

1981 Assembly Bill 741

Date published: May 6, 1982

CHAPTER 329 , Laws of 1981

AN ACT to repeal 46.21 (1), (2) (h) and (7) and 51.437 (8); to renumber 46.21 (2) (d); to renumber and amend 46.21 (2) (c); to amend 46.034 (1) and (3), 46.18 (14), 46.206 (1) (c), 46.21 (title), (2) (title), (a), (b), (e), (g) and (i), (3) (a), (4) (c) and (d), (5), (6), (8) (b) to (d) and (9), 46.22 (1), 46.26 (4) (b) 1, 48.06 (1) (a) 1 and 3, 48.22 (1) (c) and (3) (b), 48.57 (1) (e), 49.51 (2) (title) and (a) (intro.), 51.42 (4) (a) and (d) and (5) (h) 4, 51.437 (7) and (13) and 340.01 (22) and (46); to repeal and recreate 46.21 (4) (a) and (8) (intro.); and to create 46.21 (2) (am) and (11) and 59.031 (2) (d) of the statutes, relating to eliminating the board of

public welfare in populous counties and placing its powers and duties on the county board of supervisors and the county executive.

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

SECTION 1. 46.034 (1) and (3) of the statutes are amended to read:

46.034 (1) CREATION. The county boards of supervisors of any combination of counties that have populations less than 500,000 may elect to combine their boards of public welfare and county departments of public welfare.

(3) POWERS. The combined boards of public welfare and combined county departments of public welfare shall comply with s. 46.22 ~~unless the combination of boards of supervisors vote to operate under s. 46.21.~~

SECTION 2. 46.18 (14) of the statutes is amended to read:

46.18 (14) INCENTIVE PAYMENTS TO PATIENTS IN MENTAL HOSPITALS. The county board may authorize the board of trustees of any county mental hospital to establish a program of incentive payments so as to provide incentive and encouragement to patients by the disbursement of small weekly payments but not restricted to work allowances. Incentive payments paid to inmates shall not be included as costs in arriving at the per capita rate for state aids or charges to other counties and the state for care of inmates. In counties having a population of 500,000 or more the county board of public welfare ~~under s. 46.21 supervisors~~ may establish a similar program ~~if authorized by the county board.~~

SECTION 3. 46.206 (1) (c) of the statutes is amended to read:

46.206 (1) (c) The department may at any time audit all county records relating to the administration of such services and public assistance and may at any time conduct administrative reviews of county departments of public welfare or social services created by ss. 46.22 and 49.51 (2) (a) ~~and 46.22~~. Whenever the department conducts such audit or administrative review in a county it shall furnish a copy of the audit or administrative review report to the chairperson of the county board, to the county clerk, ~~to the chairperson of the county board of public welfare or social services~~, and to the director of the county department of public welfare or to the director of institutions and departments, of such county.

SECTION 4. 46.21 (title) of the statutes is amended to read:

46.21 (title) Institutions and departments in populous counties.

SECTION 5. 46.21 (1) of the statutes is repealed.

SECTION 6. 46.21 (2) (title), (a) and (b) of the statutes are amended to read:

46.21 (2) (title) POWERS AND DUTIES OF THE COUNTY BOARD OF SUPERVISORS. (a) ~~Such board shall be charged with supervising~~ The county board of supervisors shall determine policy for the operation, maintenance and improvement in each county by the director of institutions and departments, of the county hospital, dispensary-emergency unit of the hospital, guidance clinic, infirmary, home for children, the detention home, and the probation section of the children's court center, and the provision and maintenance of the physical facilities for that court and its intake section under the supervision and operation of the judges assigned to exercise jurisdiction under ch. 48 and as provided in s. 48.06 (1), mental health center, north division and south division, tuberculosis hospital, department of ~~public welfare or social services~~ created by s. 49.51 (2) (a), county agent's department, farm, service departments and ~~such other institutions and departments as are placed under the jurisdiction of the board of public welfare by the county board of supervisors~~, and all buildings and land used in connection with any or all such institutions. A diagnostic and treatment center may be designated as part of the county mental health center, north division, and all personnel fully attached to that facility shall be under the jurisdiction of the superintendent or medical director of the county mental health center,

north division. The powers and duties of the county board of supervisors are advisory and policy forming only, and not administrative or executive. ~~The board is without authority to adopt policy changes that would increase expenditures beyond budget limitations for the fiscal year, as fixed by the county board of supervisors. Proposed policy changes shall, in all instances, be presented to the director and the finance committee of the county board at the time the department's budget for the ensuing year is being considered.~~

(b) The hospitals and sanatoriums of the county shall be devoted to hospital service and the treatment of such persons who would otherwise be unable to secure the same, but other persons may be admitted to the county hospitals upon such terms and conditions as the county board of supervisors establishes. Such hospitals and sanatoriums may be utilized for such instruction of medical students, physicians and nurses and for such scientific and clinical research as will promote the welfare of the patients, and assist the application of science to the alleviation of human suffering. ~~The board, subject to the approval of the county board, of supervisors may make such arrangements with the medical school of the university of Wisconsin or the medical college of Wisconsin, inc., or any other duly accredited medical colleges and medical societies for teaching and research in such institutions as in their judgment will best promote the foregoing hospital aims.~~

SECTION 7. 46.21 (2) (c) of the statutes is renumbered 46.21 (1) (a) and amended to read:

46.21 (1) (title) APPOINTING A DIRECTOR. (a) ~~The board county executive shall appoint a director of institutions and departments pursuant to under ss. 63.01 to 63.17. Such appointment shall be made on the basis of recognized and demonstrated public interest in and knowledge of the problems of public welfare, and with due regard to training, experience, executive and administrative ability and efficiency, and general qualifications and fitness for performing the duties of the office. Such director shall file an official oath and bond in such sum as shall be fixed by the county board of supervisors. Upon request of the board of public welfare, the~~ The county board of supervisors may create one or 2 positions of deputy director of institutions and departments. ~~The person holding the position of director of institutions and departments, under the classified service, on June 16, 1974 shall continue in that capacity under civil service status until his death, resignation or removal from the position. Thereafter such director shall be appointed by the county executive in the unclassified civil service for a term of 4 years or less to be concurrent with the term of the county executive and is subject to confirmation by the county board. An incumbent~~ The director serves at the pleasure of the county executive and shall hold office until a new appointment is made by the county executive and confirmed by the county board. No prior appointee may serve longer than 6 months after the term for which he or she was appointed and confirmed expires, unless reappointed and reconfirmed.

SECTION 8. 46.21 (2) (d) of the statutes is renumbered 46.21 (1) (b).

SECTION 9. 46.21 (2) (e) and (g) of the statutes are amended to read:

46.21 (2) (e) The county may pay a reasonable fee and the actual travel expense of persons called into consultation by the county board of supervisors as to matters within the field of ~~public welfare~~ human services or health care delivery.

(g) The county board of supervisors shall establish ~~such rules and regulations~~ as may be necessary for the management and operation of the county institutions and departments mentioned in s. 46.21 (2) (a).

SECTION 10. 46.21 (2) (h) of the statutes is repealed.

SECTION 11. 46.21 (2) (i) and (3) (a) of the statutes are amended to read:

46.21 (2) (i) ~~The county board of supervisors may allow as designate an amount as and appropriate funds for a work allowance to inmates at its institutions such amount as shall be approved and appropriated by the county board of supervisors.~~ The county board

of supervisors shall prescribe the amount of such work allowance after the ~~board of public welfare in conjunction with the~~ director determines such reasonable hours, and health and other conditions, as shall be observed in connection with the employment. Such employment ~~shall not be considered~~ is not within the provisions of ss. 63.01 to 63.17 nor ~~shall is~~ it be subject to the provisions of ch. 102. Work allowances or wages, paid to inmates shall not be included as costs in arriving at the per capita rate for state aids or charges to other counties and the state for care of inmates.

(3) (a) All of the administrative and executive powers and duties of managing, operating, maintaining and improving the several institutions and departments, specified in sub. (2) (a) and such other institutions and departments as may be placed under the jurisdiction of ~~such board of public welfare and the~~ director by the county board of supervisors, shall be vested in such director, to be administered by him under the rules promulgated ~~and,~~ subject to the policies and in accordance with the principles established by ~~such county board of public welfare~~ the county board of supervisors.

SECTION 12. 46.21 (4) (a) of the statutes is repealed and recreated to read:

46.21 (4) (a) The county board of supervisors shall, by ordinance, authorize the director to appoint one or more department heads to operate, maintain and improve the public institutions listed in sub. (2) (a). Appointments of department heads by the director are subject to the confirmation of the county board of supervisors. The ordinance shall specify the powers and duties of and the compensation to be paid to each department head. The county board of supervisors may place more than one public institution under the management of any department head.

SECTION 13. 46.21 (4) (c) and (d), (5) and (6) of the statutes are amended to read:

46.21 (4) (c) ~~Each of such department heads shall, subject to the approval of said director, have power to head may, subject to the approval of the director, appoint, discipline and remove, under the provisions of ss. 63.01 to 63.17 all officers and employes in his department. Such~~ Each department heads head may at any time present communications to the ~~board~~ county board of supervisors upon any matter through the director who shall present such communications to the board at its next meeting thereafter.

(d) Professional staff responsible for the care of patients under this section may submit bills for professional services under rules ~~and regulations~~ approved by the county board of supervisors.

(5) ADMISSION OF INMATES FOR PAY. (a) Any resident of this state, not indigent, may be received into the infirmary, to be treated, cared for, and maintained upon such terms and conditions and at such rate of pay as may be established by the county board of supervisors; but indigent and destitute persons shall have preference in admission to and care in such institution.

(b) Sections ~~46.10, 49.08, 52.01 and 52.03~~ shall govern the support and maintenance of persons in any of the institutions ~~in charge of said director~~ listed in sub. (2) (a).

(6) REPORTS; APPROPRIATIONS; EXPENDITURES. (a) On the first day of July of each year, or within 30 days thereafter, ~~said director shall render an annual report together with the reports of the director and~~ the department heads shall submit annual reports to the county board of supervisors, including an itemized ~~statement~~ statements of receipts and disbursements for the preceding calendar year. Such director and each department head shall maintain the uniform system of books, accounts, records and reports prescribed by the department, conforming in all respects with s. 46.18 ~~(7) to (10)~~ (9) and requirements of the county auditor and county department of administration.

(b) The county board of supervisors shall make sufficient appropriation annually for the support, maintenance, salaries, repairs and improvements to the institutions. The appropriations shall be used, subject to the order of the director, and as the rules of the

county board of public welfare supervisors provide. The director ~~or the board~~ may not incur any expense or contract for new buildings, additions to present buildings or the purchase of land until the county board of supervisors has appropriated or provided for the money to defray such expense.

(c) Notwithstanding any other provisions of the statutes, expenditures chargeable to appropriations of the county board of public welfare supervisors shall be made upon certified vouchers, certified voucher schedules, and certified public assistance rolls ~~of the director of institutions and departments~~ to the county clerk. ~~The county board of supervisors may by ordinance permit said director to delegate his authority to make such certifications to persons under his jurisdiction holding positions designated in such ordinance.~~ The county clerk shall issue county orders upon the county treasurer in payment of such certified instruments, provided that a single county order in favor of the county treasurer may be issued for the total amount authorized on a public assistance roll, in which case the county treasurer shall make individual payments by bank checks to parties listed on such public assistance rolls, provided further that the county board of supervisors may by ordinance adopt a different method of making disbursements consistent with sound accounting and auditing procedure.

SECTION 14. 46.21 (7) of the statutes is repealed.

SECTION 15. 46.21 (8) (intro.) of the statutes is repealed and recreated to read:

46.21 (8) COUNTY BOARD POWERS. (intro.) The county board of supervisors has the following additional powers:

SECTION 16. 46.21 (8) (b) to (d) and (9) of the statutes are amended to read:

46.21 (8) (b) To establish and maintain in connection with such county hospital an emergency unit or department for the treatment, subject to such rules ~~and regulations~~ as may be prescribed by ~~such the county board of public welfare supervisors~~, of persons in said county who may meet with accidents or be suddenly afflicted with illness not contagious; provided that medical care and treatment shall only be furnished in such unit or department until such time as the patient may be safely removed to another hospital or to his place of abode, or regularly admitted to said county hospital. ~~Notwithstanding the aforesaid authority the board of public welfare when approved by the~~ The county board of supervisors may enter into contracts also contract with any private hospital or nonprofit hospital, as defined in s. 50.21, within said county for the use of its facilities and for medical service to be furnished by a licensed physician or physicians to ~~emergency patients arising within the county and who require emergency medical treatment or first aid as a result of any accident, injury or sudden affliction of illness occurring within the county~~, except that reasonable compensation may only be authorized for such period of time until the patient may be regularly admitted as an inpatient or safely removed to another hospital or to his place of abode.

(c) To establish and maintain, in connection with the institutions and departments under the control of ~~such the county board of supervisors~~, a training school for nurses ~~and~~, to purchase and take over all property, ~~and~~ to assume all obligations, and to conduct any training school now operated in connection with said institutions or departments or any of them.

(d) To establish and maintain in connection with or separate from the county hospital a unit or department for the treatment, subject to ~~such rules and regulations as may be prescribed by said board of public welfare~~ the rules of the county board of supervisors, of persons in said county who may be afflicted with contagious diseases.

(9) LAND FOR MEDICAL FACILITIES. The county board of supervisors may, on such terms as it prescribes, make its land, buildings, facilities and supportive services available to organizations for the construction and operation of medical, hospital and health-related activities at the site of the institutions under this section.

SECTION 17. 46.21 (11) of the statutes is created to read:

46.21 (11) APPLICABILITY. This section applies only to counties with populations of 500,000 or more.

SECTION 18. 46.22 (1) of the statutes is amended to read:

46.22 (1) CREATION. ~~Every county having a population of less than 500,000 may by a vote of its county board of supervisors elect to be under s. 46.21.~~ In every county having a population of less than 500,000 ~~that has not elected to be under s. 46.21,~~ there is created a county department of public welfare. This county department shall consist of a county board of public welfare, a county director of public welfare, and necessary personnel.

SECTION 19. 46.26 (4) (b) 1 of the statutes, as affected by chapter 20, laws of 1981, is amended to read:

46.26 (4) (b) 1. Assessment of costs under par. (a) shall be made periodically on the basis of a per person per day cost estimate adjusted annually by the department. Liability shall apply to county public welfare or social service departments established under s. ~~46.21,~~ 46.22, 46.23 or 49.51 in the county of the court exercising jurisdiction under ch. 48 for each person receiving department services under ss. 48.34 and 51.35 (3). In multicounty court jurisdictions, the county of residency within the jurisdiction shall be liable for costs under this subsection. Assessment of costs under par. (a) shall also be made according to the general placement type or level of care provided, as defined by the department, and prorated according to the ratio of the amount designated under sub. (3) (b) to (d) to the total applicable estimated costs of department care, services and supplies under ss. 48.34 and 51.35 (3).

SECTION 20. 48.06 (1) (a) 1 and 3 of the statutes are amended to read:

48.06 (1) (a) 1. In counties having a population of 500,000 or more, the county board of supervisors shall provide the court with the services necessary for investigating and supervising cases by operating a children's court center under the supervision of a director who shall be appointed as provided in s. 46.21 (4) ~~under the laws governing civil service in the county (a).~~ The director is the chief administrative officer of the center and of the intake and probation sections and secure detention facilities of the center except as otherwise provided in this subsection. The director is charged with administration of the personnel and services of the sections and of the secure detention facilities, and is responsible for supervising both the operation of the physical plant and the maintenance and improvement of the buildings and grounds of the center. The center shall include investigative services for all children alleged to be in need of protection or services to be provided by the county department of social services, and the services of an assistant district attorney or assistant corporation counsel or both, who shall be assigned to the center to provide investigative as well as legal work in the cases.

3. The county board of ~~social services~~ supervisors shall develop policies and establish necessary rules and regulations for the management and administration of the nonjudicial operations of the children's court center, ~~but any such policy, rule or regulation is subject to adoption of a different policy, rule or regulation by the county board of supervisors by a majority of the members present and voting.~~ The director of the center shall report and is responsible to the director of institutions and departments for the execution of all nonjudicial operational policies, ~~and rules and regulations~~ governing the center, including activities of probation officers whenever they are not performing services for the court. The director of the center is also responsible for the preparation and submission to the county board of ~~social services~~ supervisors of the annual budget for the center except for the judicial functions or responsibilities which are delegated by law to the judge or judges and clerk of circuit court. The county board of supervisors shall make provision in the organization of the office of director for the devolution of the director's authority in the case of temporary absence, illness, disability to act or a vacancy in position and shall establish the general qualifications for the position. The county board of supervisors also has the authority to investigate, arbitrate and resolve any conflict in the administration of the center

as between judicial and nonjudicial operational policy, and rules and regulations, except that the final disposition of such conflicts is subject to the approval of the county board of supervisors by a majority of the members present and voting. The county board of social services supervisors does not have authority and may not assert jurisdiction over the disposition of any case or child after a written order is made under s. 48.21 or if a petition is filed under s. 48.25. All personnel of the intake and probation sections and of the secure detention facilities, shall be appointed under civil service by the director except that existing court service personnel having permanent civil service status may be reassigned to any of the respective sections within the center specified in this paragraph.

SECTION 21. 48.22 (1) (c) and (3) (b) of the statutes are amended to read:

48.22 (1) (c) In counties having a population of 500,000 or more, the nonjudicial operational policies of the secure detention facility and the detention section of the children's court center shall be established by the county board of public welfare as specified in s. 48.06 (1) supervisors, and the execution thereof shall be the responsibility of the director of the children's court center.

(3) (b) In counties having a population of 500,000 or more, the director of the children's court center under the direction of the county board of public welfare as specified in s. 48.06 (1) shall be in charge of and responsible for public secure detention facilities, the secure detention section of the center and the personnel assigned to this section, including a detention supervisor or superintendent. The director of the children's court center may also serve as superintendent of detention if the county board of supervisors so determines.

SECTION 22. 48.57 (1) (e) of the statutes is amended to read:

48.57 (1) (e) If a county department of social services in a county with a population of 500,000 or more, to place children in a county children's home in the county under rules policies adopted by the county board of public welfare of the county supervisors, to accept guardianship of children when appointed by the court and to place children under its guardianship for adoption;

SECTION 23. 49.51 (2) (title) and (a) (intro.) of the statutes are amended to read:

49.51 (2) (title) COUNTY DEPARTMENTS OF SOCIAL SERVICES. (a) *Administration in counties having a population of 500,000 and others.* (intro.) In counties having a population of 500,000 or more the administration of welfare services shall be vested in a department of social services. In counties electing to be under s. 46.21, the administration of welfare services shall be vested in a department of public welfare. Each department of social services or public welfare shall may be placed under the jurisdiction of the county board of public welfare as provided in supervisors under s. 46.21 and in conformity with s. 49.50. ~~The director of county institutions and departments shall appoint a director of public welfare and such director of public welfare shall appoint assistants.~~ The county department of social services or public welfare shall have the following functions, duties and powers, and such other welfare functions as may be delegated to it:

SECTION 24. 51.42 (4) (a) and (d) of the statutes are amended to read:

51.42 (4) (a) The county board or boards of supervisors of every county or every combination of counties administering a program shall, before it qualifies under this section, appoint a governing and policy-making board of directors to be known as the community board. ~~Notwithstanding par. (b) in counties having a population of 500,000 or more, the board of public welfare established under s. 46.21 may constitute the community board of directors under this section.~~

(d) ~~Except in counties having a population of 500,000 or more, the~~ The term of office of any member of the board shall be 3 years, but of the members first appointed, at least one-third shall be appointed for one year; at least one-third for 2 years; and the remainder for 3 years. Vacancies shall be filled for the residue of the unexpired term in the manner

that original appointments are made. Any board member may be removed from office for cause by a two-thirds vote of the appointing authority, on due notice in writing and hearing of the charges against him.

SECTION 25. 51.42 (5) (h) 4 of the statutes, as affected by chapter 20, laws of 1981, is amended to read:

51.42 (5) (h) 4. Appoint a director of the program, subject to the approval of the county board or boards of supervisors, on the basis of recognized and demonstrated interest in and knowledge of the problems of mental health, mental retardation, alcoholism and drug addiction, with due regard to training, experience, executive and administrative ability, and general qualification and fitness for the performance of the duties of the director. The county board or boards of supervisors may delegate this authority to the board established under this section. In any county with a population of 500,000 or more that does not combine with another county to establish a board, the county executive shall appoint either the director of institutions and departments or a department head under s. 46.21 as the director of the program, subject to confirmation by the county board. In a county with a population of 500,000 or more, the director of the program serves at the pleasure of the county executive;

SECTION 26. 51.437 (7) of the statutes, as affected by chapter 20, laws of 1981, is amended to read:

51.437 (7) COMPOSITION; COMBINATION OF BOARDS. (a) ~~In counties having a population of less than 500,000, the~~ The community developmental disabilities services board shall be composed of not less than 9 nor more than 15 persons of recognized ability and demonstrated interest in the problems of the developmentally disabled but not more than 3 members shall be appointed from the county board of supervisors. Except that when counties combine to furnish services, the community developmental disabilities services board shall be composed of 11 members and with 2 additional members for each combining county in excess of 2. Appointments shall be made by the county boards of the combining counties in a manner acceptable to the combining counties, but each of the combining counties may appoint only 2 members from its county board. At least one-third of the members serving at any one time shall be appointed from the developmentally disabled citizens or their parents residing in the county or combining counties. Appointments shall be for staggered 3-year terms. Vacancies shall be filled for the residue of the unexpired term in the manner that original appointments are made. Any member may be removed from office for cause by a two-thirds vote of the appointing authority, on due notice in writing and hearing of the charges against him.

(b) ~~In counties having a population of less than 500,000, a~~ A county board of supervisors may designate the community board established under s. 51.42 as the community developmental disabilities board. The combined board shall plan for and establish a community developmental disabilities program as provided in sub. (9). The county board of supervisors may designate the combined board as the administrative agency of the long-term support community options program under s. 46.27.

SECTION 27. 51.437 (8) of the statutes is repealed.

SECTION 28. 51.437 (13) of the statutes is amended to read:

51.437 (13) DAY CARE SERVICES: MILWAUKEE. In counties having a population of 500,000 or more, the board of ~~public welfare~~ supervisors shall integrate day care programs for mentally retarded persons and those programs for persons with other developmental disabilities into the community developmental disabilities program and shall appoint a director to administer the overall services program.

SECTION 29. 59.031 (2) (d) of the statutes is created to read:

59.031 (2) (d) Appoint members of the community mental health board under s. 51.42.

SECTION 30. 340.01 (22) and (46) of the statutes are amended to read:

340.01 (22) "Highway" means all public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel. It includes those roads or driveways in the state, county or municipal parks and in state forests which have been opened to the use of the public for the purpose of vehicular travel and roads or driveways upon the grounds of institutions under the jurisdiction of a the county board of ~~public welfare created under s. 46.21~~ supervisors, but does not include private roads or driveways as defined in sub. (46).

(46) "Private road or driveway" is every way or place in private ownership and used for vehicular travel only by the owner and those having express or implied permission from the owner and every road or driveway upon the grounds of public institutions other than those under the jurisdiction of a the county board of ~~public welfare created under s. 46.21~~ supervisors.

SECTION 31. **Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
46.23 (5)(a), as affected by chapter 20, laws of 1981	46.21, 46.22, 49.51, 51.42 and 51.437	46.22, 49.51, 51.42 and 51.437
63.03 (2)(y)	46.21 (2)(c)	46.21 (1)(a)

SECTION 32. **Effective date.** This act takes effect on the first day of the 2nd month commencing after its publication.
