State of Wisconsin
2013 – 2014 LEGISLATURE

LRB–2669/P1
TJD:cjs:jm

In: 10/13/13

Due Mon. 10/14 as soon as possible

RMNR

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

LPS: Please delete the four star notes from the /1 version. They may be "hidden" but they need to be deleted. In the header, turn on "Show *** Notes?"; delete the four star notes; then in the header turn off "Show *** Notes?"

PB

SW

Stabilization and providing a penalty

AN ACT ***to amend*** 51.15 (7), 51.15 (9) and 51.20 (4); and ***to create*** 51.15 (5g), 51.15 (5j) and 51.20 (7) (ag) of the statutes; **relating to:** creating a mechanism for an interested person to request an emergency detention.

Analysis by the Legislative Reference Bureau

Insert analysis

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

CRIME tag

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

Insert 1-

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

SECTION 1. 51.15 (5g) of the statutes is created to read:

(CS) STABILIZATION

51.15 **(5g)** THIRD–PERSON REQUEST TO INITIATE EMERGENCY DETENTION. (a) Any person may contact the county department that is responsible for approving the need for an emergency detention (stabilization) in the individual's county of residence, request orally or in writing that the county department work with law enforcement to initiate an

emergency detention of an individual, and request that the county approve the need for an emergency detention under this section for that individual. Upon receiving that request, the county department shall notify the requesting person that they may formally make a request in writing that conforms with par. (b) and notify the requesting person where to obtain the form described in par. (b).

(b) Any person may submit a formal written request to the county department that is responsible for approving the need for an emergency detention in the individual's county of residence that the county department work with law enforcement to initiate, and that the county department approve the need for, an emergency detention under this section for an individual. The person shall make the formal request on a form approved by the department of justice and the department of health services that includes all of the following elements:

****NOTE: Which department should be required to create the form?

1. The requesting person's name, address, and contact information.

2. The name and address of the individual whom the requesting person is recommending for emergency detention.

3. The requesting person's relationship to the individual whom the requesting person is recommending for emergency detention.

4. A statement that the requesting person has cause to believe that the individual whom the requesting person is recommending for emergency detention is mentally ill, drug dependent, or developmentally disabled.

5. A statement that the requesting person has cause to believe that the individual whom the requesting person is recommending for emergency detention evidences behavior which manifests a substantial probability of physical harm to

himself or herself or to others, or which otherwise meets the criteria under sub. (1) (a). or behavior indicating a failure to satisfy basic needs

6. A statement describing specific recent dangerous behavior, including when and where the behavior occurred and an identification of persons who witnessed such behavior, if known by the requesting person.

Insert 3-6

****NOTE: The requested language included the phrase "if known by the requesting person" referring to the description of dangerous behavior. Presumably, an interested person would either have witnessed this behavior directly or know the witnesses who did, so I eliminated this language. Otherwise, a person who does not even know an individual may request that he or she be detained.

****NOTE: A statement of dangerous behavior would provide evidence of the criteria under s. 51.15 (1) (a) 1. to 3. for emergency detention but not under s. 51.15 (1) (a) 4. Is an interested person not allowed to seek emergency detention using s. 51.15 (1) (a) 4. as a basis?

(c) The county department shall respond to a formal request made under par. (b) within 24 hours of receiving the request, except that if the request relates to an individual in a hospital, the county department shall respond within 6 hours of receiving the request. Stabilization

(d) If, in response to a formal request made under par. (b), the county department does not agree to pursue or approve the need for an emergency detention under this section, or if the applicable law enforcement agency does not agree to initiate an emergency detention stabilization under this section, the county department shall respond in writing to the requesting person on a form approved by the department of justice and the department of health services and include all of the following in the response: created by the department of health services and

****NOTE: Which department should be required to create the form?

1. A statement of the county department's decision or law enforcement agency's decision not to initiate an emergency detention of the individual as requested under par. (b). stabilization

2. A statement of the reason for the decision not to initiate an emergency detention of the individual.

3. Information to the requesting party about how to initiate a judicially ordered emergency detention under sub. (5j) and directions on how to receive a copy of a form to petition for a judicially ordered emergency detention under sub. (5j) (c).

****NOTE: The description of the purpose of the request maintained the term "emergency detention" for what is judicially ordered under this new procedure. There is no evidence in the description or the requested language of how a stabilization is different from a detention, and in fact, the evaluation, diagnosis, and treatment provision is identical. Therefore, to eliminate confusion, I have incorporated this new procedure to request an emergency detention in the emergency detention section and have retained the term "emergency detention."

(e) If a formal request under par. (b) does not result in an emergency detention under this subsection or if the petition for a judicially ordered emergency detention is not granted under sub. (5j), then any information on the completed form under par. (b) that would reasonably identify the requesting person may not be released by any recipient of the request form without the consent of the requesting person.

(f) No person has any obligation to make a request to initiate an emergency detention under sub. (5g) or petition a court under sub. (5j).

****NOTE: I did not include the liability provision as it is already incorporated in s. 51.15. Is the remaining sentence intended to prevent someone who is harmed by an individual whose family members did not request an emergency detention from suing those family members? If so, I believe that needs to be stated explicitly.

SECTION 2. 51.15 (5j) of the statutes is created to read:

51.15 **(5j)** JUDICIALLY ORDERED EMERGENCY DETENTION (a) Any person may petition a court with appropriate jurisdiction to order that an individual be taken into custody for an emergency detention under this subsection.

(b) A person submitting a petition under par. (a) shall include in the petition all of the following:

Insert 5-1

1 2 (1). A statement that the person has cause to believe that the individual is
2 mentally ill, is drug dependent, or is developmentally disabled. The person is not
3 required to designate in the statement whether the individual is mentally ill or drug
4 dependent or developmentally disabled. The person shall allege that he or she has
5 cause to believe that the individual evidences one or more of those conditions.
6 3 (2). A statement that the person has cause to believe that the individual is
7 dangerous because the individual meets any of the criteria in sub. (1) (a) 1. to 4.

****NOTE: The request language included a cross-reference to the section pertaining to voluntary commitment, but I assume the intention was to reference the criteria for involuntary commitment. Since the description of the draft stated that the standards for emergency detention remain the same under this procedure, I am using the criteria for emergency detention as the standard for the judicially ordered emergency detention.

8 4 (3). Detailed, specific information supporting the beliefs under subds. 1. and 2.
9 and the names of persons observing or reporting the recent overt act, attempt, or
10 threat to act or omission.
11 5 (4). A statement describing current or past action that leads the person to believe
12 that the individual will not consent to or will withdraw consent to evaluation,
13 diagnosis, and treatment necessary to stabilize the individual and imminently
14 remove a substantial probability of harm to himself, herself, or others or a
15 substantial probability of physical impairment or injury to himself, herself, or
16 others.

Insert 5-16

****NOTE: Does the petition need to include the formal request document submitted by the requester and the response from the county agency? The information required for the formal request under sub. (5g) is different from the information required in the petition. Please note this may be a problem for the cost-shifting provisions.

****NOTE: There is a provision in s. 51.15 that makes it a felony to sign a statement of detention knowing that the information in the statement is false. Do you want a similar penalty for people submitting a formal request or filing a petition knowing that the information is false.

, with approval of

(c) The department of justice and the department of health services, shall develop a petition form for a person to use to request a judicially ordered emergency detention stabilization under this subsection that meets the requirements of par. (b). Insert 6-3

****NOTE: It may be more efficient to require only one department to develop the form and require that department to consult with, or obtain approval from, the other department. Also, do you want one of the departments to make the form available on its Internet site or by another method of distribution.

(d) Within 24 hours of the filing of a petition for an emergency detention stabilization, excluding Saturdays, Sundays, and legal holidays, the court shall either deny the petition or order that an individual be taken into custody for an emergency detention stabilization. The court shall order that an individual be taken into custody for an emergency detention stabilization only if the court finds cause to believe that the statements made in the petition are reliable; that the individual is mentally ill, drug dependent, or developmentally disabled, and that the individual is eligible for detention for stabilization under sub. (1) (a) 1. to 4. based upon specific recent overt acts, attempts, or threats to act, or omissions on a pattern of recent acts or omissions made by the individual. The court shall specify these findings in its order.

****NOTE: I am confused by what standard the court is using to detain the individuals under this paragraph. According to this subsection, the court is making a determination based solely on what the petitioner says. There is no hearing, correct? Is the court evaluating only the facts in the petition? Is the court also able to read the reasons by the county for not initiating an emergency detention? What if the petitioners are lying for criminal purposes or are mentally ill themselves? How will a court be able to determine that? Will an individual who is being sought to be emergently detained in this way have notice of this and be able to challenge the detention?

(e) An order by the court under par. (d) is a statement of emergency detention stabilization and has the same effect as a petition for commitment under s. 51.20. Notwithstanding the emergency detention stabilization procedures under subs. (4) and (5), if the court orders that an individual be taken into custody for an emergency detention stabilization under par. (d), the court shall schedule a probable cause hearing as provided in s. 51.20 (7) to take place no later than 72 hours following the order, excluding

if it determines that the timing is unreasonable or

Saturdays, ~~Sundays, and legal holidays,~~ except that the court may order the probable cause hearing to take place at a later time as provided in s. 51.20 (7). Insert 7-2

****NOTE: As far as I can understand what the requested language is designed to do, once the individual is detained under the judicially ordered emergency detention, then the procedures occur as they normally would following an emergency detention. That seems to be what the description of the draft anticipates. I have eliminated some requested language that, I believe, is unnecessary or confusing.

(f) The corporation counsel may represent the interests of the public in the conduct of the proceedings under this subsection and in the probable cause hearing following an emergency detention (Stabilization) ordered under this subsection, including the drafting of papers related to the action.

(g) If the court denies the person's petition that the individual be taken into custody for an emergency detention (Stabilization) under this subsection, the petitioning person (Petitioner) shall be responsible for all court costs. If the court orders that an individual be taken into custody for an emergency detention (Stabilization) and the petition followed a response under sub. (5g) (d) that the county department did not agree to pursue or approve the need for an emergency detention (Stabilization), then the county department shall pay for any court costs and any attorney fees of the petitioner incurred in filing and pursuing the petition under this subsection. If the court orders that an individual be taken into custody for an emergency detention (Stabilization) and the petition followed a response under sub. (5g) (d) that the applicable law enforcement agency did not agree to initiate an emergency detention (Stabilization), then the applicable law enforcement agency shall pay for any court costs and any attorney fees of the petitioner incurred in filing and pursuing the petition under this subsection.

****NOTE: I did not include in this draft the cost shifting provision for the probable cause hearing. The standard for the emergency detention and involuntary commitment are not identical so shifting costs to the "loser" may be unfair. Furthermore, an individual may receive sufficient treatment during the emergency detention to negate the need for involuntary commitment.

SECTION 3. 51.15 (7) of the statutes is amended to read:

51.15 **(7)** INTERCOUNTY AGREEMENTS. Counties may enter into contracts whereby one county agrees to conduct commitment hearings for individuals who are detained in that county but who are taken into custody under this section in another county. Such contracts shall include provisions for reimbursement to the county of detention for all reasonable direct and auxiliary costs of commitment proceedings conducted under this section and s. 51.20 by the county of detention concerning individuals taken into custody in the other county and shall include provisions to cover the cost of any voluntary or involuntary services provided under this chapter to the subject individual as a result of proceedings or conditional suspension of proceedings resulting from the notification of detention. Where there is such a contract binding the county where the individual is taken into custody and the county where the individual is detained, the statements of ~~detention~~ specified in subs. (4) ~~and~~, (5), and (5j) and the notification specified in sub. (4) shall be filed with the court having probate jurisdiction in the county of detention, unless the subject individual requests that the proceedings be held in the county in which the individual is taken into custody.

SECTION 4. 51.15 (9) of the statutes is amended to read:

51.15 **(9)** NOTICE OF RIGHTS. At the time of detention the individual shall be informed by the director of the facility or such person'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, the right to have an attorney provided at public expense, as provided under s. 51.60, and the right to remain silent and that the individual's statements may be used as a basis for commitment. The individual shall also be provided with a copy of the statement of emergency ~~detention~~ or a copy of the court's order under sub. (5j).

sub.(7)(ag) and

SECTION 5. 51.20 (4) of the statutes is amended to read:

51.20 **(4)** PUBLIC REPRESENTATION. Except as provided in ss. 51.15 (5j) (f), 51.42 (3) (ar) 1., and 51.437 (4m) (f), the corporation counsel shall represent the interests of the public in the conduct of all proceedings under this chapter, including the drafting of all necessary papers related to the action.

Insert 9-5

SECTION 6. 51.20 (7) (ag) of the statutes is created to read:

51.20 **(7)** (ag) For a probable cause hearing under this subsection after an emergency detention is is ordered by a court under s. 51.15 (5j), all of the following apply:

Stabilization

1. The petitioner, corporation counsel, or both may participate in the probable cause proceedings under this subsection and may draft and file any necessary papers related to the action.

2. If the court determines that there is probable cause to believe the individual meets the criteria for involuntary commitment under sub. (1) or (1m) and the corporation counsel did not actively advocate for a finding of probable cause, then the court shall order that the corporation counsel's county shall pay for all court costs related to the probable cause hearing and the attorney fees of the petitioner incurred pursuing the determination of probable cause. The court shall appoint a special counsel to serve in the role that would otherwise be served by corporation counsel for the remainder of proceedings pertaining to the individual under this section. All costs incurred by the special counsel shall be reimbursed by the county of the replaced corporation counsel.

(END)

Insert 9-23

INSERT ANALYSIS

Under current law, a law enforcement officer or certain other persons may take an individual into custody if the officer or other person has cause to believe that the individual is mentally ill, drug dependent, or developmentally disabled, and that the individual shows any of the following: 1) a substantial probability of physical harm to himself or herself as manifested by evidence of recent threats of or attempts at suicide or serious bodily harm; 2) a substantial probability of physical harm to other persons as manifested by evidence of recent homicidal or other violent behavior, or by evidence that others are placed in reasonable fear of violent behavior and serious physical harm, as evidenced by a recent overt act, attempt, or threat to do serious physical harm; 3) a substantial probability of physical impairment or injury to himself or herself due to impaired judgment, as manifested by evidence of a recent act or omission; or 4) due to mental illness or drug dependency, the inability to satisfy basic needs for nourishment, medical care, shelter, or safety without prompt and adequate treatment so that a substantial probability exists that death, serious physical injury, serious physical debilitation, or serious physical disease will imminently ensue unless the individual receives prompt and adequate treatment, as evidenced by behavior manifested by a recent act or omission (standards for emergency detention). The belief of the officer or other person must be based on a specific recent overt act, attempt or threat to act, or omission either observed by the officer or other person or reliably reported to the officer or other person. The county department of community programs in the county in which the individual was taken into custody must approve the need for detention, and for evaluation, diagnosis, and treatment if permitted, before the law enforcement officer or other person delivers the individual to the detention facility.

Under current law, in Milwaukee County, the law enforcement officer or other person must sign a statement of emergency detention that provides detailed, specific information on the basis for the belief that the individual meets the standards for emergency detention. The law enforcement office or other person, in Milwaukee County, delivers the individual to a detention facility along with the statement of emergency detention. Then the treatment director of the facility must determine within 24 hours whether the individual shall be detained or detained, evaluated, diagnosed, and treated, if permitted. The treatment director in Milwaukee County then may detain the individual for a period not to exceed 72 hours after delivery of the individual to the facility, excluding Saturdays, Sundays, and legal holidays. If the treatment director determines that the individual is not eligible for involuntary commitment, the treatment director must release the individual. If the treatment director determines that continued detention is appropriate the treatment director in Milwaukee County, must file the statement of detention, after supplementation if he or she desires, and notification of detention with the court having probate jurisdiction in the county in which the individual was taken into custody. The filing of the statement and notification has the same effect as a petition for involuntary commitment.

Under current law, in counties other than Milwaukee, the law enforcement officer or other person must sign the same statement of emergency detention containing the same information, except the statement is filed with the detention facility and immediately with the court. The filing of the statement with the court has the same effect as a petition for involuntary commitment. When the treatment director at the detention facility to which the individual was taken determines that grounds for detention no longer exist, the treatment director must discharge the individual. The individual may not be detained for more than a total of 72 hours, excluding Saturday, Sundays, and legal holidays, unless a probable cause hearing or protective placement hearing is held.

While an individual is under emergency detention in any county, the treatment facility may evaluate, diagnose, and treat the individual with the individual's consent under current law. Upon the detention of the individual, the director of the detention facility must inform, both orally and in writing, the individual of his or her right to contact an attorney and a member of his or her immediate family, the right to have an attorney provided at public expense, and the right to remain silent and that the individual's statements may be used as a basis for involuntary commitment. Current law requires that the individual be provided a copy of the statement of emergency detention.

Under current law, any individual who acts in accordance with the emergency detention statutes, including making a determination that an individual does not meet the standards for emergency detention, is not liable for actions taken in good faith. Any person, however, who signs a statement of emergency detention knowing that information in that statement is false is guilty of a felony and subject to a fine not to exceed $10,000 or imprisonment not to exceed 6 years, or both.

Under current law, within 72 hours of the individual's detention at the facility with some exceptions, the court must hold a hearing to determine whether there is probable cause to believe the allegations that the individual meets the standards for involuntary commitment are true. If an individual is not under detention, three persons may sign a petition for examination to have that individual detained for involuntary commitment directly, without going through the emergency detention procedure. An individual detained directly for involuntary commitment must also have a probable cause hearing within 72 hours of detention under current law. The procedure for the probable cause hearing and subsequent hearings are the same for individuals who have been detained for emergency detention and for individuals who have been detained for involuntary commitment.

Current law requires corporation counsel to represent the interest of the public in the probable cause hearing and most mental health proceedings. At the time of filing a petition for involuntary commitment, the court must assure that the individual is represented by an attorney by referring that individual to the state public defender, who appoints counsel for the individual without a determination of indigency. The probable cause hearing, the final involuntary commitment hearing, and other mental health related hearings must conform to due process and fair treatment including the right to open hearing, the right to request a closed hearing, the right to counsel, the right to present and cross–examine witnesses, the right to

remain silent, and the right to a jury trial if requested. If following the probable cause hearing, the court finds there is probable cause to believe the allegations that the individual meets the standards for involuntary commitment, the court must schedule a full hearing within a certain time limit to determine whether the individual will be involuntarily committed.

This bill substitutes the term "emergency stabilization" for the term "emergency detention" in the statutes. The bill also creates a new procedure for initiating an emergency stabilization, but does not replace the procedures under current law. The bill allows any person to contact the county department that is responsible for approving the need for emergency stabilization and request that the department work with law enforcement to initiate and approve an emergency stabilization for that individual. Upon receiving the request, the bill requires the county department to notify the requesting person that he or she may make a formal request.

Under the bill, a formal request for the county department and law enforcement to initiate and approve an emergency stabilization must be made on a form created by the Department of Health Services (DHS) and approved by the Department of Justice (DOJ). The form must include: 1) the requester's name, address, and contact information; 2) the name and address of the individual whom the requester is recommending for emergency stabilization; 3) the requester's relationship to the individual being recommended for emergency stabilization; 4) a statement that the requester has cause to believe that the individual being recommended for emergency stabilization is mentally ill, drug dependent, or developmentally disabled; 5) a statement that the requester has cause to believe that the individual being recommended for emergency stabilization evidences behavior which manifests a substantial probability of physical harm to himself, herself, or others or which otherwise meets the standards of emergency stabilization, which are the same as the standards of emergency detention under current law and terminology; 6) a statement describing specific recent dangerous behavior or behavior indicating a failure to satisfy basic needs, including when and where the behavior occurred and an identification of persons who witnessed the behavior, if known; and 7) a statement describing current or past action that leads the requester to believe that the individual will not consent to or will withdraw consent to treatment. The bill requires the county department to respond to a formal request for emergency stabilization within 24 hours after it receives the request, except that if the request relates to an individual in a hospital, the county department must respond within 6 hours. Under the bill, if a county department does not agree to approve, or if law enforcement does not agree to initiate, an emergency stabilization based on a formal request the county department must respond in writing to the requester on a certain form containing all of the following information: a statement of the county department's decision or the law enforcement agency's decision not to initiate the requested emergency stabilization; a statement of the reason for the decision not to initiate the requested emergency stabilization; and information about how the requester may initiate a judicially ordered emergency stabilization.

Any person may petition a court with appropriate jurisdiction to order that an individual be taken into custody for an emergency stabilization. A person submitting such a petition must include all of the following in the petition: 1) the name and address of the individual whom the petitioner is recommending for emergency stabilization and the petitioner's relationship to that individual; 2) a statement that the petitioner has cause to believe that the individual is mentally ill, is drug dependent, or is developmentally disabled; 3) a statement that the petitioner has cause to believe that the individual is dangerous or unable to satisfy basic needs because the individual meets any of the standards for emergency stabilization; 4) detailed, specific information describing the recent dangerous behavior or behavior indicating a failure to satisfy basic needs, supporting the beliefs that the individual satisfies the standards for emergency stabilization, and including the names of persons observing or reporting the recent overt act, attempt or threat to act, or omission; 5) a statement describing current or past action that leads the petitioner to believe that the individual will not consent to or will withdraw consent to treatment; and 6) a copy of the formal request for emergency stabilization and the county department's response, if the petitioner submitted a formal request.

The bill requires that, within 24 hours of filing the petition for emergency stabilization, the court shall either deny the petition or order an emergency stabilization. The court must order an emergency stabilization only if the court finds cause to believe that the statements made in the petition are reliable; that the individual is mentally ill, drug dependent, or developmentally disabled; and that the individual is eligible for emergency stabilization under the standards for emergency stabilization. The bill requires the court to specify these findings in its order. That order is a statement of emergency stabilization and has the same effect as a petition for involuntary commitment. If the court orders an emergency stabilization under the bill, the court must schedule the probable cause hearing for involuntary commitment to take place no later than 72 hours following the court's order for emergency stabilization, excluding Saturdays, Sundays, and legal holidays, with certain exceptions including if the court determines that timing is unreasonable. At the time of scheduling the probable cause hearing, the court shall assure that the individual under emergency stabilization is represented by an attorney by referring the individual to the state public defender, who must appoint an attorney for the individual without a determination of indigency.

Contrary to current law, corporation counsel is not required to participate in the petition for judicially ordered emergency stabilization or the probable cause hearing following the judicially ordered emergency stabilization. The corporation counsel, however, is allowed to represent the interests of the public in those proceedings. The petitioner is allowed to participate in the probable cause hearing, with or without corporation counsel. Under the bill, if the court determines there is probable cause to believe an individual meets the criteria for involuntary commitment and the corporation counsel did not actively advocate for a finding of probable cause, then the court shall order the corporation counsel's county to pay for all court costs and petitioner's attorney fees related to the determination of probable cause. The court then must appoint special counsel to serve in the role that would otherwise be served

by corporation counsel for the remainder of the proceedings pertaining to that individual. The bill requires that all costs incurred by special counsel be reimbursed by the replaced corporation counsel's county. The bill also requires, that if a statement of emergency stabilization is filed following a voluntary commitment, the corporation counsel to draft and file all papers and petitions necessary to support a finding of probable cause that the detained individual meets the standards for involuntary commitment.

An individual who is detained for an emergency stabilization after a court order under the bill has the same rights and given the same opportunity for evaluation, diagnosis, and treatment as an individual detained under a procedure existing under current law.

Under the bill, if the court denies a petition that an individual be taken into custody for emergency stabilization, the petitioner is responsible for all court costs. If the court orders an emergency stabilization based on a petition that was filed following a response to a formal request from the county department that either the county department or the law enforcement agency refused to initiate or approve an emergency stabilization, then whichever entity, the county department or law enforcement agency, that refused to act must pay for any court costs and the petitioner's attorney fees incurred in filing and pursuing the petition for emergency stabilization.

Under the bill, no person has an obligation to make a request to initiate any emergency stabilization or petition the court for an emergency stabilization. A person who does not make the request or file the petition is not liable for damages in a civil action. Under the bill, however, whoever submits a formal request for emergency stabilization or files a petition for judicially ordered emergency stabilization knowing that information contained in the request or petition is false is guilty of a felony and subject to a fine not to exceed $10,000 or imprisonment not to exceed 6 years, or both.

(END INSERT ANALYSIS)

INSERT 1–1

SECTION 1. 51.10 (5) (a) of the statutes is amended to read:

51.10 **(5)** (a) At the time of admission to an inpatient facility the individual being admitted shall be informed orally and in writing of his or her right to leave upon submission of a written request to the staff of the facility except when the director or such person's designee files a statement of emergency ~~detention~~ stabilization under s. 51.15 with the court by the end of the next day in which the court transacts business.

History: 1975 c. 430; 1977 c. 354, 428, 447; 1979 c. 336; 1985 a. 29 s. 3200 (56); 1985 a. 139, 176, 332; 1987 a. 366; 1995 a. 292; 2001 a. 61; 2005 a. 264, 387; 2007 a. 45.

SECTION 2. 51.10 (5) (c) of the statutes is amended to read:

51.10 **(5)** (c) Any patient or resident voluntarily admitted to an inpatient treatment facility shall be discharged on request, unless the treatment director or the treatment director's designee has reason to believe that the patient or resident is dangerous in accordance with a standard under s. 51.20 (1) (a) 2. or (am) and files a statement of emergency ~~detention~~ stabilization under s. 51.15 with the court by the end of the next day in which the court transacts business. The patient or resident shall be notified immediately when such a statement is to be filed. Prior to the filing of a statement, the patient or resident may be detained only long enough for the staff of the facility to evaluate the individual's condition and to file the statement of emergency ~~detention~~ stabilization. This time period may not exceed the end of the next day in which the court transacts business. Once a statement is filed, a patient or resident may be detained for an emergency stabilization as provided in s. 51.15 (1). The probable cause hearing required under s. 51.20 (7) shall be held within 72

hours after the request for discharge, excluding Saturdays, Sundays and legal holidays.

History: 1975 c. 430; 1977 c. 354, 428, 447; 1979 c. 336; 1985 a. 29 s. 3200 (56); 1985 a. 139, 176, 332; 1987 a. 366; 1995 a. 292; 2001 a. 61; 2005 a. 264, 387; 2007 a. 45.

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

51.13 **(3)** (b) 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 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 statement is filed for emergency ~~detention~~ stabilization 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).

History: 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104; 2003 a. 326; 2005 a. 444; 2007 a. 140.

SECTION 4. 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 admission under sub. (1); a statement has been filed for emergency ~~detention~~ stabilization; or a petition has been filed for emergency commitment, involuntary commitment, or protective placement.

History: 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104; 2003 a. 326; 2005 a. 444; 2007 a. 140.

SECTION 5. 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 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~~ stabilization, emergency commitment, involuntary commitment, or protective placement by the end of the next day in which the court transacts business.

History: 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104; 2003 a. 326; 2005 a. 444; 2007 a. 140.

SECTION 6. 51.13 (7) (b) 5. of the statutes is amended to read:

51.13 **(7)** (b) 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~~ stabilization, emergency commitment, involuntary commitment, or protective placement.

History: 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104; 2003 a. 326; 2005 a. 444; 2007 a. 140.

SECTION 7. 51.15 (title) of the statutes is amended to read:

51.15 (title) **Emergency ~~detention~~ stabilization.**

History: 1975 c. 430; 1977 c. 29, 428; 1979 c. 175, 300, 336, 355; 1985 a. 176; 1987 a. 366, 394; 1989 a. 56 s. 259; 1993 a. 451; 1995 a. 77, 175, 292; 1997 a. 35, 283; 2001 a. 16 ss. 1966d to 1966h, 4034zb to 4034zd, 4041d to 4041g; 2001 a 109; 2005 a. 264; 2007 a. 20; 2009 a. 28.

SECTION 8. 51.15 (2) (intro.) of the statutes is amended to read:

51.15 **(2)** FACILITIES FOR DETENTION. (intro.) The law enforcement officer or other person authorized to take a child into custody under ch. 48 or to take a juvenile into custody under ch. 938 shall transport the individual, or cause him or her to be transported, for detention for stabilization, if the county department of community programs in the county in which the individual was taken into custody approves the

for emergency stabilization

need for detention, and for evaluation, diagnosis, and treatment if permitted under sub. (8) or if a court orders an emergency stabilization under sub. (5j) to any of the following facilities:

History: 1975 c. 430; 1977 c. 29, 428; 1979 c. 175, 300, 336, 355; 1985 a. 176; 1987 a. 366, 394; 1989 a. 56 s. 259; 1993 a. 451; 1995 a. 77, 175, 292; 1997 a. 35, 283; 2001 a. 16 ss. 1966d to 1966h, 4034zb to 4034zd, 4041d to 4041g; 2001 a 109; 2005 a. 264; 2007 a. 20; 2009 a. 28.

SECTION 9. 51.15 (4) (a) of the statutes is amended to read:

51.15 **(4)** (a) In counties having a population of 500,000 or more, the law enforcement officer or other person authorized to take a child into custody under ch. 48 or to take a juvenile into custody under ch. 938 shall sign a statement of emergency ~~detention~~ stabilization which shall provide detailed specific information concerning the recent overt act, attempt, or threat to act or omission on which the belief under sub. (1) is based and the names of the persons observing or reporting the recent overt act, attempt, or threat to act or omission. The law enforcement officer or other person is not required to designate in the statement whether the subject individual is mentally ill, developmentally disabled, or drug dependent, but shall allege that he or she has cause to believe that the individual evidences one or more of these conditions. The law enforcement officer or other person shall deliver, or cause to be delivered, the statement to the ~~detention~~ facility where the individual is detained for emergency stabilization upon the delivery of the individual to it.

History: 1975 c. 430; 1977 c. 29, 428; 1979 c. 175, 300, 336, 355; 1985 a. 176; 1987 a. 366, 394; 1989 a. 56 s. 259; 1993 a. 451; 1995 a. 77, 175, 292; 1997 a. 35, 283; 2001 a. 16 ss. 1966d to 1966h, 4034zb to 4034zd, 4041d to 4041g; 2001 a 109; 2005 a. 264; 2007 a. 20; 2009 a. 28.

SECTION 10. 51.15 (4) (b) of the statutes is amended to read:

51.15 **(4)** (b) Upon delivery of the individual, the treatment director of the facility, or his or her designee, shall determine within 24 hours whether the individual shall be detained for stabilization, or shall be detained for stabilization, evaluated, diagnosed and treated, if evaluation, diagnosis, and treatment are permitted under sub. (8), and shall either release the individual or detain him or her

for a period not to exceed 72 hours after delivery of the individual, exclusive of Saturdays, Sundays and legal holidays. If the treatment director, or his or her designee, determines that the individual is not eligible for commitment under s. 51.20 (1) (a), the treatment director shall release the individual immediately, unless otherwise authorized by law. If the individual is detained for stabilization, the treatment director or his or her designee may supplement in writing the statement filed by the law enforcement officer or other person, and shall designate whether the subject individual is believed to be mentally ill, developmentally disabled, or drug dependent, if no designation was made by the law enforcement officer or other person. The director or designee may also include other specific information concerning his or her belief that the individual meets the standard for commitment. The treatment director or designee shall then promptly file the original statement together with any supplemental statement and notification of detention with the court having probate jurisdiction in the county in which the individual was taken into custody. The filing of the statement and notification has the same effect as a petition for commitment under s. 51.20.

History: 1975 c. 430; 1977 c. 29, 428; 1979 c. 175, 300, 336, 355; 1985 a. 176; 1987 a. 366, 394; 1989 a. 56 s. 259; 1993 a. 451; 1995 a. 77, 175, 292; 1997 a. 35, 283; 2001 a. 16 ss. 1966d to 1966h, 4034zb to 4034zd, 4041d to 4041g; 2001 a 109; 2005 a. 264; 2007 a. 20; 2009 a. 28.

SECTION 11. 51.15 (5) of the statutes is amended to read:

51.15 **(5)** DETENTION FOR STABILIZATION PROCEDURE; OTHER COUNTIES. In counties having a population of less than 500,000, the law enforcement officer or other person authorized to take a child into custody under ch. 48 or to take a juvenile into custody under ch. 938 shall sign a statement of emergency ~~detention~~ stabilization that shall provide detailed specific information concerning the recent overt act, attempt, or threat to act or omission on which the belief under sub. (1) is based and the names of persons observing or reporting the recent overt act, attempt, or threat to act or

omission. The law enforcement officer or other person is not required to designate in the statement whether the subject individual is mentally ill, developmentally disabled, or drug dependent, but shall allege that he or she has cause to believe that the individual evidences one or more of these conditions. The statement of emergency ~~detention~~ stabilization shall be filed by the officer or other person with the ~~detention~~ facility where the individual is detained for emergency stabilization at the time of admission, and with the court immediately thereafter. The filing of the statement has the same effect as a petition for commitment under s. 51.20. When, upon the advice of the treatment staff, the director of a facility specified in sub. (2) determines that the grounds for detention for stabilization no longer exist, he or she shall discharge the individual detained under this section. Unless a hearing is held under s. 51.20 (7) or 55.135, the subject individual may not be detained by the law enforcement officer or other person and the facility for more than a total of 72 hours, exclusive of Saturdays, Sundays, and legal holidays.

History: 1975 c. 430; 1977 c. 29, 428; 1979 c. 175, 300, 336, 355; 1985 a. 176; 1987 a. 366, 394; 1989 a. 56 s. 259; 1993 a. 451; 1995 a. 77, 175, 292; 1997 a. 35, 283; 2001 a. 16 ss. 1966d to 1966h, 4034zb to 4034zd, 4041d to 4041g; 2001 a 109; 2005 a. 264; 2007 a. 20; 2009 a. 28.

(END INSERT 1–1)

INSERT 3–6

7. A statement describing current or past action that leads the person to believe that the individual will not consent to or will withdraw consent to evaluation, diagnosis, and treatment necessary to stabilize the individual and imminently remove a substantial probability of harm to himself, herself, or others or a substantial probability of physical impairment or injury to himself, herself, or others.

(END INSERT 3–6)

INSERT 4–12

A person who does not make a request to initiate an emergency stabilitation under this subsection or petition the court under sub. (5j) is not liable for damages in a civil action.

2. This subsection and sub. (5j) do not mitigate the responsibility of law enforcement or a county department to evaluate individuals for initiation or approval of emergency stabilization in the absence of a request under this subsection or a petition under sub. (5j)

(END INSERT 4–12)

INSERT 5–1

1. The name and address of the individual whom the petitioner is recommending for emergency stabilization and the petitioner's relationship to that individual.

(END INSERT 5–1)

INSERT 5–16

6. If the petitioner submitted a formal request under sub. (5g) (b) requesting emergency stabilization of the individual, a copy of that formal request submitted under sub. (5g) (b) and a copy of the response under sub. (5g) (d).

(END INSERT 5–16)

INSERT 6–3

The department of justice shall make the petition form available on its Internet site. The department of health services shall provide access to the department of justice petition form through its Internet site.

(END INSERT 6–3)

INSERT 7-2

At the time of scheduling the hearing, the court shall assure that the individual under emergency stabilization is represented by adversary counsel by referring the individual to the state public defender, who shall appoint counsel for the individual without a determination of indigency, as provided in s. 51.60.

(END INSERT 7-2)

INSERT 8-17

SECTION 12. 51.15 (8) of the statutes is amended to read:

51.15 **(8)** EVALUATION, DIAGNOSIS AND TREATMENT. When an individual is detained for stabilization under this section, the director and staff of the treatment facility may evaluate, diagnose, and treat the individual during detention, if the individual consents. The individual has a right to refuse medication and treatment as provided in s. 51.61 (1) (g) and (h). The individual shall be advised of that right by the director of the facility or his or her designee, and a report of any evaluation and diagnosis and of all treatment provided shall be filed by that person with the court.

History: 1975 c. 430; 1977 c. 29, 428; 1979 c. 175, 300, 336, 355; 1985 a. 176; 1987 a. 366, 394; 1989 a. 56 s. 259; 1993 a. 451; 1995 a. 77, 175, 292; 1997 a. 35, 283; 2001 a. 16 ss. 1966d to 1966h, 4034zb to 4034zd, 4041d to 4041g; 2001 a 109; 2005 a. 264; 2007 a. 20; 2009 a. 28.

(END INSERT 8-17)

INSERT 8-25

SECTION 13. 51.15 (10) of the statutes is amended to read:

51.15 **(10)** VOLUNTARY PATIENTS. If an individual has been admitted to an approved treatment facility under s. 51.10 or 51.13, or has been otherwise admitted to such facility, the treatment director or his or her designee, if conditions exist for taking the individual into custody under sub. (1), may sign a statement of emergency ~~detention~~ stabilization and may detain for stabilization, or detain for stabilization,

evaluate, diagnose and treat the individual as provided in this section. In such case, the treatment director shall undertake all responsibilities that are required of a law enforcement officer under this section. The treatment director shall promptly file the statement with the court having probate jurisdiction in the county of detention as provided in this section.

History: 1975 c. 430; 1977 c. 29, 428; 1979 c. 175, 300, 336, 355; 1985 a. 176; 1987 a. 366, 394; 1989 a. 56 s. 259; 1993 a. 451; 1995 a. 77, 175, 292; 1997 a. 35, 283; 2001 a. 16 ss. 1966d to 1966h, 4034zb to 4034zd, 4041d to 4041g; 2001 a 109; 2005 a. 264; 2007 a. 20; 2009 a. 28.

SECTION 14. 51.15 (11m) of the statutes is amended to read:

51.15 **(11m)** TRAINING. Law enforcement agencies shall designate at least one officer authorized to take an individual into custody under this section who shall attend the in–service training on emergency ~~detention~~ stabilization and emergency protective placement procedures offered by a county department of community programs under s. 51.42 (3) (ar) 4. d., if the county department of community programs serving the law enforcement agency's jurisdiction offers an in–service training program.

History: 1975 c. 430; 1977 c. 29, 428; 1979 c. 175, 300, 336, 355; 1985 a. 176; 1987 a. 366, 394; 1989 a. 56 s. 259; 1993 a. 451; 1995 a. 77, 175, 292; 1997 a. 35, 283; 2001 a. 16 ss. 1966d to 1966h, 4034zb to 4034zd, 4041d to 4041g; 2001 a 109; 2005 a. 264; 2007 a. 20; 2009 a. 28.

SECTION 15. 51.15 (12) of the statutes is amended to read:

51.15 **(12)** PENALTY. Whoever signs a statement under sub. (4), (5) or (10) knowing the information contained therein to be false is guilty of a Class H felony. Whoever submits a formal request under sub. (5g) or files a petition under sub. (5j) knowing information contained in the request or petition is false is guilty of a Class H felony.

History: 1975 c. 430; 1977 c. 29, 428; 1979 c. 175, 300, 336, 355; 1985 a. 176; 1987 a. 366, 394; 1989 a. 56 s. 259; 1993 a. 451; 1995 a. 77, 175, 292; 1997 a. 35, 283; 2001 a. 16 ss. 1966d to 1966h, 4034zb to 4034zd, 4041d to 4041g; 2001 a 109; 2005 a. 264; 2007 a. 20; 2009 a. 28.

SECTION 16. 51.20 (2) (a) and (b) of the statutes are amended to read:

51.20 **(2)** (a) Upon the filing of a petition for examination, the court shall review the petition to determine whether an order of detention should be issued under this section. The subject individual shall be detained only if there is cause to believe that

the individual is mentally ill, drug dependent or developmentally disabled and the individual is eligible for commitment under sub. (1) (a) or (am) based upon specific recent overt acts, attempts or threats to act or on a pattern of recent acts or omissions made by the individual.

(b) If the subject individual is to be detained under an order issued under par. (a), a law enforcement officer shall present the subject individual with a notice of hearing, a copy of the petition under sub. (1) (e) and detention order and a written statement of the individual's right to an attorney, a jury trial if requested more than 48 hours prior to the final hearing, the standard upon which he or she may be committed under this section and the right to a hearing to determine probable cause for commitment within 72 hours after the individual arrives at the facility, excluding Saturdays, Sundays and legal holidays. The officer shall orally inform the individual that he or she is being taken into custody as the result of a petition and detention order issued under this chapter. If the individual is not to be detained, the law enforcement officer shall serve these documents on the subject individual and shall also orally inform the individual of these rights. The individual who is the subject of the petition under sub. (1), his or her counsel and, if the individual is a minor, his or her parent or guardian, if known, shall receive notice of all proceedings under this section. The court may also designate other persons to receive notices of hearings and rights under this chapter. Any such notice may be given by telephone. The person giving telephone notice shall place in the case file a signed statement of the time notice was given and the person to whom he or she spoke. The notice of time and place of a hearing shall be served personally on the subject of the petition, and

his or her attorney, within a reasonable time prior to the hearing to determine probable cause for commitment.

History: 1975 c. 430; 1977 c. 26, 29; 1977 c. 187 ss. 42, 43, 134, 135; 1977 c. 428 ss. 29 to 65, 115; 1977 c. 447, 449; Sup. Ct. Order, 83 Wis. 2d xiii; 1979 c. 32, 89; Sup. Ct. Order, eff. 1–1–80; 1979 c. 110 s. 60 (1); 1979 c. 175 s. 53; 1979 c. 300, 336, 356; 1981 c. 20, 367; 1981 c. 390 s. 252; 1983 a. 27, 219; 1983 a. 474 ss. 2 to 9m, 14; 1985 a. 29 ss. 1067 to 1071, 3200 (56), 3202 (56); 1985 a. 139, 176, 321, 332; 1987 a. 27; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 366, 394, 403; 1989 a. 31, 334; 1993 a. 98, 196, 227, 316, 451, 474; 1995 a. 77, 201, 268, 292, 440; Sup. Ct. Order No. 96–08, 207 Wis. 2d xv (1997); 1997 a. 35, 130, 237, 283; 1999 a. 83, 89, 162; 2001 a. 16 ss. 1966i to 1966n, 4034ze to 4034zh; 2001 a 38, 61, 109; 2003 a. 33, 50, 326; 2005 a. 22, 264, 277, 387; 2007 a. 20, 45, 116; 2009 a. 137, 258, 260; 2013 a. 20.

(END INSERT 8–25)

INSERT 9–5

If a statement of emergency stabilization is filed under s. 51.15 (10), the corporation counsel shall draft and file all papers and petitions necessary to support a finding of probable cause that the detained individual meets the criteria for involuntary commitment under sub. (1) or (1m).

(END INSERT 9–5)

INSERT 9–23

SECTION 17. 51.20 (18) (c) of the statutes is amended to read:

51.20 **(18)** (c) Expenses of the proceedings from the presentation of the statement of emergency ~~detention~~ stabilization or petition for commitment to the conclusion of the proceeding shall be allowed by the court and paid by the county from which the subject individual is detained for stabilization, committed, or released, in the manner that the expenses of a criminal prosecution are paid, as provided in s. 59.64 (1).

History: 1975 c. 430; 1977 c. 26, 29; 1977 c. 187 ss. 42, 43, 134, 135; 1977 c. 428 ss. 29 to 65, 115; 1977 c. 447, 449; Sup. Ct. Order, 83 Wis. 2d xiii; 1979 c. 32, 89; Sup. Ct. Order, eff. 1–1–80; 1979 c. 110 s. 60 (1); 1979 c. 175 s. 53; 1979 c. 300, 336, 356; 1981 c. 20, 367; 1981 c. 390 s. 252; 1983 a. 27, 219; 1983 a. 474 ss. 2 to 9m, 14; 1985 a. 29 ss. 1067 to 1071, 3200 (56), 3202 (56); 1985 a. 139, 176, 321, 332; 1987 a. 27; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 366, 394, 403; 1989 a. 31, 334; 1993 a. 98, 196, 227, 316, 451, 474; 1995 a. 77, 201, 268, 292, 440; Sup. Ct. Order No. 96–08, 207 Wis. 2d xv (1997); 1997 a. 35, 130, 237, 283; 1999 a. 83, 89, 162; 2001 a. 16 ss. 1966i to 1966n, 4034ze to 4034zh; 2001 a 38, 61, 109; 2003 a. 33, 50, 326; 2005 a. 22, 264, 277, 387; 2007 a. 20, 45, 116; 2009 a. 137, 258, 260; 2013 a. 20.

SECTION 18. 51.35 (2) of the statutes is amended to read:

51.35 **(2)** TRANSFER OF CERTAIN DEVELOPMENTALLY DISABLED PATIENTS. The department may authorize a transfer of a patient from a center for the developmentally disabled to a state treatment facility if the patient is mentally ill

and exhibits conduct which constitutes a danger as described in s. 51.20 (1) (a) 2. to himself or herself or to others in the treatment facility where he or she is present. The department shall file a statement of emergency ~~detention~~ stabilization with the committing court within 24 hours after receiving the person for emergency ~~detention~~ stabilization. The statement shall conform to the requirements specified in s. 51.15 (4).

History: 1975 c. 430 ss. 18, 81; 1977 c. 26, 29, 428; 1979 c. 110 s. 60 (1); 1981 c. 74 s. 2; 1981 c. 314 s. 144; 1983 a. 27, 441, 474; 1985 a. 29, 176, 332; 1987 a. 366, 403; 1989 a. 31, 56, 107; 1991 a. 39; 1993 a. 451; 1995 a. 27 ss. 3258m, 3259m, 9126 (19); 1995 a. 77, 292; 1997 a. 35; 1999 a. 9; 2001 a. 16 ss. 1967f to 1967j, 4034zi; 2003 a. 33; 2005 a. 22, 264, 344, 387, 444; 2007 a. 20 ss. 1818 to 1819, 9121 (6) (a); 2007 a. 96; 2009 a. 28; 2011 a. 32.

SECTION 19. 51.35 (3) (e) of the statutes is amended to read:

51.35 **(3)** (e) The department of corrections may authorize emergency transfer of an individual from a juvenile correctional facility or a secured residential care center for children and youth to a state treatment facility if there is cause to believe that the individual has a mental illness, drug dependency, or developmental disability and exhibits conduct that constitutes a danger as described under s. 51.20 (1) (a) 2. a., b., c., or d. to the individual or to others, has a mental illness, is dangerous, and satisfies the standard under s. 51.20 (1) (a) 2. e., or is an alcoholic and is dangerous as provided in s. 51.45 (13) (a) 1. and 2. The custodian of the sending juvenile correctional facility or secured residential care center for children and youth shall execute a statement of emergency ~~detention~~ stabilization or petition for emergency commitment for the individual and deliver it to the receiving state treatment facility. The department of health services shall file the statement or petition with the court within 24 hours after the subject individual is received for ~~detention~~ stabilization or commitment. The statement or petition shall conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After an emergency transfer is made, the director of the receiving facility may file a petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return the individual to the juvenile correctional facility or

secured residential care center for children and youth from which the transfer was made. As an alternative to this procedure, the procedure provided in s. 51.15 or 51.45 (12) may be used, except that no individual may be released without the approval of the court that directed confinement in the juvenile correctional facility or secured residential care center for children and youth.

History: 1975 c. 430 ss. 18, 81; 1977 c. 26, 29, 428; 1979 c. 110 s. 60 (1); 1981 c. 74 s. 2; 1981 c. 314 s. 144; 1983 a. 27, 441, 474; 1985 a. 29, 176, 332; 1987 a. 366, 403; 1989 a. 31, 56, 107; 1991 a. 39; 1993 a. 451; 1995 a. 27 ss. 3258m, 3259m, 9126 (19); 1995 a. 77, 292; 1997 a. 35; 1999 a. 9; 2001 a. 16 ss. 1967f to 1967j, 4034zi; 2003 a. 33; 2005 a. 22, 264, 344, 387, 444; 2007 a. 20 ss. 1818 to 1819, 9121 (6) (a); 2007 a. 96; 2009 a. 28; 2011 a. 32.

SECTION 20. 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 juvenile correctional facility or secured residential care center for children and youth, 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 alcoholism or drug dependency or a minor under 14 years of age 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, 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 juvenile correctional facility or secured residential care center for children and youth within 48 hours after submission of the request unless a

statement is filed for emergency ~~detention~~ stabilization or a petition is filed for emergency commitment, involuntary commitment, or protective placement.

History: 1975 c. 430 ss. 18, 81; 1977 c. 26, 29, 428; 1979 c. 110 s. 60 (1); 1981 c. 74 s. 2; 1981 c. 314 s. 144; 1983 a. 27, 441, 474; 1985 a. 29, 176, 332; 1987 a. 366, 403; 1989 a. 31, 56, 107; 1991 a. 39; 1993 a. 451; 1995 a. 27 ss. 3258m, 3259m, 9126 (19); 1995 a. 77, 292; 1997 a. 35; 1999 a. 9; 2001 a. 16 ss. 1967f to 1967j, 4034zi; 2003 a. 33; 2005 a. 22, 264, 344, 387, 444; 2007 a. 20 ss. 1818 to 1819, 9121 (6) (a); 2007 a. 96; 2009 a. 28; 2011 a. 32.

SECTION 21. 51.35 (8) (b) of the statutes is amended to read:

51.35 **(8)** (b) If a patient or resident who is detained for stabilization under s. 51.15, committed under s. 51.20 or transferred under sub. (3) does not return to the treatment facility by the time designated in the granting of the home visit or leave, the director of the treatment facility may request the sheriff of the county in which the individual is found to return the individual to the facility. The sheriff shall act in accordance with s. 51.39.

History: 1975 c. 430 ss. 18, 81; 1977 c. 26, 29, 428; 1979 c. 110 s. 60 (1); 1981 c. 74 s. 2; 1981 c. 314 s. 144; 1983 a. 27, 441, 474; 1985 a. 29, 176, 332; 1987 a. 366, 403; 1989 a. 31, 56, 107; 1991 a. 39; 1993 a. 451; 1995 a. 27 ss. 3258m, 3259m, 9126 (19); 1995 a. 77, 292; 1997 a. 35; 1999 a. 9; 2001 a. 16 ss. 1967f to 1967j, 4034zi; 2003 a. 33; 2005 a. 22, 264, 344, 387, 444; 2007 a. 20 ss. 1818 to 1819, 9121 (6) (a); 2007 a. 96; 2009 a. 28; 2011 a. 32.

SECTION 22. 51.37 (5) (b) of the statutes is amended to read:

51.37 **(5)** (b) The department of corrections may authorize an emergency transfer of an individual from a prison, jail or other criminal detention facility to a state treatment facility if there is cause to believe that the individual is mentally ill, drug dependent or developmentally disabled and exhibits conduct which constitutes a danger as described in s. 51.20 (1) (a) 2. a., b., c. or d. of physical harm to himself or herself or to others, or is mentally ill and satisfies the standard under s. 51.20 (1) (a) 2. e. or is an alcoholic and is dangerous as provided in s. 51.45 (13) (a) 1. and 2. The correctional custodian of the sending institution shall execute a statement of emergency ~~detention~~ stabilization or petition for emergency commitment for the individual and deliver it to the receiving state treatment facility. The department of health services shall file the statement or petition with the court within 24 hours after receiving the subject individual for detention. The statement or petition shall conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After an emergency transfer is made,

the emergency commitment procedure in s.

the director of the receiving facility may file a petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return the individual to the institution from which the transfer was made. As an alternative to this procedure, the emergency ~~detention~~ stabilization procedure in s. 51.15 or 51.45 (12) may be used, except that no prisoner may be released without the approval of the court which directed confinement in the institution.

History: 1975 c. 430; 1977 c. 418 ss. 360 to 362, 929 (55); 1977 c. 428 ss. 80, 81, 115; 1977 c. 447; 1977 c. 449 s. 497; 1979 c. 32, 117, 175, 221; 1983 a. 27, 359, 474; 1985 a. 29 ss. 1075 to 1077, 3200 (56), 3202 (23); 1985 a. 176; 1987 a. 307, 394; 1989 a. 31, 359; 1991 a. 39, 269; 1995 a. 27 s. 9126 (19); 1995 a. 292; 1997 a. 181, 283; 2001 a. 16 s. 4034zj; 2001 a. 103; 2007 a. 20 s. 9121 (6) (a).

SECTION 23. 51.42 (3) (ar) 4. d. of the statutes is amended to read:

51.42 **(3)** (ar) 4. d. Related research and staff in–service training, including periodic training on emergency ~~detention~~ stabilization procedures under s. 51.15, emergency protective services under s. 55.13, and emergency protective placement procedures under s. 55.135, for persons within the jurisdiction of the county department of community programs who are authorized to take individuals into custody under ss. 51.15 and 55.135. In developing in–service training on emergency ~~detention~~ stabilization and emergency protective placement procedures, the county department of community programs shall consult the county department of developmental disabilities services under s. 51.437 in counties where these departments are separate.

History: 1971 c. 125; 1973 c. 90, 198, 333, 336; 1975 c. 39, 198, 199, 224, 422; 1975 c. 428 s. 16; 1975 c. 430 ss. 24 to 31, 80; 1977 c. 26 ss. 37, 38, 75; 1977 c. 29 ss. 612 to 623p, 1656 (18); 1977 c. 193; 1977 c. 203 s. 106; 1977 c. 272; 1977 c. 354 s. 101; 1977 c. 418, 428, 447; 1979 c. 34, 117, 177, 221, 330, 355; 1981 c. 20 ss. 923 to 942, 2202 (20) (d), (n), (q); 1981 c. 93 ss. 105 to 122, 186; 1981 c. 329; 1983 a. 27 ss. 1106 to 1112, 2202 (20); 1983 a. 189 ss. 44, 329 (5); 1983 a. 192, 239, 365, 375, 524; 1985 a. 29, 120, 176; 1987 a. 3, 27, 199, 339, 366; 1989 a. 31, 122; 1991 a. 39, 274, 315; 1993 a. 16, 437, 445; 1995 a. 27 ss. 3260 to 3262, 9126 (19), 9145 (1); 1995 a. 64, 77, 92, 201, 224, 276, 352, 417; 1997 a. 27, 164, 237, 268; 1999 a. 9; 2001 a. 10, 16, 38; 2003 a. 320; 2005 a. 264, 388, 431, 434; 2007 a. 20 ss. 1819m to 1821, 9121 (6) (a); 2007 a. 45, 97; 2009 a. 28, 180, 276, 334; 2011 a. 32, 126.

SECTION 24. 154.13 (2) (c) of the statutes is amended to read:

154.13 **(2)** (c) The court and all parties involved in proceedings in this state for adjudication of incompetency and appointment of a guardian for the declarant, for

In sec. Ins 15-18

emergency ~~detention~~ stabilization under s. 51.15, for involuntary commitment under s. 51.20, or for protective placement or protective services under ch. 55.

History: 1991 a. 281; 2005 a. 387.

SECTION 25. 155.65 (2) (c) of the statutes is amended to read:

155.65 **(2)** (c) The court and all parties involved in proceedings in this state for adjudication of incompetency and appointment of a guardian for the principal, for emergency ~~detention~~ stabilization under s. 51.15, for involuntary commitment under s. 51.20, or for protective placement or protective services under ch. 55.

History: 1991 a. 281; 2005 a. 387.

SECTION 26. 165.85 (4) (b) 1d. b. of the statutes is amended to read:

165.85 **(4)** (b) 1d. b. Training on emergency ~~detention~~ stabilization standards and procedures under s. 51.15, emergency protective placement standards and procedures under s. 55.135, and information on mental health and developmental disabilities agencies and other resources that may be available to assist the officer in interpreting the emergency ~~detention~~ stabilization and emergency protective placement standards, making emergency ~~detentions~~ stabilizations and emergency protective placements, and locating appropriate facilities for the emergency ~~detentions~~ stabilizations and emergency protective placements of persons.

History: 1973 c. 90, 333; 1975 c. 94 s. 91 (11); 1977 c. 29, 418; 1979 c. 111; 1981 c. 20; 1983 a. 27; 1985 a. 29, 260; 1987 a. 237, 366, 394; 1989 a. 31, 291; 1991 a. 39; 1993 a. 16, 167, 213, 399, 407, 460, 482, 491; 1995 a. 201, 225, 349; 1997 a. 27, 88, 191; 1999 a. 9; 2001 a. 16, 109; 2005 a. 60, 264, 344, 414; 2007 a. 20, 27, 97, 130; 2009 a. 28, 180; 2011 a. 29.

SECTION 27. 165.86 (2) (b) of the statutes is amended to read:

165.86 **(2)** (b) Organize a program of training, which shall encourage utilization of existing facilities and programs through cooperation with federal, state, and local agencies and institutions presently active in this field. Priority shall be given to the establishment of the statewide preparatory and recertification training programs described in sub. (1), but the department shall cooperate in the creation and operation of other advanced and special courses, including courses

relating to emergency ~~detention~~ stabilization of persons under s. 51.15 and emergency protective placement under s. 55.135, that meet the curriculum standards recommended by the board. The department may satisfy the requirement for cooperating in the development of special courses relating to emergency ~~detention~~ stabilization and emergency protective placement by cooperating with county departments of community programs in the development of these courses under s. 51.42 (3) (ar) 4. d. The department shall keep appropriate records of all such training courses given in the state and the results thereof in terms of persons attending, agencies represented, and, where applicable, individual grades given.

History: 1985 a. 29; 1987 a. 366; 1989 a. 31; 1993 a. 460; 1997 a. 88; 2005 a. 264; 2007 a. 97.

SECTION 28. 609.65 (1) (intro.) of the statutes is amended to read:

609.65 **(1)** (intro.) If an enrollee of a limited service health organization, preferred provider plan, or defined network plan is examined, evaluated, or treated for a nervous or mental disorder pursuant to a court order under s. 880.33 (4m) or (4r), 2003 stats., an emergency ~~detention~~ stabilization under s. 51.15, a commitment or a court order under s. 51.20, an order for protective placement or protective services under ch. 55, an order under s. 55.14 or 55.19 (3) (e), or an order under ch. 980, then, notwithstanding the limitations regarding participating providers, primary providers, and referrals under ss. 609.01 (2) to (4) and 609.05 (3), the limited service health organization, preferred provider plan, or defined network plan shall do all of the following:

History: 1987 a. 366; 1993 a. 316, 479; 1995 a. 27; 1997 a. 237; 2001 a. 16; 2005 a. 264, 387; 2007 a. 45.

SECTION 29. 609.65 (1) (b) 2. of the statutes is amended to read:

609.65 **(1)** (b) 2. The service is provided pursuant to an emergency ~~detention~~ stabilization under s. 51.15 or on an emergency basis to a person who is committed under s. 51.20 and the provider notifies the limited service health organization,

preferred provider plan, or defined network plan within 72 hours after the initial provision of the service.

History: 1987 a. 366; 1993 a. 316, 479; 1995 a. 27; 1997 a. 237; 2001 a. 16; 2005 a. 264, 387; 2007 a. 45.

SECTION 30. 938.20 (5) (title) of the statutes is amended to read:

938.20 **(5)** (title) EMERGENCY ~~DETENTION~~ STABILIZATION OF JUVENILE.

History: 1995 a. 77; 1997 a. 35; 2001 a. 16; 2005 a. 344; 2009 a. 94.

SECTION 31. 977.05 (4) (i) 4. of the statutes is amended to read:

977.05 **(4)** (i) 4. Cases involving persons subject to emergency ~~detention~~ stabilization or involuntary civil commitment under ch. 51.

History: 1977 c. 29; 1979 c. 34, 352, 356; 1981 c. 20, 27, 289; 1983 a. 377; 1987 a. 27; 1989 a. 12, 31, 56, 334; 1991 a. 263, 269; 1993 a. 318, 437, 451, 479, 481; 1995 a. 27, 77; 1997 a. 35, 283; 2001 a. 16, 61, 103, 109; 2005 a. 264; 2005 a. 443 s. 265; 2007 a. 20; 2009 a. 28; 2011 a. 38.

(END INSERT 9–23)

Insert

Insert Ins 15-18

Section #. 55.135 (6) of the statutes is amended to read:

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

History: 2005 a. 264 ss. 144 to 149, 164; 2005 a. 388 s. 165; 2007 a. 20, 45; 2009 a. 180.

Parisi, Lori

From: Florian, Mark
Sent: Tuesday, October 15, 2013 9:41 AM
To: LRB.Legal
Subject: Draft Review: LRB -2669/1 Topic: Mechanism for interested party to pursue an emergency stabilization

Please Jacket LRB -2669/1 for the ASSEMBLY.