



**SENATE SUBSTITUTE AMENDMENT 1,  
TO 1995 ASSEMBLY BILL 988**

May 1, 1996 – Offered by COMMITTEE ON HEALTH, HUMAN SERVICES AND AGING.

1     **AN ACT to amend** 49.498 (3) (b) 1., 55.043 (1) (a) (intro.), 55.043 (4) (intro.), 55.043  
2           (4) (e), 55.043 (4) (f), 55.043 (5), 146.40 (4g) (a) 3., 146.40 (4r) (a), 146.40 (4r) (b)  
3           and 813.123 (5) (a) 3. a.; and **to create** 20.435 (6) (di), 46.90 (9m) and 146.40  
4           (4s) of the statutes; **relating to:** requiring inquiries for registry information for  
5           certain persons employed or proposed to be hired by certain facilities or  
6           services, prohibiting hiring or employment of certain persons, requiring  
7           conduct of an elder abuse awareness campaign, authorizing positions for the  
8           board on aging and long-term care, clarifying requirements for reporting the  
9           misappropriation of property, abuse or neglect of certain patients or facility  
10          residents and making appropriations.

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

11          **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
12          the following amounts for the purposes indicated:

**1995-96      1996-97**

**20.435 Health and family services, department  
of**

(6) COMMUNITY SERVICES; STATE OPERATIONS

(di) Elder abuse awareness cam-

campaign	GPR	A	-0-	25,000
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**SECTION 2.** 20.435 (6) (di) of the statutes is created to read:

20.435 (6) (di) *Elder abuse awareness campaign*. The amounts in the schedule for the purpose of conducting a statewide elder abuse awareness campaign under s. 46.90 (9m).

**SECTION 3.** 46.90 (9m) of the statutes is created to read:

46.90 (9m) ELDER ABUSE AWARENESS CAMPAIGN. From the appropriation under s. 20.435 (6) (di), the department shall conduct a statewide elder abuse awareness campaign by use of mass media communication, including public service announcements, and by development, printing and distribution of informational brochures and posters, to increase the general public's awareness of the problem of elder abuse.

**SECTION 4.** 49.498 (3) (b) 1. of the statutes is amended to read:

49.498 (3) (b) 1. Inform each resident, orally and in writing at the time of admission to the nursing facility, of the resident's legal rights during the stay at the nursing facility, including a description of the protection of personal funds under sub. (8) and a statement that a resident may file a complaint with the department under s. 146.40 (4r) (a) concerning ~~neglect, abuse or misappropriation of a resident's property or neglect or abuse~~ of a resident.

1           **SECTION 5.** 55.043 (1) (a) (intro.) of the statutes is amended to read:

2           55.043 (1) (a) (intro.) If a county protective services agency has probable cause  
3 to believe that there is ~~abuse, neglect or~~ misappropriation of property, neglect or  
4 abuse, the county protective services agency may conduct an investigation in  
5 Milwaukee county to determine if the vulnerable adult in question is in need of  
6 protective services. The county protective services agency shall conduct the  
7 investigation in accordance with standards established by the department for  
8 conducting the investigations. The investigation shall include at least one of the  
9 following:

10           **SECTION 6.** 55.043 (4) (intro.) of the statutes is amended to read:

11           55.043 (4) OFFER OF SERVICES. (intro.) If upon investigation the county  
12 protective services agency finds ~~abuse, neglect or~~ misappropriation of property,  
13 neglect or abuse, the county protective services agency may do one or more of the  
14 following:

15           **SECTION 7.** 55.043 (4) (e) of the statutes is amended to read:

16           55.043 (4) (e) Refer the case to the department of regulation and licensing or  
17 the appropriate examining board if the ~~abuse, neglect or~~ misappropriation of  
18 property, neglect or abuse involves an individual who is required to be licensed,  
19 permitted, certified or registered under chs. 440 to 459.

20           **SECTION 8.** 55.043 (4) (f) of the statutes is amended to read:

21           55.043 (4) (f) Bring a petition for a guardianship and protective service or  
22 protective placement if necessary to prevent ~~abuse, neglect or~~ misappropriation of  
23 property, neglect or abuse and if the vulnerable adult would otherwise be at risk of  
24 serious harm because of an inability to arrange for necessary food, clothing, shelter  
25 and services.

1           **SECTION 9.** 55.043 (5) of the statutes is amended to read:

2           55.043 **(5)** APPLICABILITY. This section does not apply to patients or residents  
3 of state-operated or county-operated inpatient institutions or hospitals issued  
4 certificates of approval under s. 50.35 unless the alleged ~~abuse, neglect or~~  
5 misappropriation of a patient's or resident's property or neglect or abuse of such a  
6 patient or resident is alleged to have been done by a person other than an employe  
7 of the inpatient institution or hospital.

8           **SECTION 10.** 146.40 (4g) (a) 3. of the statutes is amended to read:

9           146.40 **(4g)** (a) 3. Findings of the department under sub. (4r) (b) or of the  
10 hearing officer under sub. (4r) (d) concerning the ~~neglect, abuse or~~ misappropriation  
11 of property, neglect or abuse by an individual listed under subd. 2.

12           **SECTION 11.** 146.40 (4r) (a) of the statutes is amended to read:

13           146.40 **(4r)** (a) Any individual may report to the department that he or she  
14 believes that a nurse's assistant has neglected, or abused a nursing home resident  
15 or a hospital patient or misappropriated the resident's or patient's property ~~of a~~  
16 ~~nursing home resident or a hospital patient~~ or that a home health aide has neglected,  
17 or abused a home health agency patient or misappropriated the patient's property  
18 of a ~~home health agency patient~~.

19           **SECTION 12.** 146.40 (4r) (b) of the statutes is amended to read:

20           146.40 **(4r)** (b) The department shall review and investigate any report  
21 received under par. (a) and, if the allegation is substantiated, make specific,  
22 documented findings concerning the ~~neglect, abuse or~~ misappropriation of property,  
23 neglect or abuse. The department shall in writing by certified mail notify the nurse's  
24 assistant or home health aide specified in the report that his or her name and the  
25 department's findings about him or her shall be listed in the registry under sub. (4g)

1 (a) 2. and 3. unless he or she contests the listings in a hearing before the department.  
2 The written notification shall describe the investigation conducted by the  
3 department, enumerate the findings alleging ~~neglect, abuse or~~ misappropriation of  
4 property or neglect or abuse of a nursing home resident or hospital or home health  
5 agency patient and explain the consequence to the nurse's assistant or home health  
6 aide of waiving a hearing to contest the findings. The nurse's assistant or home  
7 health aide named in the report shall have 30 days after receipt of the notification  
8 to indicate to the department in writing whether he or she intends to contest the  
9 listing or to waive the hearing.

10 **SECTION 13.** 146.40 (4s) of the statutes is created to read:

11 146.40 (4s) (a) In this subsection:

12 1. "Adult day care center" means a facility that is operated by an adult day care  
13 provider that provides care and services to persons who are aged 60 or older for less  
14 than 24 hours a day.

15 2. "Adult family home" has the meaning given in s. 50.01 (1).

16 3. "Assisted living facility" has the meaning given in s. 50.01 (1d).

17 4. "Community-based residential facility" has the meaning given in s. 50.01  
18 (1g).

19 5. "Hospice" has the meaning given in s. 50.90 (1).

20 6. "Treatment facility" has the meaning given in s. 51.01 (19).

21 (b) Beginning on the effective date of this paragraph .... [revisor inserts date],  
22 the owner, operator or administrator of an adult day care center, an adult family  
23 home, an assisted living facility, a community-based residential facility, a home  
24 health agency, a hospice, a nursing home or a treatment facility shall, for any  
25 individual who may have access to patients or residents of the facility or service

1 whom the adult day care center, adult family home, assisted living facility,  
2 community-based residential facility, home health agency, hospice, nursing home or  
3 treatment facility proposes to hire, do all of the following:

4 1. Request from the department any information regarding the individual that  
5 is contained in the registry under sub. (4g) (a) 2.

6 2. Determine whether the registry indicates that the individual has a history  
7 of neglect or abuse of a patient or resident.

8 (c) No adult day care center, adult family home, assisted living facility,  
9 community-based residential facility, home health agency, hospice, nursing home or  
10 treatment facility may hire an individual who may have access to patients or  
11 residents of the facility or service and who is listed on the registry under sub. (4g) (a)  
12 2. as having neglected or abused a patient or resident.

13 (d) Section 939.61 does not apply to this subsection.

14 **SECTION 14.** 813.123 (5) (a) 3. a. of the statutes is amended to read:

15 813.123 (5) (a) 3. a. That the respondent has interfered with, or based upon  
16 prior conduct of the respondent may interfere with, an investigation of the  
17 vulnerable adult under s. 55.043 and that the interference complained of, if  
18 continued, would make it difficult to determine if ~~abuse, neglect or misappropriation~~  
19 of property, neglect or abuse is occurring or may recur.

20 **SECTION 15. Nonstatutory provisions; health and family services.**

21 (1) REGISTRY INFORMATION FOR CERTAIN EMPLOYES.

22 (a) In this subsection:

23 1. “Adult day care center” has the meaning given in section 146.40 (4s) (a) 1.  
24 of the statutes, as created by this act.

1           2. “Adult family home” has the meaning given in section 50.01 (1) of the  
2 statutes.

3           3. “Assisted living facility” has the meaning given in section 50.01 (1d) of the  
4 statutes.

5           4. “Community-based residential facility” has the meaning given in section  
6 50.01 (1g) of the statutes.

7           5. “Home health agency” has the meaning given in section 50.49 (1) (a) of the  
8 statutes.

9           6. “Hospice” has the meaning given in section 50.90 (1) of the statutes.

10          7. “Nursing home” has the meaning given in section 50.01 (3) of the statutes.

11          8. “Treatment facility” has the meaning given in section 51.01 (19) of the  
12 statutes.

13           (b) Except as provided in paragraph (d), the owner, operator or administrator  
14 of an adult day care center, an adult family home, an assisted living facility, a  
15 community-based residential facility, a home health agency, a hospice, a nursing  
16 home or a treatment facility shall, by the date that is 6 months after the effective date  
17 of this paragraph, or upon applying for license or certification renewal for the facility  
18 or service, whichever is earlier, for any individual who may have access to patients  
19 or residents of the facility or service and is in the employment of the facility or service  
20 on the effective date of this paragraph, do all of the following:

21           1. Request from the department of health and family services information  
22 regarding the individual that is contained in the registry under section 146.40 (4g)  
23 (a) 2. of the statutes.

24           2. Determine whether the registry under subdivision 1. indicates that the  
25 individual has a history of neglect or abuse of a patient or resident.

1 (c) No adult day care center, adult family home, assisted living facility,  
2 community-based residential facility, home health agency, hospice, nursing home or  
3 treatment facility may employ an individual who may have access to patients or  
4 residents of the facility or service and who the facility or service has determined, from  
5 the information requested under paragraph (b) 1. or (d) 1. , is listed on the registry  
6 under section 146.40 (4g) (a) 2. as having neglected or abused a patient or resident.

7 (d) Paragraph (b) does not apply with respect to an individual for whom a  
8 request for information would otherwise be required under paragraph (b) 1. , if all  
9 of the following conditions are met:

10 1. The adult day care center, adult family home, assisted living facility,  
11 community-based residential facility, home health agency, hospice, nursing home or  
12 treatment facility requested the information described in paragraph (b) 1. before the  
13 effective date of this subdivision and determined that the registry indicated that the  
14 individual had no record of neglect or abuse of a patient or resident.

15 2. The adult day care center, adult family home, assisted living facility,  
16 community-based residential facility, home health agency, hospice, nursing home or  
17 treatment facility has continuously employed the individual since the facility or  
18 service received the information under subdivision 1.

19 (e) Section 939.61 of the statutes does not apply to this subsection.

20 **SECTION 16. Appropriation changes; aging and long-term care board.**

21 (1) LONG-TERM CARE OMBUDSMAN PROGRAM. In the schedule under section 20.005  
22 (3) of the statutes for the appropriation to the board on aging and long-term care  
23 under section 20.432 (1) (a) of the statutes, as affected by the acts of 1995, the dollar  
24 amount is increased by \$91,500 for fiscal year 1996-97 to increase the authorized  
25 FTE positions for the board on aging and long-term care by 2.0 GPR positions



1 beginning July 1, 1996, for performance of services under section 16.009 (2) (b) of the  
2 statutes.

3 **SECTION 17. Effective dates.** This act takes effect on the day after  
4 publication, except as follows:

5 (1) REGISTRY INFORMATION OF CERTAIN INDIVIDUALS. The treatment of section  
6 146.40 (4s) of the statutes and SECTION 15 of this act take effect on July 1, 1996, or  
7 on the day after publication, whichever is later.

8 (END)