



1995 ASSEMBLY BILL 806

January 22, 1996 - Introduced by Representatives OURADA, FREESE, LADWIG, HUBER, LEHMAN, GUNDERSON, SERATTI, WIRCH, GOETSCH, KELSO, POWERS, ZIEGELBAUER, LAZICH, OLSEN, NASS, RYBA, HANDRICK, MUSSER, KREUSER, OWENS, HAHN, GROTHMAN, OTT, BRANDEMUEHL, GRONEMUS and PORTER, cosponsored by Senators BUETTNER, HUELSMAN, DARLING, SCHULTZ, ROSENZWEIG, BRESKE, FITZGERALD and DRZEWIECKI. Referred to Committee on Children and Families.

1 **AN ACT to renumber and amend** 55.045; **to amend** 51.61 (1) (e) and 51.61 (1)
2 (f); and **to create** 55.045 (2) and (3) of the statutes; **relating to:** certain rights
3 of patients receiving services for mental illness, developmental disabilities,
4 alcoholism or drug dependency and obtaining reimbursement for certain
5 expenses for establishing a protective placement and for periodic reviews of
6 protective placements from the subject of the placement.

Analysis by the Legislative Reference Bureau

Under current law, as affected by 1995 Wisconsin Act 92, the funding obligation of a county to provide mental health services, protective placements and protective services is limited to 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 that are required to be appropriated to match state funds. The limitations of this funding obligation apply to the rights of persons who are receiving services for mental illness, developmental disability, alcoholism or drug dependency to the least restrictive conditions necessary to achieve the purposes of admission, commitment or protective placement and to the rights of the same persons to receive prompt and adequate treatment, rehabilitation and educational services appropriate for their conditions.

This bill allows the limitations on funding obligations for a county that were effected under 1995 Wisconsin Act 92, as they are applied to the rights of patients who receive services for mental illness, developmental disability, alcoholism or drug dependency, to apply only to the extent that the care of the patient is funded by a county.

Under current law, as affected by 1995 Wisconsin Act 92, the appropriate county department that makes recommendations for the protective placement of an

individual must provide for the reasonable program needs of persons who are protectively placed or who receive protective services, within the limits of available state and federal funds and county funds required to be appropriated to match state funds. These program needs include reasonable expenses for the evaluations required prior to the protective placement. The person who is protectively placed or who receives protective services may be required to provide reimbursement for care and custody received, in accordance with a fee schedule that is established by the department of health and social services and that is based on ability to pay.

This bill permits reasonable expenses for establishing a protective placement and for periodic reviews of the placement to be charged to the subject of the placement, according to the subject's ability to pay, if a court is so requested and finds that the expenses are reasonable. The expenses include the petitioner's expenses related to proceedings to establish the protective placement, including applicable guardianship proceedings and certain attorney fees of the petitioner; guardian ad litem fees; fees of the subject's independent counsel; and the expenses for the county department that is recommending the establishment of a protective placement and for periodic reviews of the protective placement. The bill provides that, to the extent that the subject's estate, including income, and reimbursement from federal, state or other sources, are insufficient, these expenses shall be paid by the county department, unless the court directs otherwise.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 51.61 (1) (e) of the statutes, as affected by 1995 Wisconsin Act 92,
2 is amended to read:

3 51.61 (1) (e) Except in the case of a patient who is admitted or transferred under
4 s. 51.35 (3) or 51.37 or under ch. 971 or 975, have the right to the least restrictive
5 conditions necessary to achieve the purposes of admission, commitment or protective
6 placement, ~~under~~ To the extent that the care of a patient is funded by a county, that
7 funding may be limited to programs, services and resources that the county board
8 of supervisors is reasonably able to provide within the limits of available state and
9 federal funds and of county funds required to be appropriated to match state funds.

1 **SECTION 2.** 51.61 (1) (f) of the statutes, as affected by 1995 Wisconsin Act 92,
2 is amended to read:

3 51.61 (1) (f) Have a right to receive prompt and adequate treatment,
4 rehabilitation and educational services appropriate for his or her condition, ~~under.~~
5 To the extent that the treatment, rehabilitation and services for a patient are funded
6 by a county, that funding may be limited to programs, services and resources that the
7 county board of supervisors is reasonably able to provide within the limits of
8 available state and federal funds and of county funds required to be appropriated to
9 match state funds.

10 **SECTION 3.** 55.045 of the statutes, as affected by 1995 Wisconsin Act 92, is
11 renumbered 55.045 (1) and amended to read:

12 55.045 (1) The appropriate county department designated under s. 55.02 shall,
13 within the limits of available state and federal funds and of county funds required
14 to be appropriated to match state funds, provide for the reasonable program needs
15 of persons who are protectively placed or who receive protective services under this
16 chapter, ~~including reasonable expenses for the evaluations required by sub. (8).~~
17 Payment and collections for protective placement or protective services provided in
18 public facilities specified in s. 46.10 shall be governed in accordance with s. 46.10.
19 The department may require that a person who is protectively placed or receives
20 protective services under this chapter provide reimbursement for services or care
21 and custody received, based on the ability of the person to pay for such costs.

22 **SECTION 4.** 55.045 (2) and (3) of the statutes are created to read:

23 55.045 (2) Reasonable expenses for establishing a protective placement and for
24 periodic reviews of the protective placement may be charged to the subject of the
25 protective placement. These expenses include:

1 (a) The petitioner's expenses related to proceedings to establish the protective
2 placement, including guardianship proceedings if applicable and the petitioner's
3 attorney fees except when the petitioner is represented by the district attorney or
4 county corporation counsel.

5 (b) Guardian ad litem fees.

6 (c) Fees of the subject's independent counsel, if any.

7 (d) Charges for the evaluations required by s. 55.06 (8).

8 (e) The expenses of the appropriate county department that is making
9 recommendations for establishing the protective placement and for periodic reviews
10 of the protective placement, including attorney fees of the county department, unless
11 it is represented in the proceedings by the district attorney or county corporation
12 counsel, and expenses for the evaluations required by s. 55.06 (8), for providing the
13 testimony of the protective services staff of the county department, for preparing
14 reports for review of protective placement, for the examinations and reports under
15 s. 880.33 (1) and (2) (b), for similar examinations and reports in protective placement
16 reviews and for obtaining records relevant to the protective placement.

17 **(3)** The court shall, upon a request and upon its finding that expenses described
18 in sub. (2) are reasonable, order reimbursement which may be available from federal,
19 state or other sources. If reimbursement is not available, the court may order
20 payment from the subject's estate, including income, according to the subject's ability
21 to pay. The appropriate county department making recommendation for placement
22 shall seek appropriate reimbursement for such expenses. To the extent that the
23 subject's estate, including income, and available reimbursement are insufficient,

