or drug abuse, the parent or guardian of the minor may make the request: discharge in writing.~~

4. Upon receipt of any form of written request for discharge from a minor specified under subd. 1. or 3., the director of the facility in which the minor is admitted shall immediately notify the minor's parent or guardian. ~~The, if available.~~

5. A minor specified in subd. 1., a minor specified in subd. 2. whose parent or guardian requests discharge in writing, and a minor specified in subd. 3. who requests and whose parent or guardian requests discharge in writing shall be discharged within 48 hours after submission of the request, exclusive of Saturdays, Sundays, and legal holidays, unless a petition or statement is filed for emergency detention, emergency commitment, involuntary commitment, or protective placement.

SECTION 27. 51.13 (7) (b) 3. of the statutes is created to read:

51.13 (7) (b) 3. For a minor 14 years of age or older who is admitted under sub. (1) (a) or (b) for the primary purpose of treatment for mental illness or developmental disability, the minor and the minor's parent or guardian may request discharge in writing. If the parent or guardian of the minor refuses to request discharge and if the director of the facility to which the minor is admitted or his or her designee avers, in writing, that the minor is in need of psychiatric services or services for developmental disability, that the facility's therapy or treatment is appropriate to the minor's needs, and that inpatient care in the treatment facility is the least restrictive therapy or treatment consistent with the needs of the minor, the minor may not be discharged under this paragraph.

SECTION 28. 51.13 (7) (c) of the statutes is amended to read:

51.13 (7) (c) Any ~~minor 14 years of age or older who is voluntarily admitted under this section for the primary purpose of treatment for alcoholism or drug abuse, and who is not discharged under par. (b), and any minor under~~

14 years of age who is voluntarily admitted under this section for the primary purpose of treatment for mental illness, developmental disability, alcoholism, or drug abuse, and, other than a minor to which par. (b) 1. applies, who is not discharged under par. (b); may submit a written request to the court for a hearing to determine the continued appropriateness of the admission. If the director or staff of the inpatient treatment facility to which a minor described in this paragraph is admitted observes conduct by the minor that demonstrates an unwillingness to remain at the facility, including but not limited to a written expression of opinion or unauthorized absence, the director shall file a written request with the court to determine the continued appropriateness of the admission. A request that is made personally by a minor under this paragraph shall be signed by the minor but need not be written or composed by the minor. A request for a hearing under this paragraph that is received by staff or the director of the facility in which the child minor is admitted shall be filed with the court by the director. The court shall order a hearing as provided in sub. (4) (d) upon request if no hearing concerning the minor's admission has been held within 120 days after before court receipt of the request. ~~The court shall appoint counsel and, if the court considers it necessary, a guardian ad litem to represent the minor and if~~ If a hearing is held, the court shall hold the hearing within 14 days after receipt of the request, unless the parties agree to a longer period. After the hearing, the court shall ~~make disposition~~ dispose of the matter in the manner provided in sub. (4) (h).

SECTION 30. 51.14 (title) of the statutes is amended to read:

51.14 (title) Outpatient Review of outpatient mental health treatment of minors aged 14 or older.

SECTION 31. 51.14 (1) of the statutes is amended to read:

51.14 (1) DEFINITIONS. In this section, "outpatient mental health treatment" means treatment and social services for mental illness, except ~~psychotropic medications and 24-hour care,~~ treatment, and custody, that is provided by a treatment facility.

SECTION 33. 51.14 (3) (a) of the statutes is amended to read:

51.14 (3) (a) ~~Either a~~ A minor 14 years of age or older or ~~his or her parent or guardian~~ a person acting on behalf of the minor may petition the mental health review officer in the county in which the minor's parent or guardian has residence for a review of a refusal or inability of either the minor or his or her the minor's parent or guardian to provide the informed consent for outpatient mental health treatment required under s. 51.61 (6). For a minor on whose behalf consent for outpatient treatment was provided by the minor's parent or guardian despite the minor's refusal, the treatment director of the outpatient facility shall file a petition for review of the informed consent on behalf of the minor.

SECTION 34. 51.14 (3) (b) 3. of the statutes is amended to read:

51.14 (3) (b) 3. The facts substantiating the petitioner's belief that the minor needs, or does not need, outpatient mental health treatment.

SECTION 35. 51.14 (3) (f) of the statutes is amended to read:

51.14 (3) (f) If prior to a hearing under par. (g) ~~either the minor or his or her parent or guardian~~ requests and the mental health review officer determines that the best interests of the minor would be served, a petition may be filed for court review under sub. (4) without further review under this subsection.

SECTION 36. 51.14 (3) (g) of the statutes is amended to read:

51.14 (3) (g) Within 21 days after the filing of a petition under this subsection, the mental health review officer shall hold a hearing on the refusal or inability of the ~~minor or the minor's parent or guardian~~ to provide informed consent for outpatient treatment or on the provision of informed consent by the parent or guardian despite the minor's refusal. The mental health review officer shall provide notice of the date, time and place of the hearing to the minor and, if available, the minor's parent or guardian at least 96 hours prior to the hearing.

SECTION 37. 51.14 (3) (h) (intro.) of the statutes is amended to read:

51.14 (3) (h) (intro.) If following the hearing under par. (g) and after taking into consideration the recommendations, if any, of the county department under s. 51.42 or 51.437 made under par. (e), the mental health review officer finds all of the following, he or she shall issue a written order that, notwithstanding the written, informed consent requirement of s. 51.61 (6), the written, informed consent of the ~~minor, if the minor is refusing to provide consent, or the written, informed consent of the minor's parent or guardian, if the parent or guardian is refusing or unable to provide consent,~~ is not required for outpatient mental health treatment for the minor or, if the parent or guardian provided informed consent despite the minor's refusal, the outpatient mental health treatment for the minor is appropriate:

SECTION 38. 51.14 (3) (h) 1. of the statutes is amended to read:

51.14 (3) (h) 1. The informed consent of the parent or guardian is unreasonably withheld or the refusal of the minor to provide informed consent is unreasonable.

SECTION 39. 51.14 (3) (j) of the statutes is amended to read:

51.14 (3) (j) The mental health review officer shall notify the minor and the minor's parent or guardian, if available, of the right to judicial review under sub. (4).

SECTION 40. 51.14 (4) (a) of the statutes is amended to read:

51.14 (4) (a) Within 21 days after the issuance of the order by the mental health review officer under sub. (3)

or if the requirements of sub. (3) (f) are satisfied applies, the minor or his or her parent or guardian a person acting on behalf of the minor may petition a court assigned to exercise jurisdiction under chs. 48 and 938 in the county of residence of the minor's parent or guardian for a review of the refusal of either the minor or his or her or inability of the minor's parent or guardian to provide the informed consent for outpatient mental health treatment required under s. 51.61 (6) or for a review of the provision of informed consent by the parent or guardian despite the minor's refusal.

SECTION 41. 51.14 (4) (g) (intro.) of the statutes is amended to read:

51.14 (4) (g) (intro.) After the hearing under this subsection, the court shall issue a written order stating that, notwithstanding the written, informed consent requirement of s. 51.61 (6), the written, informed consent of the minor, if the minor refuses to provide consent, or the written, informed consent of the parent or guardian, if the parent or guardian refuses or is unable to provide consent, is not required for outpatient mental health treatment for the minor or that, if the parent or guardian provided informed consent despite the minor's refusal, the outpatient mental health treatment for the minor is appropriate, if the court finds all of the following:

SECTION 41m. 51.14 (7) of the statutes is created to read:

51.14 (7) LISTING OF MENTAL HEALTH REVIEW OFFICERS. The department shall compile a list that specifies the mental health review officers in each county, post the list on the department's website, and update the list as necessary.

SECTION 42. 51.22 (2) of the statutes is amended to read:

51.22 (2) Except as provided in s. 51.13 (2), voluntary for admissions that do not involve the department or a county department under s. 51.42 or 51.437 or a contract between a treatment facility and the department or a county department, admissions under ss. 51.10, 51.13, and 51.45 (10) shall be through the county department under s. 51.42 or 51.437 serving the person's county of residence, or through the department if the person to be admitted is a nonresident of this state. Admissions through a county department under s. 51.42 or 51.437 shall be made in accordance with s. 51.42 (3) (as) 1. or 51.437 (4m) (a). Admissions through the department shall be made in accordance with sub. (3).

SECTION 44m. 51.30 (5) (b) 2. of the statutes is amended to read:

51.30 (5) (b) 2. A minor upon reaching the age of who is aged 14 or older shall have access to his or her own court and treatment records, as provided in this section. A minor under the age of 14 shall have access to court records but only in the presence of a parent, guardian, counsel, guardian ad litem or judge and shall have access to treatment records as provided in this section but only

in the presence of a parent, guardian, counsel, guardian ad litem or staff member of the treatment facility.

SECTION 45. 51.35 (3) (a) of the statutes is amended to read:

51.35 (3) (a) A licensed psychologist of a secured correctional facility, a secured child caring institution, or a secured group home, or a licensed physician of the department of corrections, who has reason to believe that any individual confined in the secured correctional facility, secured child caring institution, or secured group home is, in his or her opinion, in need of services for developmental disability, alcoholism, or drug dependency or in need of psychiatric services, and who has obtained ~~voluntary~~ consent to make a transfer for treatment, shall make a report, in writing, to the superintendent of the secured correctional facility, secured child caring institution, or secured group home, stating the nature and basis of the belief and verifying the consent. In the case of a minor age 14 or older who is in need of services for developmental disability or who is in need of psychiatric services, the minor and the minor's parent or guardian shall consent unless the minor is admitted under s. 51.13 (1) (c) 1. or unless the minor refuses to consent, in which case the minor's parent or guardian may consent on behalf of the minor. In the case of a minor age 14 or older who is in need of services for alcoholism or drug dependency or a minor under the age of 14 who is in need of services for developmental disability, alcoholism, or drug dependency or in need of psychiatric services, only the minor's parent or guardian ~~need~~ needs to consent unless the minor is admitted under s. 51.13 (1) (c). The superintendent shall inform, orally and in writing, the minor and the minor's parent or guardian, that transfer is being considered and shall inform them of the basis for the request and their rights as provided in s. 51.13 (3) (am). If the department of corrections, upon review of a request for transfer, determines that transfer is appropriate, that department shall immediately notify the department of health and family services and, if the department of health and family services consents, the department of corrections may immediately transfer the individual. The department of health and family services shall file a petition under s. 51.13 (4) (a) in the court assigned to exercise jurisdiction under chs. 48 and 938 of the county where the treatment facility is located.

SECTION 46. 51.35 (3) (b) of the statutes is amended to read:

51.35 (3) (b) The court assigned to exercise jurisdiction under chs. 48 and 938 shall determine, based on the allegations of the petition and accompanying documents, whether the transfer under par. (a) of the minor to an inpatient facility is appropriate and consistent with the needs of the minor and, if the minor is 14 years of age or older and is being transferred for the purpose of receiving services for developmental disability or psychiatric services, whether consent for the transfer is voluntary on the

part of the minor was provided by the minor and his or her parent or guardian or whether the minor was admitted under s. 51.13 (1) (c) 1. If the court is unable to make those determinations based on the petition and accompanying documents, the court may order additional information, including an independent evaluation, to be produced as necessary to make those determinations within 14 days after admission, or the court may hold a hearing within 14 days after admission. If a notation of the minor's unwillingness appears on the face of the petition, if the transfer was made under a consent of the minor's parent or guardian despite the minor's refusal, or if a hearing has been requested by the minor or by the minor's counsel, guardian ad litem, parent, or guardian, the court shall order an independent evaluation of the minor, hold a hearing, and appoint counsel or a guardian ad litem for the minor as provided in s. 51.13 (4) (d). The minor shall be informed about how to contact the state protection and advocacy agency designated under s. 51.62 (2) (a). At the conclusion of the hearing, the court shall approve or disapprove the request for transfer. If the minor is under the continuing jurisdiction of the court of another county, the court may order the case transferred together with all appropriate records to that court.

SECTION 47. 51.35 (3) (g) of the statutes is amended to read:

51.35 (3) (g) A minor 14 years of age or older who is transferred to a treatment facility under par. (a) for the purpose of receiving services for developmental disability or psychiatric services and the minor's parent or guardian may request in writing a return to the secured correctional facility, secured child caring institution, or secured group home, except that, if the minor refuses to make the request, the parent or guardian may make the request on behalf of the minor. In the case of a minor 14 years of age or older who is transferred to a treatment facility under par. (a) for the purpose of receiving services for developmental disability, alcoholism, or drug dependency, or psychiatric services, the parent or guardian may make the request. Upon receipt of a request for return from a minor 14 years of age or older, the director shall immediately notify the minor's parent or guardian. The minor, if available. A minor 14 years of age or older who requests and whose parent or guardian requests and a minor who was admitted under s. 51.13 (1) (c) who requests discharge in writing shall be returned to the secured correctional facility, secured child caring institution, or secured group home within 48 hours after submission of the request unless a petition or statement is filed for emergency detention, or a petition is filed for emergency commitment, involuntary commitment, or protective placement.

SECTION 48. 51.35 (4) (d) of the statutes is amended to read:

51.35 (4) (d) The director of an inpatient facility may, under the requirements of s. 51.10 (5) (c) or 51.13 (7), grant a discharge or may terminate services to any patient voluntarily admitted under s. 51.10 or 51.13 when such patient requests a discharge. Such discharge shall conform to the requirements of s. 51.10 (5) (c) or 51.13 (7).

SECTION 49. 51.45 (10) (am) of the statutes is amended to read:

51.45 (10) (am) ~~A~~ Except as provided in s. 51.47, a minor may apply for voluntary treatment directly to an approved public treatment facility, but only for those forms of treatment specified in sub. (7) (b) 5. and 7. Section 51.13 ~~shall govern~~ governs admission of a minor alcoholic to an inpatient treatment facility.

SECTION 50. 51.45 (11) (a) of the statutes is amended to read:

51.45 (11) (a) An intoxicated person may come voluntarily to an approved public treatment facility for emergency treatment. Any law enforcement officer, or designated person upon the request of a law enforcement officer, may assist a person who appears to be intoxicated in a public place and to be in need of help to his or her home, an approved treatment facility or other health facility, if such person consents to the proffered help. Section 51.13 ~~shall govern~~ voluntarily governs admission of an intoxicated minor to an inpatient facility under this paragraph.

SECTION 51m. 51.61 (6) of the statutes is amended to read:

51.61 (6) Subject to the rights of patients provided under this chapter, the department, county departments under s. 51.42 or 51.437, and any agency providing services under an agreement with the department or those county departments have the right to use customary and usual treatment techniques and procedures in a reasonable and appropriate manner in the treatment of patients who are receiving services under the mental health system, for the purpose of ameliorating the conditions for which the patients were admitted to the system. The written, informed consent of any patient shall first be obtained, unless the person has been found not competent to refuse medication and treatment under s. 51.61 (1) (g) or the person is a minor 14 years of age or older who is receiving services for alcoholism or drug abuse or a minor under 14 years of age who is receiving services for mental illness, developmental disability, alcoholism, or drug abuse. In the case of such a minor, the written, informed consent of the parent or guardian is required, except as provided under an order issued under s. 51.13 (1) (c) or 51.14 (3) (h) or (4) (g), or as provided in s. 51.47. If the minor is 14 years of age or older and is receiving services for mental illness or developmental disability, the written, informed consent of the minor and the

minor's parent or guardian is required.—A, except that a refusal of either such a minor 14 years of age or older or the minor's parent or guardian to provide written, informed consent for admission or transfer to an approved inpatient treatment facility is reviewable under s. 51.13 (1) (c) 1., (3), or (4), or 51.35 (3) (b), and a refusal of either a minor 14 years of age or older or the minor's parent or guardian to provide written, informed consent for outpatient mental health treatment is reviewable under s. 51.14.

SECTION 54. Initial applicability.

(1) INPATIENT TREATMENT. The treatment of sections 51.13 (1) (title), (a), (b), (c) 3., (d), (e), and (f), (2), (3) (a), (b), and (c), (4) (a) (intro.), (c), (d), (g) (intro.), (h) (intro.), (6) (c) and (7) (a), 51.22 (2), 51.45 (11) (a), and 51.61 (6) of the statutes, the renumbering and amendment of section 51.13 (4) (g) 1. and (6) (a) of the statutes, and the creation of sections 51.13 (4) (g) 1. a. to c. and 4. of the statutes first apply to inpatient treatment applied for or received in an approved inpatient treatment facility on the effective date of this subsection, regardless of whether admission to the inpatient facility occurred or was sought prior to the effective date of this subsection.

(2) CONSENT PROVIDED FOR OUTPATIENT TREATMENT. The treatment of sections 51.14 (title), (1), (3) (a), (b) 3.,

(f), (g), (h) (intro.) and 1., and (j), and (4) (a) and (g) (intro.), 51.45 (10) (am), and 51.61 (6) of the statutes first apply to outpatient treatment consented to or received on the effective date of this subsection, regardless of whether consent for the treatment occurred or was sought prior to the effective date of this subsection.

(3) TRANSFERS OF TREATMENT. The treatment of sections 51.35 (3) (a), (b), and (g) and (4) (d) of the statutes first applies to transfers of treatment consented to on the effective date of this subsection, regardless of whether consent for the transfer was sought prior to the effective date of this subsection.

(4) DISCHARGE FROM INPATIENT FACILITIES. The treatment of sections 51.13 (7) (title) and (c) and 51.35 (4) (d) of the statutes, the renumbering and amendment of section 51.13 (7) (b) of the statutes, and the creation of section 51.13 (7) (b) 3. of the statutes first apply to discharges from inpatient facilities made on the effective date of this subsection, regardless of whether the discharge was sought prior to the effective date of this subsection.

SECTION 55. Effective date.

(1) This act takes effect on the first day of the 2nd month beginning after publication.