



State of Wisconsin
2017 - 2018 LEGISLATURE

January 2017 Special Session

LRB-1910/1

TJD:amn

SENATE BILL 5

February 21, 2017 - Introduced by COMMITTEE ON SENATE ORGANIZATION, Senators DARLING, VUKMIR, HARS DORF, TESTIN, OLSEN, WANGGAARD, L. TAYLOR, WIRCH and LASEE, cosponsored by Representatives NYGREN, E. BROOKS, VANDERMEER, TRANEL, RIPP, QUINN, PETRYK, KLEEFISCH, SWEARINGEN, SKOWRONSKI, FIELDS, KULP, ALLEN, SPIROS, FELZKOWSKI, MURSAU, HORLACHER, ROHRKASTE, TUSLER, EDMING, KRUG, PETERSEN, JAGLER, RODRIGUEZ, BORN, MURPHY, BALLWEG, GENRICH, BERNIER and KNODL, by request of Governor Scott Walker. Referred to Committee on Health and Human Services.

1 **AN ACT to amend** 46.031 (2r) (a) 3., 46.04 (1) (b), 46.28 (1) (b), 48.02 (5g), 48.20
2 (6), 48.203 (5), 49.45 (25) (am) 5., 51.01 (8), 51.08, 51.09, 51.10 (3), 51.20 (16) (a),
3 51.20 (17), 51.35 (3) (c), 51.35 (3) (e), 51.37 (5) (a), 51.37 (5) (b), 51.42 (3) (ar) 2.,
4 51.45 (title), (1), (2) (d), (f) and (g), (3) (b), (4) (a), (b), (c), (d), (e), (f), (g), (h), (j),
5 (k), (L), (m), (o), (p) and (q), (7) (a) and (c), (9) (intro.), (10) (title), (a), (am), (c)
6 and (e), (11) (title), (b), (bm) and (d), (12) (a) and (c) 4., (13) (a) (intro.) and 1. to
7 4. and (b) 4., (14) (a), (15) (c) and (19), 101.121 (4) (b), 301.031 (2r) (a) 3., 302.38
8 (1), 346.65 (2g) (b), 346.65 (2i), 782.01 (2), 938.02 (5g) and 938.20 (6); and **to**
9 **create** 51.01 (8b) of the statutes; **relating to:** prevention and control of,
10 emergency and involuntary commitment for, and treatment programs and
11 services for drug dependence.

Analysis by the Legislative Reference Bureau

This bill extends comprehensive programs established by the Department of Health Services, voluntary treatment, treatment and other services, certain emergency and involuntary commitment procedures, and civil rights among other services to those persons who are drug dependent. Currently, those provisions and

services apply only to alcoholics and those who are intoxicated as a result of the use of alcohol.

The current emergency detention criteria and procedures for alcoholics and intoxicated persons, which are different from the traditional emergency detention criteria and procedures, specify that either an intoxicated person who has threatened, attempted, or inflicted physical harm on himself or herself or another and is likely to inflict physical harm unless committed or a person incapacitated by alcohol may be committed and brought to a facility for emergency treatment upon the petition of an individual and pending a preliminary hearing, which the court must schedule within 48 hours of receipt of the petition. Currently, three adults may petition the court for involuntary commitment of a person for use of alcohol, which is a separate procedure from a traditional involuntary commitment procedure. The petition for involuntary commitment must 1) allege habitual lack of self-control as to the use of alcohol to the extent that health is substantially impaired or endangered and social or economic functioning is substantially disrupted; 2) allege that the person's condition is evidenced by a pattern of conduct that is dangerous to the person or others; 3) state that the person is a child or state facts sufficient for a determination of indigency; 4) be supported by the affidavit of each petitioner who has personal knowledge of the factual basis for the allegations; and 5) contain a statement of each petitioner who does not have personal knowledge for the basis of his or her belief. The court must set a preliminary hearing on the petition to determine whether there is probable cause to believe that the allegations in the petition are true and then, if probable cause is found, must set a full hearing on the involuntary commitment. The bill extends these emergency and involuntary commitment procedures to persons who have drug dependence, who are incapacitated by use of other drugs, and who habitually lack self-control as to the use of drugs. The bill does not change the current criteria or procedures for involuntary commitment of a drug dependent person under the traditional involuntary commitment for treatment provision.

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

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

1 **SECTION 1.** 46.031 (2r) (a) 3. of the statutes is amended to read:

2 46.031 (2r) (a) 3. Is for the treatment of alcoholics or persons who are drug
3 dependent in treatment facilities which have not been approved by the department
4 in accordance with s. 51.45 (8).

5 **SECTION 2.** 46.04 (1) (b) of the statutes is amended to read:

1 46.04 (1) (b) “Drug dependent” has the meaning specified under s. 51.01 (8)
2 (8b).

3 **SECTION 3.** 46.28 (1) (b) of the statutes is amended to read:

4 46.28 (1) (b) “Chronically disabled” means any person who is alcoholic,
5 developmentally disabled, drug dependent, or mentally ill, as defined in s. 51.01 (1),
6 (5), ~~(8)~~ (8b), and (13), or any person who is physically disabled.

7 **SECTION 4.** 48.02 (5g) of the statutes is amended to read:

8 48.02 **(5g)** “Drug dependent” has the meaning given in s. 51.01 ~~(8)~~ (8b).

9 **SECTION 5.** 48.20 (6) of the statutes is amended to read:

10 48.20 **(6)** If the child is believed to be an intoxicated person who has threatened,
11 attempted, or inflicted physical harm on himself or herself or on another and is likely
12 to inflict such physical harm unless committed, or is incapacitated by alcohol or
13 another drug, the person taking the child into physical custody, the intake worker,
14 or other appropriate person shall proceed under s. 51.45 (11).

15 **SECTION 6.** 48.203 (5) of the statutes is amended to read:

16 48.203 **(5)** If the adult expectant mother is believed to be an intoxicated person
17 who has threatened, attempted, or inflicted physical harm on herself or on another
18 and is likely to inflict such physical harm unless committed, or is incapacitated by
19 alcohol or another drug, the person taking the adult expectant mother into physical
20 custody, the intake worker, or other appropriate person shall proceed under s. 51.45
21 (11).

22 **SECTION 7.** 49.45 (25) (am) 5. of the statutes is amended to read:

23 49.45 **(25)** (am) 5. Is drug dependent, as defined under s. 51.01 ~~(8)~~ (8b).

24 **SECTION 8.** 51.01 (8) of the statutes is amended to read:

1 51.01 (8) “Drug dependent dependence” means a ~~person who uses~~ disease that
2 is characterized by the dependency of a person on one or more drugs to the extent that
3 the person’s health is substantially impaired or his or her social or economic
4 functioning is substantially disrupted.

5 **SECTION 9.** 51.01 (8b) of the statutes is created to read:

6 51.01 (8b) “Drug dependent” means suffering from drug dependence.

7 **SECTION 10.** 51.08 of the statutes is amended to read:

8 **51.08 Milwaukee County Mental Health Complex.** Any county having a
9 population of 500,000 or more may, pursuant to s. 46.17, establish and maintain a
10 county mental health complex. The county mental health complex shall be a hospital
11 devoted to the detention and care of drug addicts, alcoholics, chronic patients, and
12 mentally ill persons whose mental illness is acute. Such hospital shall be governed
13 pursuant to s. 46.21. Treatment of alcoholics and persons who are drug dependent
14 at the county mental health complex is subject to approval by the department under
15 s. 51.45 (8). The county mental health complex established pursuant to this section
16 is subject to rules promulgated by the department concerning hospital standards.
17 The county board may not sell the county mental health complex under this section
18 without approval of the Milwaukee County mental health board.

19 **SECTION 11.** 51.09 of the statutes is amended to read:

20 **51.09 County hospitals.** Any county having a population of less than 500,000
21 may establish a hospital or facilities for the detention and care of mentally ill
22 persons, alcoholics, and drug addicts; and in connection therewith a hospital or
23 facility for the care of cases afflicted with pulmonary tuberculosis. County hospitals
24 established pursuant to this section are subject to rules promulgated by the
25 department concerning hospital standards, including standards for alcoholic

1 treatment facilities under s. 51.45 (8) for alcoholics and persons who are drug
2 dependent.

3 **SECTION 12.** 51.10 (3) of the statutes is amended to read:

4 51.10 (3) Voluntary admission of adult alcoholics and adults who are drug
5 dependent shall be in accordance with s. 51.45 (10).

6 **SECTION 13.** 51.20 (16) (a) of the statutes is amended to read:

7 51.20 (16) (a) Except in the case of ~~alcoholic~~ commitments under s. 51.45 (13),
8 any patient who is involuntarily committed for treatment under this chapter, may
9 on the patient's own verified petition, except in the case of a minor who is under 14
10 years of age, or on the verified petition of the patient's guardian, relative, friend, or
11 any person providing treatment under the order of commitment, request a
12 reexamination or request the court to modify or cancel an order of commitment.

13 **SECTION 14.** 51.20 (17) of the statutes is amended to read:

14 51.20 (17) RIGHT TO REEVALUATION. With the exception of ~~alcoholic~~
15 commitments under s. 51.45 (13), every patient committed involuntarily to a board
16 under this chapter shall be reevaluated by the treatment staff or visiting physician
17 within 30 days after the commitment, and within 3 months after the initial
18 reevaluation, and again thereafter at least once each 6 months for the purpose of
19 determining whether such patient has made sufficient progress to be entitled to
20 transfer to a less restrictive facility or discharge. The findings of such reevaluation
21 shall be written and placed with the patient's treatment record, and a copy shall be
22 sent to the board ~~which~~ that has responsibility for the patient and to the committing
23 court.

24 **SECTION 15.** 51.35 (3) (c) of the statutes is amended to read:

1 51.35 (3) (c) A licensed psychologist of a juvenile correctional facility or a
2 secured residential care center for children and youth or a licensed physician of the
3 department of corrections, who has reason to believe that any individual confined in
4 the juvenile correctional facility or secured residential care center for children and
5 youth, in his or her opinion, has a mental illness, drug dependency, or developmental
6 disability and is dangerous as described in s. 51.20 (1) (a) 2., or ~~is an alcoholic and~~
7 ~~is dangerous and is an alcoholic or a person who is drug dependent~~ as described in
8 s. 51.45 (13) (a) 1. and 2., shall file a written report with the superintendent of the
9 juvenile correctional facility or secured residential care center for children and
10 youth, stating the nature and basis of the belief. If the superintendent, upon review
11 of the allegations in the report, determines that transfer is appropriate, he or she
12 shall file a petition according to s. 51.20 or 51.45 in the court assigned to exercise
13 jurisdiction under chs. 48 and 938 of the county where the juvenile correctional
14 facility or secured residential care center for children and youth is located. The court
15 shall hold a hearing according to procedures provided in s. 51.20 or 51.45 (13).

16 **SECTION 16.** 51.35 (3) (e) of the statutes is amended to read:

17 51.35 (3) (e) The department of corrections may authorize emergency transfer
18 of an individual from a juvenile correctional facility or a secured residential care
19 center for children and youth to a state treatment facility if there is cause to believe
20 that the individual has a mental illness, drug dependency, or developmental
21 disability and exhibits conduct that constitutes a danger as described under s. 51.20
22 (1) (a) 2. a., b., c., or d. to the individual or to others, has a mental illness, is dangerous,
23 and satisfies the standard under s. 51.20 (1) (a) 2. e., or ~~is an alcoholic and is~~
24 ~~dangerous and is an alcoholic or a person who is drug dependent~~ as provided in s.
25 51.45 (13) (a) 1. and 2. The custodian of the sending juvenile correctional facility or

1 secured residential care center for children and youth shall execute a statement of
2 emergency detention or petition for emergency commitment for the individual and
3 deliver it to the receiving state treatment facility. The department of health services
4 shall file the statement or petition with the court within 24 hours after the subject
5 individual is received for detention or commitment. The statement or petition shall
6 conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After an emergency transfer is made,
7 the director of the receiving facility may file a petition for continued commitment
8 under s. 51.20 (1) or 51.45 (13) or may return the individual to the juvenile
9 correctional facility or secured residential care center for children and youth from
10 which the transfer was made. As an alternative to this procedure, the procedure
11 provided in s. 51.15 or 51.45 (12) may be used, except that no individual may be
12 released without the approval of the court that directed confinement in the juvenile
13 correctional facility or secured residential care center for children and youth.

14 **SECTION 17.** 51.37 (5) (a) of the statutes is amended to read:

15 51.37 (5) (a) When a licensed physician or licensed psychologist of a state
16 prison, of a county jail or of the department of corrections reports in writing to the
17 officer in charge of a jail or institution that any prisoner is, in his or her opinion,
18 mentally ill, drug dependent, or developmentally disabled and is appropriate for
19 treatment as described in s. 51.20 (1), or ~~is an alcoholic and is dangerous~~ and is an
20 alcoholic or a person who is drug dependent as described in s. 51.45 (13) (a) 1. and
21 2.; or that the prisoner is mentally ill, drug dependent, developmentally disabled or
22 is an alcoholic and is in need of psychiatric or psychological treatment, and that the
23 prisoner voluntarily consents to a transfer for treatment, the officer shall make a
24 written report to the department of corrections which may transfer the prisoner if
25 a voluntary application is made and the department of health services consents. If

1 voluntary application is not made, the department of corrections may file a petition
2 for involuntary commitment under s. 51.20 (1) or 51.45 (13). Any time spent by a
3 prisoner in an institution designated under sub. (3) or s. 51.37 (2), 1983 stats., shall
4 be included as part of the individual's sentence.

5 **SECTION 18.** 51.37 (5) (b) of the statutes is amended to read:

6 51.37 (5) (b) The department of corrections may authorize an emergency
7 transfer of an individual from a prison, jail or other criminal detention facility to a
8 state treatment facility if there is cause to believe that the individual is mentally ill,
9 drug dependent or developmentally disabled and exhibits conduct which constitutes
10 a danger as described in s. 51.20 (1) (a) 2. a., b., c. or d. of physical harm to himself
11 or herself or to others, or is mentally ill and satisfies the standard under s. 51.20 (1)
12 (a) 2. e. ~~or is an alcoholic and is dangerous~~ and is an alcoholic or a person who is drug
13 dependent as provided in s. 51.45 (13) (a) 1. and 2. The correctional custodian of the
14 sending institution shall execute a statement of emergency detention or petition for
15 emergency commitment for the individual and deliver it to the receiving state
16 treatment facility. The department of health services shall file the statement or
17 petition with the court within 24 hours after receiving the subject individual for
18 detention. The statement or petition shall conform to s. 51.15 (4) or (5) or 51.45 (12)
19 (b). After an emergency transfer is made, the director of the receiving facility may
20 file a petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return
21 the individual to the institution from which the transfer was made. As an alternative
22 to this procedure, the emergency detention procedure in s. 51.15 or 51.45 (12) may
23 be used, except that no prisoner may be released without the approval of the court
24 which directed confinement in the institution.

25 **SECTION 19.** 51.42 (3) (ar) 2. of the statutes is amended to read:

1 51.42 (3) (ar) 2. Enter into contracts for the use of any facility as an approved
2 public treatment facility under s. 51.45 for the treatment of alcoholics or persons who
3 are drug dependent if the county department of community programs deems it to be
4 an effective and economical course to follow.

5 **SECTION 20.** 51.45 (title), (1), (2) (d), (f) and (g), (3) (b), (4) (a), (b), (c), (d), (e),
6 (f), (g), (h), (j), (k), (L), (m), (o), (p) and (q), (7) (a) and (c), (9) (intro.), (10) (title), (a),
7 (am), (c) and (e), (11) (title), (b), (bm) and (d), (12) (a) and (c) 4., (13) (a) (intro.) and
8 1. to 4. and (b) 4., (14) (a), (15) (c) and (19) of the statutes are amended to read:

9 **51.45 (title) Prevention and control of alcoholism and drug**
10 **dependence. (1) DECLARATION OF POLICY.** It is the policy of this state that alcoholics,
11 persons who are drug dependent, and intoxicated persons may not be subjected to
12 criminal prosecution because of their consumption of alcohol beverages or other
13 drugs but rather should be afforded a continuum of treatment in order that they may
14 lead normal lives as productive members of society.

15 **(2) (d)** “Incapacitated by alcohol or another drug” means that a person, as a
16 result of the use of or withdrawal from alcohol or another drug, is unconscious or has
17 his or her judgment otherwise so impaired that he or she is incapable of making a
18 rational decision, as evidenced objectively by such indicators as extreme physical
19 debilitation, physical harm or threats of harm to himself or herself or to any other
20 person, or to property.

21 (f) “Intoxicated person” means a person whose mental or physical functioning
22 is substantially impaired as a result of the use of alcohol, a controlled substance, a
23 controlled substance analog, or another drug.

24 (g) “Treatment” means the broad range of emergency, outpatient, intermediate,
25 and inpatient services and care, including diagnostic evaluation, medical, surgical,

1 psychiatric, psychological, and social service care, vocational rehabilitation and
2 career counseling, which may be extended to alcoholics, persons who are drug
3 dependent, and intoxicated persons, and psychiatric, psychological and social service
4 care which may be extended to their families. Treatment may also include, but shall
5 not be replaced by, physical detention of persons, in an approved treatment facility,
6 who are involuntarily committed or detained under sub. (12) or (13).

7 (3) (b) Make contracts necessary or incidental to the performance of its duties
8 and the execution of its powers, including contracts with public and private agencies,
9 organizations, and individuals to pay them for services rendered or furnished to
10 alcoholics, persons who are drug dependent, or intoxicated persons.

11 (4) (a) Develop, encourage and foster statewide, regional, and local plans and
12 programs for the prevention of alcoholism and drug dependence and treatment of
13 alcoholics, persons who are drug dependent, and intoxicated persons in cooperation
14 with public and private agencies, organizations, and individuals and provide
15 technical assistance and consultation services for these purposes.

16 (b) Coordinate the efforts and enlist the assistance of all public and private
17 agencies, organizations and individuals interested in prevention of alcoholism and
18 drug dependence and treatment of alcoholics, persons who are drug dependent, and
19 intoxicated persons.

20 (c) Assure that the county department provides treatment for alcoholics,
21 persons who are drug dependent, and intoxicated persons in county, town and
22 municipal institutions for the detention and incarceration of persons charged with
23 or convicted of a violation of a state law or a county, town or municipal ordinance.

24 (d) Cooperate with the department of public instruction, local boards of
25 education, schools, including tribal schools, as defined in s. 115.001 (15m), police

1 departments, courts, and other public and private agencies, organizations, and
2 individuals in establishing programs for the prevention of alcoholism and drug
3 dependence and treatment of alcoholics, persons who are drug dependent, and
4 intoxicated persons, and preparing curriculum materials thereon for use at all levels
5 of school education.

6 (e) Prepare, publish, evaluate and disseminate educational material dealing
7 with the nature and effects of alcohol and other drugs.

8 (f) Develop and implement and assure that county departments develop and
9 implement, as an integral part of treatment programs, an educational program for
10 use in the treatment of alcoholics, persons who are drug dependent, and intoxicated
11 persons, which program shall include the dissemination of information concerning
12 the nature and effects of alcohol and other drugs.

13 (g) Organize and foster training programs for all persons engaged in treatment
14 of alcoholics, persons who are drug dependent, and intoxicated persons.

15 (h) Sponsor and encourage research into the causes and nature of alcoholism
16 and drug dependence and treatment of alcoholics, persons who are drug dependent,
17 and intoxicated persons, and serve as a clearinghouse for information relating to
18 alcoholism and drug dependence.

19 (j) Advise the governor or the state health planning and development agency
20 under P.L. 93-641, as amended, in the preparation of a comprehensive plan for
21 treatment of alcoholics, persons who are drug dependent, and intoxicated persons for
22 inclusion in the state's comprehensive health plan.

23 (k) Review all state health, welfare and treatment plans to be submitted for
24 federal funding under federal legislation, and advise the governor or the state health
25 planning and development agency under P.L. 93-641, as amended, on provisions to

1 be included relating to alcoholics, persons who are drug dependent, and intoxicated
2 persons.

3 (L) Develop and maintain, in cooperation with other state agencies, local
4 governments and businesses and industries in the state, appropriate prevention,
5 treatment and rehabilitation programs and services for alcohol abuse and,
6 alcoholism, controlled substance use, and drug dependence among employees
7 thereof.

8 (m) Utilize the support and assistance of interested persons in the community,
9 particularly recovered alcoholics and recovered drug dependent persons, to
10 encourage alcoholics and persons who are drug dependent voluntarily to undergo
11 treatment.

12 (o) Encourage general hospitals and other appropriate health facilities to admit
13 without discrimination alcoholics, persons who are drug dependent, and intoxicated
14 persons and to provide them with adequate and appropriate treatment.

15 (p) Submit to the governor or the state health planning and development
16 agency under P.L. 93-641, as amended, an annual report covering the activities of
17 the department relating to treatment of alcoholism and drug dependence.

18 (q) Gather information relating to all federal programs concerning alcoholism
19 and drug dependence, whether or not subject to approval by the department, to
20 assure coordination and avoid duplication of efforts.

21 **(7)** (a) The department shall establish a comprehensive and coordinated
22 program for the treatment of alcoholics, persons who are drug dependent, and
23 intoxicated persons.

24 (c) The department shall provide for adequate and appropriate treatment for
25 alcoholics, persons who are drug dependent, and intoxicated persons admitted under

1 subs. (10) to (13). Treatment may not be provided at a correctional institution except
2 for inmates.

3 (9) ACCEPTANCE FOR TREATMENT; RULES. (intro.) The secretary shall promulgate
4 rules for acceptance of persons into the treatment program, considering available
5 treatment resources and facilities, for the purpose of early and effective treatment
6 of alcoholics, persons who are drug dependent, and intoxicated persons. In
7 promulgating the rules the secretary shall be guided by the following standards:

8 (10) (title) VOLUNTARY TREATMENT OF ALCOHOLICS AND DRUG DEPENDENT PERSONS.

9 (a) An adult alcoholic or person who is drug dependent may apply for voluntary
10 treatment directly to an approved public treatment facility. If the proposed patient
11 is an individual adjudicated incompetent in this state who has not been deprived by
12 a court of the right to contract, the individual or his or her guardian or other legal
13 representative may make the application. If the proposed patient is an individual
14 adjudicated incompetent in this state who has been deprived by a court of the right
15 to contract, the individual's guardian or other legal representative may make the
16 application.

17 (am) Except as provided in s. 51.47, a minor may apply for treatment directly
18 to an approved public treatment facility, but only for those forms of treatment
19 specified in sub. (7) (b) 5. and 7. Section 51.13 governs admission of a minor alcoholic
20 or minor who is drug dependent to an inpatient treatment facility.

21 (c) If a patient receiving inpatient care leaves an approved public treatment
22 facility, the patient shall be encouraged to consent to appropriate outpatient or
23 intermediate treatment. If it appears to the superintendent in charge of the
24 treatment facility that the patient is an alcoholic, person who is drug dependent, or
25 intoxicated person who requires help, the county department shall arrange for

1 assistance in obtaining supportive services and residential facilities. If the patient
2 is an individual who is adjudicated incompetent, the request for discharge from an
3 inpatient facility shall be made by a legal guardian or other legal representative or
4 by the individual who is adjudicated incompetent if he or she was the original
5 applicant.

6 (e) This subsection applies only to admissions of alcoholics and persons who are
7 drug dependent whose care and treatment is to be paid for by the department or a
8 county department.

9 (11) (title) TREATMENT AND SERVICES FOR INTOXICATED PERSONS AND OTHERS
10 INCAPACITATED BY ALCOHOL OR ANOTHER DRUG.

11 (b) A person who appears to be incapacitated by alcohol or another drug shall
12 be placed under protective custody by a law enforcement officer. The law
13 enforcement officer shall either bring such person to an approved public treatment
14 facility for emergency treatment or request a designated person to bring such person
15 to the facility for emergency treatment. If no approved public treatment facility is
16 readily available or if, in the judgment of the law enforcement officer or designated
17 person, the person is in need of emergency medical treatment, the law enforcement
18 officer or designated person upon the request of the law enforcement officer shall
19 take such person to an emergency medical facility. The law enforcement officer or
20 designated person, in detaining such person or in taking him or her to an approved
21 public treatment facility or emergency medical facility, is holding such person under
22 protective custody and shall make every reasonable effort to protect the person's
23 health and safety. In placing the person under protective custody the law
24 enforcement officer may search such person for and seize any weapons. Placement
25 under protective custody under this subsection is not an arrest. No entry or other

1 record shall be made to indicate that such person has been arrested or charged with
2 a crime. A person brought to an approved public treatment facility under this
3 paragraph shall be deemed to be under the protective custody of the facility upon
4 arrival.

5 (bm) If the person who appears to be incapacitated by alcohol or another drug
6 under par. (b) is a minor, either a law enforcement officer or a person authorized to
7 take a child into custody under ch. 48 or to take a juvenile into custody under ch. 938
8 may take the minor into custody as provided in par. (b).

9 (d) A person who by examination pursuant to par. (c) is found to be
10 incapacitated by alcohol or another drug at the time of admission, or to have become
11 incapacitated at any time after admission, shall be detained at the appropriate
12 facility for the duration of the incapacity but may not be detained when no longer
13 incapacitated by alcohol or another drug, or if the person remains incapacitated by
14 alcohol or another drug for more than 72 hours after admission as a patient, exclusive
15 of Saturdays, Sundays and legal holidays, unless he or she is committed under sub.
16 (12). A person may consent to remain in the facility as long as the physician or official
17 in charge believes appropriate.

18 **(12)** (a) An intoxicated person who has threatened, attempted or inflicted
19 physical harm on himself or herself or on another and is likely to inflict such physical
20 harm unless committed, or a person who is incapacitated by alcohol or another drug,
21 may be committed to the county department and brought to an approved public
22 treatment facility for emergency treatment. A refusal to undergo treatment does not
23 constitute evidence of lack of judgment as to the need for treatment.

24 (c) 4. Set a time for a preliminary hearing under sub. (13) (d), such hearing to
25 be held not later than 48 hours after receipt of a petition under par. (b), exclusive of

1 Saturdays, Sundays and legal holidays. If at such time the person is unable to assist
2 in the defense because he or she is incapacitated by alcohol or another drug, an
3 extension of not more than 48 hours, exclusive of Saturdays, Sundays and legal
4 holidays, may be had upon motion of the person or the person's attorney.

5 (13) (a) (intro.) A person may be committed to the custody of the county
6 department by the circuit court upon the petition of 3 adults, at least one of whom
7 has personal knowledge of the conduct and condition of the person sought to be
8 committed. A refusal to undergo treatment shall not constitute evidence of lack of
9 judgment as to the need for treatment. The petition for commitment shall do all of
10 the following:

11 1. Allege that the condition of the person is such that he or she habitually lacks
12 self-control as to the use of alcohol beverages or other drugs, and uses such beverages
13 or drugs to the extent that health is substantially impaired or endangered and social
14 or economic functioning is substantially disrupted;.

15 2. Allege that such condition of the person is evidenced by a pattern of conduct
16 which is dangerous to the person or to others;.

17 3. State that the person is a child or state facts sufficient for a determination
18 of indigency of the person;.

19 4. Be supported by the affidavit of each petitioner who has personal knowledge
20 which avers with particularity the factual basis for the allegations contained in the
21 petition; and.

22 (b) 4. Set a time for a preliminary hearing under par. (d). If the person is taken
23 into protective custody, such hearing shall be held not later than 72 hours after the
24 person arrives at the approved public treatment facility, exclusive of Saturdays,
25 Sundays and legal holidays. If at that time the person is unable to assist in the

1 defense because he or she is incapacitated by alcohol or another drug, an extension
2 of not more than 48 hours, exclusive of Saturdays, Sundays and legal holidays, may
3 be had upon motion of the person or the person's attorney.

4 (14) (a) Except as otherwise provided in s. 51.30, the registration and
5 treatment records of alcoholism or drug dependence treatment programs and
6 facilities shall remain confidential and are privileged to the patient. The application
7 of s. 51.30 is limited by any rule promulgated under s. 51.30 (4) (c) for the purpose
8 of protecting the confidentiality of alcoholism or drug dependence treatment records
9 in conformity with federal requirements.

10 (15) (c) A private or public general hospital may not refuse admission or
11 treatment to a person in need of medical services solely because that person is an
12 "alcoholic", is "drug dependent", is "incapacitated by alcohol", is "incapacitated by
13 another drug", or is an "intoxicated person" as defined in sub. (2). This paragraph
14 does not require a hospital to admit or treat the person if the hospital does not
15 ordinarily provide the services required by the person. A private or public general
16 hospital which violates this paragraph shall forfeit not more than \$500.

17 (19) SHORT TITLE. This section may be cited as the "Alcoholism, Drug
18 Dependence, and Intoxication Treatment Act".

19 **SECTION 21.** 101.121 (4) (b) of the statutes is amended to read:

20 101.121 (4) (b) Paragraph (a) does not apply to any owner of a nursing home
21 as defined in s. 50.01 (3), a hospital as defined in s. 50.33 (2) (a) and (c) or an approved
22 public or private treatment facility for alcoholics and persons who are drug
23 dependent as defined in s. 51.45 (2) (b) and (c).

24 **SECTION 22.** 301.031 (2r) (a) 3. of the statutes is amended to read:

1 301.031 **(2r)** (a) 3. Is for the treatment of alcoholics and persons who are drug
2 dependent in treatment facilities which have not been approved by the department
3 of health services in accordance with s. 51.45 (8).

4 **SECTION 23.** 302.38 (1) of the statutes is amended to read:

5 302.38 **(1)** If a prisoner needs medical or hospital care or is intoxicated or
6 incapacitated by alcohol or another drug the sheriff, superintendent or other keeper
7 of the jail or house of correction shall provide appropriate care or treatment and may
8 transfer the prisoner to a hospital or to an approved treatment facility under s. 51.45
9 (2) (b) and (c), making provision for the security of the prisoner. The sheriff,
10 superintendent or other keeper may provide appropriate care or treatment under
11 this subsection for a prisoner under 18 years of age and may transfer a prisoner
12 under 18 years of age under this subsection without obtaining the consent of the
13 prisoner's parent, guardian or legal custodian. The sheriff, superintendent or other
14 keeper may charge a prisoner for the costs of providing medical care to the prisoner
15 while he or she is in the jail or house of correction. If the sheriff or other keeper
16 maintains a personal money account for an inmate's use for payment for items from
17 canteen, vending or similar services, the sheriff or other keeper may make
18 deductions from the account to pay for the charges under this subsection.

19 **SECTION 24.** 346.65 (2g) (b) of the statutes is amended to read:

20 346.65 **(2g)** (b) The court may require a person ordered to perform community
21 service work under par. (a) or (ag), or under s. 973.05 (3) (a) if that person's fine
22 resulted from violating s. 346.63 (2), 940.09 (1) or 940.25, to participate in community
23 service work that demonstrates the adverse effects of substance abuse or of operating
24 a vehicle while under the influence of an intoxicant or other drug, including working
25 at ~~an alcoholism~~ a treatment facility approved under s. 51.45, an emergency room

1 of a general hospital or a driver awareness program under s. 346.637. The court may
2 order the person to pay a reasonable fee, based on the person's ability to pay, to offset
3 the cost of establishing, maintaining and monitoring the community service work
4 ordered under this paragraph. If the opportunities available to perform community
5 service work are fewer in number than the number of defendants eligible under this
6 subsection, the court shall, when making an order under this paragraph, give
7 preference to defendants who were under 21 years of age at the time of the offense.
8 All provisions of par. (am) apply to any community service work ordered under this
9 paragraph.

10 **SECTION 25.** 346.65 (2i) of the statutes is amended to read:

11 346.65 (2i) In addition to the authority of the court under sub. (2g) and s. 973.05
12 (3) (a), the court may order a defendant subject to sub. (2), or a defendant subject to
13 s. 973.05 (3) (a) who violated s. 346.63 (2), 940.09 (1), or 940.25, to visit a site that
14 demonstrates the adverse effects of substance abuse or of operating a vehicle while
15 under the influence of an intoxicant or other drug, including ~~an alcoholism a~~
16 treatment facility approved under s. 51.45 or an emergency room of a general
17 hospital in lieu of part or all of any forfeiture imposed or in addition to any penalty
18 imposed. The court may order the defendant to pay a reasonable fee, based on the
19 person's ability to pay, to offset the costs of establishing, maintaining, and
20 monitoring the visits ordered under this subsection. The court may order a visit to
21 the site only if agreed to by the person responsible for the site. If the opportunities
22 available to visit sites under this subsection are fewer than the number of defendants
23 eligible for a visit, the court shall, when making an order under this subsection, give
24 preference to defendants who were under 21 years of age at the time of the offense.
25 The court shall ensure that the visit is monitored. A visit to a site may be ordered

1 for a specific time and a specific day to allow the defendant to observe victims of
2 vehicle accidents involving intoxicated drivers. If it appears to the court that the
3 defendant has not complied with the court order to visit a site or to pay a reasonable
4 fee, the court may order the defendant to show cause why he or she should not be held
5 in contempt of court. Any organization or agency acting in good faith to which a
6 defendant is assigned pursuant to an order under this subsection has immunity from
7 any civil liability in excess of \$25,000 for acts or omissions by or impacting on the
8 defendant. The issuance or possibility of the issuance of an order under this
9 subsection does not entitle an indigent defendant who is subject to sub. (2) (am) 1.
10 to representation by counsel under ch. 977.

11 **SECTION 26.** 782.01 (2) of the statutes is amended to read:

12 782.01 (2) Any person confined in any hospital or institution as mentally ill or
13 committed for treatment of alcoholism or drug dependence under s. 51.45 (13) may
14 prosecute such writ, and the question of mental illness or need for treatment shall
15 be determined by the court or judge issuing the same. If such court or judge decides
16 that the person is mentally ill or in need of treatment such decision shall not bar the
17 prosecution of such writ a 2nd time if it is claimed that such person has been restored
18 to reason or is no longer in need of treatment.

19 **SECTION 27.** 938.02 (5g) of the statutes is amended to read:

20 938.02 (5g) "Drug dependent" has the meaning given in s. 51.01 (8) (8b).

21 **SECTION 28.** 938.20 (6) of the statutes is amended to read:

22 938.20 (6) DELIVERY OF INTOXICATED JUVENILE. If the juvenile is believed to be
23 an intoxicated person who has threatened, attempted or inflicted physical harm on
24 himself or herself or on another and is likely to inflict such physical harm unless
25 committed, or is incapacitated by alcohol or another drug, the person taking the

1 juvenile into physical custody, the intake worker or other appropriate person shall
2 proceed under s. 51.45 (11).

3 (END)