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ASSEMBLY SUBSTITUTE AMENDMENT 1, TO 1999 ASSEMBLY BILL 480

November 1, 1999 - Offered by Committee on Children and Families.

1	$AN\ ACT \textit{to amend}\ 51.13\ (1)\ (a),\ 51.13\ (1)\ (b),\ 51.13\ (1)\ (c),\ 51.13\ (1)\ (d),\ 51.13\ (1)$
2	$(e),51.13\ (2)\ (a),51.13\ (2)\ (b),51.13\ (2)\ (d),51.13\ (3)\ (b),51.13\ (3)\ (c),51.13\ (4)$
3	$(a) \ (intro.), \ 51.13 \ (4) \ (c), \ 51.13 \ (4) \ (d), \ 51.13 \ (4) \ (g) \ (intro.), \ 51.13 \ (4) \ (g) \ 1., \ 51.13 \ (g) $
4	(6) (a), 51.13 (7) (a), 51.13 (7) (b), 51.13 (7) (c), 51.22 (2), 51.35 (3) (a), 51.35
5	(b), 51.35 (3) (g), 51.47 (title), 51.47 (1) and 51.61 (6); and $\textbf{\textit{to create}}$ 51.48 of the
6	statutes; relating to: treatment of minors for alcoholism or drug abuse.

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

Section 1. 51.13 (1) (a) of the statutes is amended to read:

51.13 (1) (a) Except as provided in s. 51.45 (2m), the application for voluntary admission of a minor who is under 14 years of age to an approved inpatient treatment facility for the primary purpose of treatment for alcoholism or drug abuse and the application for voluntary admission of a minor who is under 14 years of age to an approved inpatient treatment facility for the primary purpose of treatment for

mental illness or developmental disability shall be executed by a parent who has legal custody of the minor or the minor's guardian. Any statement or conduct by a minor under the age of 14 who is the subject of an application for voluntary admission under this paragraph indicating that the minor does not agree to admission to the facility shall be noted on the face of the application and shall be noted in the petition required by sub. (4).

SECTION 2. 51.13 (1) (b) of the statutes is amended to read:

51.13 (1) (b) The application for voluntary admission of a minor who is 14 years of age or over to an approved inpatient treatment facility for the primary purpose of treatment for mental illness or developmental disability shall be executed by the minor and a parent who has legal custody of the minor or the minor's guardian, except as provided in par. (c).

Section 3. 51.13 (1) (c) of the statutes is amended to read:

51.13 (1) (c) If a minor 14 years of age or older wishes to be admitted to an approved inpatient treatment facility but a parent with legal custody or the guardian refuses to execute the application for admission or cannot be found, or if there is no parent with legal custody, the minor or a person acting on the minor's behalf may petition the court assigned to exercise jurisdiction under chs. 48 and 938 in the county of residence of the parent or guardian for approval of the admission. A copy of the petition and a notice of hearing shall be served upon the parent or guardian at his or her last-known address. If, after a hearing, the court determines that the parent or guardian's consent is of the parent or guardian is being unreasonably withheld or, that the parent or guardian cannot be found or that there is no parent with legal custody, and that the admission is proper under the standards prescribed in sub. (4) (d), it the court shall approve the minor's admission without the parent

or guardian's consent of the parent or guardian. The court may, at the minor's request, temporarily approve the admission pending <u>a</u> hearing on the petition. If a hearing is held under this subsection, no review or hearing under sub. (4) is required.

Section 4. 51.13 (1) (d) of the statutes is amended to read:

51.13 (1) (d) A minor against whom a petition or statement has been filed under s. 51.15, 51.20 or 51.45 (12) or (13) may be admitted under this section. The court may permit the minor to become a voluntary patient pursuant to under this section upon approval by the court of an application executed pursuant to under par. (a), (b) or (c), and the judge. The court shall then dismiss the proceedings under s. 51.15, 51.20 or 51.45 (12) or (13). If a hearing is held under this subsection, no hearing under sub. (4) is required.

SECTION 5. 51.13 (1) (e) of the statutes is amended to read:

51.13 (1) (e) A minor may be admitted immediately upon the approval of the application executed under par. (a) or (b) by the treatment director of the facility or his or her designee or, in the case of a center for the developmentally disabled, the director of the center or his or her designee, and the director of the appropriate county department under s. 51.42 or 51.437 if such the county department is to be responsible for the cost of the minor's therapy and treatment. Approval shall be based upon an informed professional opinion that the minor is in need of psychiatric services or services for developmental disability, alcoholism or drug abuse, that the treatment facility offers inpatient therapy or treatment which is appropriate for the minor's needs and that inpatient care in the facility is the least restrictive therapy or treatment consistent with the minor's needs. In the case of a minor who is being admitted for the primary purpose of treatment for alcoholism or drug abuse, if the minor agrees to participate in an alcohol or other drug abuse assessment that

conforms to the criteria specified in s. 938.547 (4), approval shall also be based on the results of the assessment.

SECTION 6. 51.13 (2) (a) of the statutes is amended to read:

51.13 (2) (a) A minor may be admitted to an inpatient treatment facility without complying with the requirements of this section if the admission does not involve the department or a county department under s. 51.42 or 51.437, or a contract between a treatment facility and the department or between a treatment facility and a county department. The application for voluntary admission of a minor to an inpatient treatment facility for the primary purpose of treatment for alcoholism or drug abuse and the application for voluntary admission of a minor who is under 14 years of age to an inpatient treatment facility for the primary purpose of treatment for mental illness or developmental disability shall be executed by a parent who has legal custody of the minor or the minor's guardian. The application for voluntary admission of a minor who is 14 years of age or over to an inpatient treatment facility for the primary purpose of treatment for mental illness or developmental disability shall be executed by the minor and a parent who has legal custody of the minor or the minor's guardian.

Section 7. 51.13 (2) (b) of the statutes is amended to read:

51.13 (2) (b) Notwithstanding par. (a), any minor who is 14 years of age or older who is admitted to an inpatient treatment facility for the primary purpose of treatment of mental illness, or developmental disability, alcoholism or drug abuse has the right to be discharged within 48 hours of after his or her request, as provided in sub. (7) (b). At the time of admission, any minor who is 14 years of age or older and who is admitted for the primary purpose of treatment for mental illness or developmental disability shall be informed of this right orally and in writing by the

director of the hospital or such person's designee. This paragraph does not apply to individuals who receive services in hospital emergency rooms.

SECTION 8. 51.13 (2) (d) of the statutes is amended to read:

51.13 (2) (d) Writing materials for use in requesting a discharge shall be made available at all times to all minors who are 14 years of age or older and who are admitted under this subsection for the primary purpose of treatment for mental illness or developmental disability. The staff of the facility shall assist such minors in preparing or submitting requests for discharge.

Section 9. 51.13 (3) (b) of the statutes is amended to read:

51.13 (3) (b) A minor 14 years of age or older who has been admitted to an inpatient treatment facility for the primary purpose of treatment for mental illness or developmental disability and his or her parent or guardian shall also be informed by the director or his or her designee, both orally and in writing, in easily understandable language, of the minor's right to request discharge and to be discharged within 48 hours of the request if no petition or statement is filed for emergency detention, emergency commitment, involuntary commitment or protective placement, and the minor's right to consent to or refuse treatment as provided in s. 51.61 (6).

Section 10. 51.13 (3) (c) of the statutes is amended to read:

51.13 (3) (c) A minor who has been admitted to an inpatient facility for the primary purpose of treatment for alcoholism or drug abuse, a minor under 14 years of age who has been admitted to an inpatient treatment facility for the primary purpose of treatment for mental illness or developmental disability and his or her the parent or guardian of such a minor shall also be informed by the director or his or her designee, both orally and in writing, in easily understandable language, of the

minor's right to a hearing to determine continued appropriateness of the admission as provided in sub. (7).

SECTION 11. 51.13 (4) (a) (intro.) of the statutes is amended to read:

51.13 (4) (a) (intro.) Within 3 days of <u>after</u> the admission of a minor under sub. (1), or within 3 days of <u>after</u> application for admission of the minor, whichever occurs first, the treatment director of the facility to which the minor is admitted or, in the case of a center for the developmentally disabled, the director of the center, shall file a verified petition for review of the admission in the court assigned to exercise jurisdiction under chs. 48 and 938 in the county in which the facility is located. A copy of the application for admission and of any relevant professional evaluations shall be attached to the petition. The petition shall contain all of the following:

Section 12. 51.13 (4) (c) of the statutes is amended to read:

51.13 (4) (c) A copy of the petition shall be provided by the petitioner to the minor and his or her parents or guardian within 5 days of <u>after</u> admission.

Section 13. 51.13 (4) (d) of the statutes is amended to read:

51.13 (4) (d) Within 5 days of after the filing of the petition, the court assigned to exercise jurisdiction under chs. 48 and 938 shall determine, based on the allegations of the petition and accompanying documents, whether the admission is voluntary on the part of the minor if the minor is 14 years of age or older and whether there is a prima facie showing that the minor is in need of psychiatric services, or services for developmental disability, alcoholism or drug abuse, that the treatment facility offers inpatient therapy or treatment which is appropriate to the minor's needs, and that inpatient care in the treatment facility is the least restrictive therapy or treatment consistent with the needs of the minor and, if the minor is 14 years of age or older and has been admitted to the treatment facility for the primary purpose

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of treatment for mental illness or developmental disability, whether the admission is voluntary on the part of the minor. If such a showing is made, the court shall permit voluntary admission. If the court is unable to make such those determinations based on the petition and accompanying documents, it shall the court may dismiss the petition as provided in par. (h); or order additional information to be produced as it deems necessary for the court to make such review, and make such those determinations within 14 days of after admission or application for admission, whichever is sooner; or it may hold a hearing within 14 days of after admission or application for admission, whichever is sooner. If a notation of the minor's unwillingness appears on the face of the petition, or if a hearing has been requested by the minor, the minor's counsel, parent or guardian, the court shall hold a hearing to review the admission within 14 days of after admission or application for admission, whichever is sooner, and shall appoint counsel to represent the minor if the minor is unrepresented. If the court deems considers it necessary, it the court shall also appoint a guardian ad litem to represent the minor.

SECTION 14. 51.13 (4) (g) (intro.) of the statutes is amended to read:

51.13 (4) (g) (intro.) If the court finds that the minor is in need of psychiatric services or services for developmental disability, alcoholism or drug abuse in an inpatient facility, and that the inpatient facility to which the minor is admitted offers therapy or treatment that is appropriate for the minor's needs and that is the least restrictive therapy or treatment consistent with the minor's needs and, in the case of a minor aged 14 or older who is being admitted for the primary purpose of treatment for mental illness or developmental disability, the application is voluntary on the part of the minor, the court shall permit voluntary admission. If the court finds that the therapy or treatment in the inpatient facility to which the minor is admitted

is not appropriate or is not the least restrictive therapy or treatment consistent with the minor's needs, the court may order placement in or transfer to another more appropriate or less restrictive inpatient facility, except that the court may not permit or order placement in or transfer to the northern or southern centers for the developmentally disabled of a minor unless the department gives approval for the placement or transfer, and if the order of the court is approved by all of the following if applicable:

SECTION 15. 51.13 (4) (g) 1. of the statutes is amended to read:

51.13 (4) (g) 1. The minor if he or she is aged 14 or older <u>and is being admitted</u> for the primary purpose of treatment for mental illness or developmental disability.

Section 16. 51.13 (6) (a) of the statutes is amended to read:

51.13 (6) (a) A minor may be admitted to an inpatient treatment facility without review of the application under sub. (4) for diagnosis and evaluation or for dental, medical or psychiatric services for a period not to exceed 12 days. The application for short-term admission of a minor shall be executed by the minor's parent or guardian, and by the minor if he or she, if the minor is 14 years of age or older and is being admitted for the primary purpose of diagnosis, evaluation or services for mental illness or developmental disability, by the minor. A minor may not be readmitted to an inpatient treatment facility for psychiatric services under this paragraph within 120 days of a previous admission under this paragraph.

Section 17. 51.13 (7) (a) of the statutes is amended to read:

51.13 (7) (a) If a minor is admitted to an inpatient treatment facility while under 14 years of age, and if upon reaching age 14 is in need of further inpatient care and treatment primarily for mental illness or developmental disability, the director of the facility shall request the minor and the minor's parent or guardian to execute

an application for voluntary admission. Such an application may be executed within 30 days prior to a minor's 14th birthday. If the application is executed, a petition for review shall be filed in the manner prescribed in sub. (4), unless such a review has been held within the last 120 days. If the application is not executed by the time of the minor's 14th birthday, the minor shall be discharged unless a petition or statement is filed for emergency detention, emergency commitment, involuntary commitment or protective placement by the end of the next day in which the court transacts business.

Section 18. 51.13 (7) (b) of the statutes is amended to read:

51.13 (7) (b) Any minor 14 years of age or over voluntarily admitted under this section for the primary purpose of treatment for mental illness or developmental disability may request discharge in writing. Upon receipt of any form of written request for discharge, the director of the facility in which the minor is admitted shall immediately notify the minor's parent or guardian. The minor shall be discharged within 48 hours after submission of the request, exclusive of Saturdays, Sundays and legal holidays, unless a petition or statement is filed for emergency detention, emergency commitment, involuntary commitment or protective placement.

Section 19. 51.13 (7) (c) of the statutes is amended to read:

51.13 (7) (c) Any minor who is voluntarily admitted under this section for the primary purpose of treatment for alcoholism or drug abuse and any minor under 14 years of age who is voluntarily admitted under this section for the primary purpose of treatment for mental illness or developmental disability may submit a written request to the court for a hearing to determine the continued appropriateness of the admission. If the director or staff of the inpatient treatment facility to which a minor who is voluntarily admitted under this section for the primary purpose of treatment

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for alcoholism or drug abuse or a minor under the age of 14 is admitted who is voluntarily admitted under this section for the primary purpose of treatment for mental illness or developmental disability observes conduct by the minor which demonstrates an unwillingness to remain at the facility, including but not limited to a written expression of opinion or unauthorized absence, the director shall file a written request with the court to determine the continued appropriateness of the admission. A request which is made personally by a minor under this paragraph shall be signed by the minor but need not be written or composed by him or her. A request for a hearing under this paragraph which is received by staff or the director of the facility in which the child is admitted shall be filed with the court by the director. The court shall order a hearing upon request if no hearing concerning the minor's admission has been held within 120 days of receipt of the request. The court shall appoint counsel and, if the court deems it necessary, a guardian ad litem to represent the minor and if a hearing is held shall hold the hearing within 14 days of the request, unless the parties agree to a longer period. After the hearing, the court shall make disposition of the matter in the manner provided in sub. (4).

Section 20. 51.22 (2) of the statutes is amended to read:

51.22 (2) Voluntary Except as provided in s. 51.13 (2), voluntary admissions under ss. 51.10, 51.13 and 51.45 (10) shall be through the county department under s. 51.42 or 51.437 serving the person's county of residence, or through the department if the person to be admitted is a nonresident of this state. Admissions through a county department under s. 51.42 or 51.437 shall be made in accordance with s. 51.42 (3) (as) 1. or 51.437 (4rm) (a). Admissions through the department shall be made in accordance with sub. (3).

Section 21. 51.35 (3) (a) of the statutes is amended to read:

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51.35 (3) (a) A licensed psychologist of a juvenile correctional facility or a secured child caring institution, as defined in s. 938.02 (15g), or a licensed physician of the department of corrections, who has reason to believe that any individual confined in the facility or institution is, in his or her opinion, in need of services for developmental disability, alcoholism or drug dependency or in need of psychiatric services, and who has obtained voluntary consent to make a transfer for treatment. shall make a report, in writing, to the superintendent of the facility or institution, stating the nature and basis of the belief and verifying the consent. In the case of a minor age 14 and over who is in need of services for developmental disability or who is in need of psychiatric services, the minor and the minor's parent or guardian shall consent unless the minor is admitted under s. 51.13 (1) (c); and. In the case of a minor who is in need of services for alcoholism or drug dependency or a minor under the age of 14 who is in need of services for developmental disability or who is in need of psychiatric services, only the minor's parent or guardian need consent. The superintendent shall inform, orally and in writing, the minor and the minor's parent or guardian, that transfer is being considered and shall inform them of the basis for the request and their rights as provided in s. 51.13 (3). If the department of corrections, upon review of a request for transfer, determines that transfer is appropriate, that department shall immediately notify the department of health and family services and, if the department of health and family services consents, the department of corrections may immediately transfer the individual. The department of corrections shall file a petition under s. 51.13 (4) (a) in the court assigned to exercise jurisdiction under chs. 48 and 938 of the county where the treatment facility is located.

Section 22. 51.35 (3) (b) of the statutes is amended to read:

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51.35 (3) (b) The court assigned to exercise jurisdiction under chs. 48 and 938 shall determine, based on the allegations of the petition and accompanying documents, whether the transfer is voluntary on the part of the minor if he or she is aged 14 or over, and whether the transfer of the minor to an inpatient facility is appropriate and consistent with the needs of the minor. In the event that and, if the minor is 14 years of age or over and is being transferred for the purpose of receiving services for developmental disability or psychiatric services, whether the transfer is voluntary on the part of the minor. If the court is unable to make such those determinations based on the petition and accompanying documents, it shall the court may order additional information to be produced as it deems necessary to make such review, and make such those determinations within 14 days of after admission, or it the court may hold a hearing within 14 days of after admission. If a notation of the minor's unwillingness appears on the face of the petition, or that if a hearing has been requested by the minor, the minor's counsel, guardian ad litem, parent or guardian, the court shall hold a hearing and appoint counsel or a guardian ad litem for the minor as provided in s. 51.13 (4) (d). At the conclusion of the hearing, the court shall approve or disapprove the request for transfer. If the minor is under the continuing jurisdiction of the court of another county, the court may order the case transferred together with all appropriate records to that court.

SECTION 23. 51.35 (3) (g) of the statutes is amended to read:

51.35 (3) (g) A minor 14 years of age or older who is transferred to a treatment facility under par. (a) for the purpose of receiving services for developmental disability or psychiatric services may request in writing a return to the juvenile correctional facility or secured child caring institution, as defined in s. 938.02 (15g). In the case of a minor who is transferred to a treatment facility under par. (a) for the

purpose of receiving services for alcoholism or drug dependency or a minor under 14 years of age who is transferred to a treatment facility under par. (a) for the purpose of receiving services for developmental disability or psychiatric services, the parent or guardian may make the request. Upon receipt of a request for return from a minor 14 years of age or over who is transferred to a treatment facility under par. (a) for the purpose of receiving services for developmental disability or psychiatric services, the director shall immediately notify the minor's parent or guardian. The minor shall be returned to the juvenile correctional facility or secured child caring institution within 48 hours after submission of the request unless a petition or statement is filed for emergency detention, emergency commitment, involuntary commitment or protective placement.

Section 24. 51.47 (title) of the statutes is amended to read:

51.47 (title) Alcohol and other drug abuse treatment for minors without parental consent.

Section 25. 51.47 (1) of the statutes is amended to read:

51.47 (1) Except as provided in subs. (2) and (3), any physician or health care facility licensed, approved or certified by the state for the provision of health services may render preventive, diagnostic, assessment, evaluation or treatment services for the abuse of alcohol or other drugs to a minor 12 years of age or over without obtaining the consent of or notifying the minor's parent or guardian. Unless consent of the minor's parent or guardian is required under sub. (2), the physician or health care facility shall obtain the minor's consent prior to billing a 3rd party for services under this section. If the minor does not consent, the minor shall be solely responsible for paying for the services, which the department shall bill to the minor under s. 46.03 (18) (b).

Section 26. 51.48 of the statutes is created to read:

51.48 Alcohol or other drug abuse treatment for minors with parental consent. A parent or guardian of a minor may consent to have the minor assessed by an approved treatment facility for the minor's abuse of alcohol or other drugs. If, based on the assessment, the approved treatment facility determines that the minor is in need of treatment for the abuse of alcohol or other drugs, the approved treatment facility shall recommend a plan of treatment that is appropriate for the minor's needs and that provides for the least restrictive form of treatment consistent with the minor's needs. That treatment may consist of outpatient treatment, day treatment or, if the minor is admitted in accordance with s. 51.13, inpatient treatment. The parent or guardian of the minor may consent to the treatment recommended under this section. The consent of the minor to assessment or treatment under this section is not required.

Section 27. 51.61 (6) of the statutes is amended to read:

51.61 (6) Subject to the rights of patients provided under this chapter, the department, county departments under s. 51.42 or 51.437 and any agency providing services under an agreement with the department or those county departments have the right to use customary and usual treatment techniques and procedures in a reasonable and appropriate manner in the treatment of patients who are receiving services under the mental health system, for the purpose of ameliorating the conditions for which the patients were admitted to the system. The written, informed consent of any patient shall first be obtained, unless the person has been found not competent to refuse medication and treatment under s. 51.61 (1) (g) or the person is a minor who is receiving services for alcoholism or drug abuse or a minor under 14 years of age who is receiving services for mental illness or developmental

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disability. In the case of a minor, the written, informed consent of the parent or guardian is required. Except, except as provided under an order issued under s. 51.13 (1) (c) or 51.14 (3) (h) or (4) (g), if. If the minor is 14 years of age or older and is receiving services for mental illness or developmental disability, the written, informed consent of the minor and the minor's parent or guardian is required. A refusal of either a minor 14 years of age or older or the minor's parent or guardian to provide written, informed consent for admission to an approved inpatient treatment facility is reviewable under s. 51.13 (1) (c) and a refusal of either a minor 14 years of age or older or the minor's parent or guardian to provide written, informed consent for outpatient mental health treatment is reviewable under s. 51.14.

SECTION 28. Initial applicability.

(1) This act first applies to individuals who are receiving treatment in an approved inpatient treatment facility, or who are receiving outpatient mental health treatment, on the effective date of this subsection regardless of whether admission to the inpatient facility or outpatient program occurred or was sought prior to the effective date of this subsection.

Section 29. Effective date.

(1) This act takes effect on the first day of the 2nd month beginning after publication.

(END)