

# State of Wisconsin



2009 Senate Bill 478

Date of enactment: **May 7, 2010**  
Date of publication\*: **May 21, 2010**

## 2009 WISCONSIN ACT 260

**AN ACT to repeal** 51.20 (1) (av), 51.20 (13) (g) 2g., 302.383 (1), 302.383 (2) (a) 2. and 302.383 (2) (c); and **to amend** 51.20 (1) (a) (intro.), 51.20 (11) (a), 51.20 (13) (a) 4m., 51.20 (13) (g) 2m., 51.20 (13) (g) 2r., 51.20 (13) (g) 3. and 51.20 (19) (b) 1m. of the statutes; **relating to:** orders to commit state prison inmates to a mental health facility.

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

**SECTION 1.** 51.20 (1) (a) (intro.) of the statutes is amended to read:

51.20 (1) (a) (intro.) Except as provided in pars. (ab), (am), and (ar) ~~and (av)~~, every written petition for examination shall allege that all of the following apply to the subject individual to be examined:

**SECTION 2.** 51.20 (1) (av) of the statutes is repealed.

**SECTION 3.** 51.20 (11) (a) of the statutes is amended to read:

51.20 (11) (a) If before involuntary commitment a jury is demanded by the individual against whom a petition has been filed under sub. (1) or by the individual's counsel if the individual does not object, the court shall direct that a jury of 6 people be selected to determine if the allegations specified in sub. (1) (a), or (ar) ~~or (av)~~ are true. A jury trial is deemed waived unless demanded at least 48 hours in advance of the time set for final hearing, if notice of that time has been previously provided to the subject individual or his or her counsel. If a jury trial demand is filed within 5 days of detention, the final hearing shall be held within 14 days of detention. If a jury trial demand is filed later than 5 days after detention, the final

hearing shall be held within 14 days of the date of demand. If an inmate of a state prison, county jail or house of correction demands a jury trial within 5 days after the probable cause hearing, the final hearing shall be held within 28 days of the probable cause hearing. If an inmate of a state prison, county jail or house of correction demands a jury trial later than 5 days after the probable cause hearing, the final hearing shall be held within 28 days of the date of demand.

**SECTION 4.** 51.20 (13) (a) 4m. of the statutes is amended to read:

51.20 (13) (a) 4m. If the individual is an inmate of a county jail or house of correction and the allegations under sub. (1) (a) ~~or (av)~~ are proven, order commitment to the county department under s. 51.42 or 51.437 serving the inmate's county of residence or, if the inmate is a non-resident, order commitment to the department. The order shall either authorize the transfer of the inmate to a state or county treatment facility or, if inpatient care is not needed, authorize treatment on an outpatient basis in the jail or house of correction; or

**SECTION 5.** 51.20 (13) (g) 2g. of the statutes is repealed.

**SECTION 6.** 51.20 (13) (g) 2m. of the statutes is amended to read:

\* Section 991.11, WISCONSIN STATUTES 2007-08 : 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].

51.20 (13) (g) 2m. In addition to the provisions under subs. 1., ~~and 2. and 2g.~~, no commitment ordered under par. (a) 4. or 4m. may continue beyond the inmate's date of release on parole or extended supervision, as determined under s. 302.11 or 302.113, whichever is applicable.

**SECTION 7.** 51.20 (13) (g) 2r. of the statutes is amended to read:

51.20 (13) (g) 2r. Twenty-one days prior to expiration of the period of commitment under subd. 1., 2., ~~2g.~~ or 2m., the department, if the individual is committed to the department, or the county department to which an individual is committed shall file an evaluation of the individual and the recommendation of the department or county department regarding the individual's recommitment with the committing court and provide a copy of the evaluation and recommendation to the individual's counsel and the counsel designated under sub. (4). If the date for filing an evaluation and recommendation under this subdivision falls on a Saturday, Sunday or legal holiday, the date which is not a Saturday, Sunday or legal holiday and which most closely precedes the evaluation and recommendation filing date shall be the filing date. A failure of the department or the county department to which an individual is committed to file an evaluation and recommendation under this subdivision does not affect the jurisdiction of the court over a petition for recommitment.

**SECTION 8.** 51.20 (13) (g) 3. of the statutes is amended to read:

51.20 (13) (g) 3. The county department under s. 51.42 or 51.437 to whom the individual is committed

under par. (a) 3. may discharge the individual at any time, and shall place a committed individual in accordance with par. (f). Upon application for extension of a commitment by the department or the county department having custody of the subject, the court shall proceed under subs. (10) to (13). If the court determines that the individual is a proper subject for commitment as prescribed in sub. (1) (a) 1. and evidences the conditions under sub. (1) (a) 2. or (am) or is a proper subject for commitment as prescribed in sub. (1) (ar) ~~or (av)~~, it shall order judgment to that effect and continue the commitment. The burden of proof is upon the county department or other person seeking commitment to establish evidence that the subject individual is in need of continued commitment.

**SECTION 9.** 51.20 (19) (b) 1m. of the statutes is amended to read:

51.20 (19) (b) 1m. Establishing standards and procedures for use of and periodic review of the use of psychotropic drugs on inmates in a county jail or house of correction who are being treated in the jail or house of correction under a commitment based on a petition under sub. (1) (a) ~~or (av)~~.

**SECTION 10.** 302.383 (1) of the statutes is repealed.

**SECTION 11.** 302.383 (2) (a) 2. of the statutes is repealed.

**SECTION 12.** 302.383 (2) (c) of the statutes is repealed.

**SECTION 13. Initial applicability.**

(1) The treatment of section 51.20 (13) (g) 2g. of the statutes first applies to a petition filed under section 51.20 (1) of the statutes on the effective date of this subsection.