

State of Wisconsin



1995 Assembly Bill 244

Date of enactment: **December 1, 1995**
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1995 WISCONSIN ACT 92

AN ACT to *renumber and amend* 55.06 (13); and to *amend* 51.001 (1), 51.42 (1) (b), 51.42 (3) (ar) 4. (intro.), 51.437 (4) (a), 51.437 (4m) (a), 51.61 (1) (e) and (f), 55.001 and 55.06 (9) (a) of the statutes; **relating to:** limiting required funding for protective placements or protective services and mental health services and expanding factors to be considered in making protective placements.

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

SECTION 1. 51.001 (1) of the statutes is amended to read:

51.001 (1) It is the policy of the state to assure the provision of a full range of treatment and rehabilitation services in the state for all mental disorders and developmental disabilities and for mental illness, alcoholism and other drug abuse. There shall be a unified system of prevention of such conditions and provision of services which will assure all people in need of care access to the least restrictive treatment alternative appropriate to their needs, and movement through all treatment components to assure continuity of care, within the limits of available state and federal funds and of county funds required to be appropriated to match state funds.

SECTION 2. 51.42 (1) (b) of the statutes is amended to read:

51.42 (1) (b) *County liability.* The county board of supervisors has the primary responsibility for the well-being, treatment and care of the mentally ill, developmentally disabled, alcoholic and other drug dependent citizens residing within its county and for ensuring that those individuals in need of such emergency services found within its county receive immediate emergency

services. This primary responsibility is limited to the programs, services and resources that the county board of supervisors is reasonably able to provide within the limits of available state and federal funds and of county funds required to be appropriated to match state funds. County liability for care and services purchased through or provided by a county department of community programs established under this section shall be based upon the client's county of residence except for emergency services for which liability shall be placed with the county in which the individual is found. For the purpose of establishing county liability, "emergency services" includes those services provided under the authority of s. 51.15, 51.45 (11) (a) or (b) or (12), 55.05 (4) or 55.06 (11) (a) for not more than 72 hours. Nothing in this paragraph prevents recovery of liability under s. 46.10 or any other statute creating liability upon the individual receiving a service or any other designated responsible party, or prevents reimbursement by the department of health and social services for the actual cost of all care and services from the appropriation under s. 20.435 (7) (da), as provided in s. 51.22 (3).

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

51.42 (3) (ar) 4. (intro.) Within the limits of available state and federal funds and of county funds required to be

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

appropriated to match state funds, provide for the program needs of persons suffering from mental disabilities, including mental illness, developmental disabilities, alcoholism or drug abuse, by offering the following services:

SECTION 4. 51.437 (4) (a) of the statutes is amended to read:

51.437 (4) (a) The county board of supervisors has the primary governmental responsibility for the well-being of those developmentally disabled citizens residing within its county and the families of the developmentally disabled insofar as the usual resultant family stresses bear on the well-being of the developmentally disabled citizen. This primary governmental responsibility is limited to the programs, services and resources that the county board of supervisors is reasonably able to provide within the limits of available state and federal funds and of county funds required to be appropriated to match state funds.

SECTION 5. 51.437 (4m) (a) of the statutes is amended to read:

51.437 (4m) (a) Within the limits of available state and federal funds and of county funds ~~appropriate required to be appropriated~~ to match state funds, establish a county developmental disabilities services program. Such services shall be provided either directly or by contract.

SECTION 6. 51.61 (1) (e) and (f) of the statutes are amended to read:

51.61 (1) (e) ~~Have the right to the least restrictive conditions necessary to achieve the purposes of admission, commitment or placement, except~~ Except in the case of a patient who is admitted or transferred under s. 51.35 (3) or 51.37 or under ch. 971 or 975, have the right to the least restrictive conditions necessary to achieve the purposes of admission, commitment or protective placement, under programs, services and resources that the county board of supervisors is reasonably able to provide within the limits of available state and federal funds and of county funds required to be appropriated to match state funds.

(f) Have a right to receive prompt and adequate treatment, rehabilitation and educational services appropriate for his or her condition, under programs, services and resources that the county board of supervisors is reasonably able to provide within the limits of available state and federal funds and of county funds required to be appropriated to match state funds.

SECTION 7. 55.001 of the statutes is amended to read:

55.001 Declaration of policy. The legislature recognizes that many citizens of the state, because of the infirmities of aging, chronic mental illness, mental retardation, other developmental disabilities or like incapacities incurred at any age, are in need of protective services. These services should, to the maximum degree of feasibility under programs, services and resources that

the county board of supervisors is reasonably able to provide within the limits of available state and federal funds and of county funds required to be appropriated to match state funds, allow the individual the same rights as other citizens, and at the same time protect the individual from exploitation, abuse and degrading treatment. This chapter is designed to establish those services and assure their availability to all persons when in need of them, and to place the least possible restriction on personal liberty and exercise of constitutional rights consistent with due process and protection from abuse, exploitation and neglect.

SECTION 8. 55.06 (9) (a) of the statutes is amended to read:

55.06 (9) (a) The court may order protective services under s. 55.05 (2) (d) as an alternative to placement. When ordering placement, the court, on the basis of the evaluation and other relevant evidence shall order ~~placement through~~ the appropriate board ~~designated specified~~ under s. 55.02 or an agency designated by it to protectively place the individual. Placement by the appropriate board or designated agency shall be made in the least restrictive environment consistent with the needs of the person to be placed and with the placement resources of the appropriate board specified under s. 55.02. Factors to be considered in making protective placement shall include the needs of the person to be protected for health, social or rehabilitative services ~~and;~~ the level of supervision needed; the reasonableness of the placement given the cost and the actual benefits in the level of functioning to be realized by the individual; the limits of available state and federal funds and of county funds required to be appropriated to match state funds; and the reasonableness of the placement given the number or projected number of individuals who will need protective placement and given the limited funds available. The county may not be required to provide funding, in addition to its funds that are required to be appropriated to match state funds, in order to protectively place an individual. Placement under this section does not replace commitment of a person in need of acute psychiatric treatment under s. 51.20 or 51.45 (13). Placement may be made to such facilities as nursing homes, public medical institutions, centers for the developmentally disabled under the requirements of s. 51.06 (3), foster care services and other home placements, or to other appropriate facilities but may not be made to units for the acutely mentally ill. The prohibition of placements in units for the acutely mentally ill does not prevent placement by a court for short-term diagnostic procedures under par. (d). Placement in a locked unit shall require a specific finding of the court as to the need for such action. A placement facility may transfer a patient from a locked unit to a less restrictive environment without court approval.

SECTION 9. 55.06 (13) of the statutes is renumbered 55.045 and amended to read:

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55.045 (title) **Funding.** ~~Reasonable~~ The appropriate county department designated under s. 55.02 shall, within the limits of available state and federal funds and of county funds required to be appropriated to match state funds, provide for the reasonable program needs of persons who are protectively placed or who receive protective services under this chapter, including reasonable expenses for the evaluations required by sub. (8) shall be assumed by the appropriate board making recommendations for placement subject to any reimbursement which may be available from federal or other sources. The boards shall seek appropriate reimbursement for such evaluations. Payment and collections for protective

placement or protective services provided in public facilities specified in s. 46.10 shall be governed in accordance with s. 46.10. The appropriate board shall be charged for the cost of care and custody resulting from placement under this section. The department may require that a person who is protectively placed or receives protective services under this chapter provide reimbursement for services or care and custody received, based on the ability of the person to be protected to pay for such costs.

SECTION 10. Initial applicability.

(1) This act first applies to a cause of action that arises on the effective date of this subsection.
