



2005 ASSEMBLY BILL 1114

March 14, 2006 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to
Committee on Health.

1 **AN ACT** *to renumber and amend* 51.40 (2) (b) 2. a., 51.40 (2) (b) 2. b., 51.40 (2)
2 (b) 2. c. and 51.40 (2) (b) 2. d.; *to amend* 46.266 (4) (b), 46.27 (6g) (c), 51.01 (14),
3 51.05 (2), 51.13 (4) (h) 2., 51.20 (1) (c), 51.20 (9) (a) 3., 51.20 (18) (d), 51.22 (4),
4 51.37 (5) (c), 51.40 (1) (e), 51.40 (2) (intro.), 51.40 (2) (a), 51.40 (2) (b) (intro.),
5 51.40 (2) (b) 1., 51.40 (2) (b) 2. (intro.), 51.40 (2) (g) 1., 55.06 (1) (a), 55.06 (3) (c),
6 55.06 (8) (intro.), 880.06 (1) and 880.33 (2) (a) 3.; *to repeal and recreate* 51.40
7 (title), 51.40 (2) (f) and 880.06 (2); and *to create* 51.01 (4g), 51.01 (4r), 51.01
8 (14t), 51.20 (13) (g) 4., 51.40 (1) (em), 51.40 (1) (hm), 51.40 (1) (k), 51.40 (2) (b)
9 3., 51.40 (2) (g) 6. and 55.06 (3) (d) of the statutes; **relating to:** venue, county
10 of responsibility, and determination of county of residence for certain services,
11 commitments, protective placements, and protective services.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in
the bill.

ASSEMBLY BILL 1114

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:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:

Residency, Venue, and County of Responsibility

Current law sets forth criteria to determine which county is responsible for the costs of services provided to an individual under chs. 46, 51, and 55.

The current criteria apply only to persons with a developmental disability or chronic mental illness. The bill replaces the term “chronic mental illness” with “serious and persistent mental illness,” to correspond to similar changes elsewhere in the bill. The bill also expands applicability of the criteria to individuals with “degenerative brain disorder” or “other like incapacity.”

The current criteria apply only to individuals in state facilities or nursing homes. The bill expands applicability of the criteria to individuals in any facility licensed or registered under ch. 50 of the statutes.

The bill specifies that the criteria apply to individuals receiving court-ordered protective services as well as placement; current law refers only to protective placement.

The bill specifies that for purposes of s. 51.40, “residence” has the meaning specified in s. 49.001 (6): “the voluntary concurrence of physical presence with intent to remain in a place of fixed habitation. Physical presence is prima facie evidence of intent to remain.”

The bill further specifies that for purposes of s. 51.40, “voluntary” has the meaning specified in s. 49.001 (8).

The bill authorizes the court to make a specific finding of county of residence of a person who is under a court order of commitment under ch. 51 or an order for protective placement or services after notice and an opportunity to be heard has been given to all affected counties and parties, if there is no objection. Notice must be sent to the corporation counsel of each affected county by certified mail. If there is an objection to the proposed finding of a county of residence, the county or a party may request the department to make a determination of county of responsibility. Any transfer of venue must be suspended until the determination of county of responsibility is final.

Current law sets forth criteria to determine the residency of a person living in a nursing home. The bill specifies that determinations made pursuant to those criteria are presumptions that may be overcome by substantial evidence that clearly establishes residence in another county.

The bill specifies that placement of an individual by a county department or an agency of a county department into a facility outside the jurisdiction of the county does not transfer the individual’s legal residency to the county of the facility’s location. If a person is present in a county while being a resident of another county and is in need of immediate care, a county of appropriate venue may provide for the immediate needs of a person without being declared the person’s county of residence.

The bill specifies that if it is not contrary to the other statutory criteria concerning residency, an individual residing in a facility who is incapable of indicating intent is a resident of the county in which he or she last resided before entering the facility.

Current law provides that a ward in a state facility or nursing home whose parent or sibling serves as his or her guardian is a resident of the guardian’s county of residence if the state facility or nursing home is located in that county or if the guardian states in writing that the ward is expected to return to the guardian’s county of residence when the

ASSEMBLY BILL 1114

purpose of entering the state facility or nursing home has been accomplished or when needed care and services can be obtained in that county.

The bill substantially amends this provision as follows:

1. Amends the title of the provision to "Guardian's authority to declare county of residence."

2. Makes the provisions applicable to all guardians (not just guardians who are a parent or sibling of a ward) of wards in any facility (not just a state facility or nursing home).

3. Provides that if other criteria to determine residency do not apply, a guardian may declare a ward's county of residence to be the county where the ward is physically present if all of the following apply:

The ward's presence in the county is voluntary.

There is no ch. 55 order in effect and the ward is not under an involuntary commitment to the county, other than the county where the ward is physically present, or to the Department of Corrections.

The ward is living in a place of fixed habitation.

The guardian states in writing that it is the ward's intent to remain in the county for the foreseeable future.

The bill also provides that a guardian may, for good cause shown, if in the ward's best interests, clarify or change a ward's county of residence by filing with the probate court having jurisdiction of the guardianship and protective placement a written statement declaring the ward's domiciliary intent, subject to court approval, with notice and opportunity to appear by potentially affected counties and parties.

Current law provides a procedure for the department to make a determination of county of responsibility of an individual upon request. The bill specifies that any pending motion for change of venue shall be stayed until the department's determination is final. The bill also expands notice requirements pertaining to the residency determination procedure.

The bill provides that the county found to be responsible for providing services ordered under ch. 46, 51, or 55 to an individual must reimburse any other county that provided services to the individual for all services provided to the individual beginning on the date of the initial order under ch. 46, 51, or 55. Full reimbursement by the responsible county must be made within 120 days of the department's responsibility determination, or of the outcome of any appeal by the department's determination that is brought under ch. 227, or on a date or pursuant to a schedule of two or more payments agreed to by both counties.

The bill specifies that to be eligible for protective placement or services, a person must be a resident of Wisconsin or be present in Wisconsin having a need for protective placement or services until such time as appropriate protective services can be established in the person's place of residence.

Current law specifies that a petition under ch. 55 must be filed in the county of residence of the person sought to be protected. The bill provides that the petition may be filed in the county in which the person sought to be protected is physically present under extraordinary circumstances requiring medical aid or the prevention of harm to the person or others.

The bill provides that the court in which a petition under ch. 55 or 880 is filed must determine venue. The court must direct that proper notice be given to any potentially responsible or affected county. After all potentially responsible or affected counties and parties have been given an opportunity to be heard, if it is determined that venue lies in another county, the court must order the entire record certified to the proper court. A court in which a subsequent petition is filed must, upon being satisfied of an earlier filing in another court, summarily dismiss such petition. If any county or party objects to the court's finding of venue, the issue must be referred to the department and the department must make a determination of county of responsibility pursuant to the procedure under

ASSEMBLY BILL 1114

current law. The court must suspend ruling on the motion for change of venue until the department's determination is final.

The bill provides that the county department under s. 51.42 or 51.437 to which an individual is involuntarily committed for treatment under ch. 51 retains responsibility for the person when the person voluntarily moves to another county until venue for the person is transferred to the county where the person is residing or until the person is no longer a proper subject of continued commitment.

The bill specifies that the residence of a person who is committed under ch. 51 and who is placed in a facility in another county by a county developmental disabilities board does not transfer to the county of the facility's location while the person is under commitment.

1 **SECTION 1.** 46.266 (4) (b) of the statutes is amended to read:

2 46.266 (4) (b) If Notwithstanding s. 51.40 (2), if the department is unable to
3 determine the county of residence under par. (a), the county department of the county
4 in which is located the facility where the person resided on the date of the finding by
5 the federal health care financing administration or the department.

6 **SECTION 2.** 46.27 (6g) (c) of the statutes is amended to read:

7 46.27 (6g) (c) For a person living in a nursing home, ~~except a state-operated~~
8 ~~long-term care facility, whose legal residence is established in another county, the~~
9 ~~county in which the legal~~ of residence is established is the county of for purposes of
10 fiscal responsibility is determined under s. 51.40.

11 **SECTION 3.** 51.01 (4g) of the statutes is created to read:

12 51.01 (4g) “County of residence” means the county that is determined under
13 s. 51.40 to be the county of residence.

14 **SECTION 4.** 51.01 (4r) of the statutes is created to read:

15 51.01 (4r) “Degenerative brain disorder” means the loss or dysfunction of brain
16 cells to the extent that the individual is substantially impaired in his or her ability
17 to provide adequately for his or her own care or custody or to manage adequately his
18 or her property or financial affairs.

19 **SECTION 5.** 51.01 (14) of the statutes is amended to read:

ASSEMBLY BILL 1114

1 51.01 (14) “Residence”, ~~“legal residency” or “county of residence”~~ has the
2 meaning given under s. 49.001 (6).

3 **SECTION 6.** 51.01 (14t) of the statutes is created to read:

4 51.01 (14t) “Serious and persistent mental illness” means a mental illness that
5 is severe in degree and persistent in duration, that causes a substantially diminished
6 level of functioning in the primary aspects of daily living and an inability to cope with
7 the ordinary demands of life, that may lead to an inability to maintain stable
8 adjustment and independent functioning without long-term treatment and support,
9 and that may be of lifelong duration. “Serious and persistent mental illness” includes
10 schizophrenia as well as a wide spectrum of psychotic and other severely disabling
11 psychiatric diagnostic categories, but does not include degenerative brain disorder
12 or a primary diagnosis of a developmental disability or of alcohol or drug dependence.

13 **SECTION 7.** 51.05 (2) of the statutes is amended to read:

14 51.05 (2) ADMISSIONS AUTHORIZED BY COUNTIES. The department may not accept
15 for admission to a mental health institute any resident person, except in an
16 emergency, unless the county department under s. 51.42 in the county ~~where the~~
17 ~~person has legal residency of residence~~ authorizes the care, as provided in s. 51.42
18 (3) (as). Patients who are committed to the department under s. 975.01, 1977 stats.,
19 or s. 975.02, 1977 stats., or s. 971.14, 971.17, 975.06 or 980.06, admitted by the
20 department under s. 975.17, 1977 stats., or are transferred from a secured
21 correctional facility, a secured child caring institution or a secured group home to a
22 state treatment facility under s. 51.35 (3) or from a jail or prison to a state treatment
23 facility under s. 51.37 (5) are not subject to this section.

24 **SECTION 8.** 51.13 (4) (h) 2. of the statutes is amended to read:

ASSEMBLY BILL 1114**SECTION 8**

1 51.13 (4) (h) 2. Order the petition to be treated as a petition for involuntary
2 commitment and refer it to the court where the review under this section was held,
3 or if it was not held in the county of legal residence of the subject individual's parent
4 or guardian and hardship would otherwise occur and if the best interests of the
5 subject individual would be served thereby, to the court assigned to exercise
6 jurisdiction under chs. 48 and 938 in such county for a hearing under s. 51.20 or 51.45
7 (13).

8 **SECTION 9.** 51.20 (1) (c) of the statutes is amended to read:

9 51.20 (1) (c) The petition shall contain the names and mailing addresses of the
10 petitioners and their relation to the subject individual, and shall also contain the
11 names and mailing addresses of the individual's spouse, adult children, parents or
12 guardian, custodian, brothers, sisters, person in the place of a parent and person
13 with whom the individual resides or lives. If this information is unknown to the
14 petitioners or inapplicable, the petition shall so state. The petition may be filed in
15 the court assigned to exercise probate jurisdiction for the county where the subject
16 individual is present or the county of ~~the individual's legal~~ residence of the
17 individual. If the judge of the court or a circuit court commissioner who handles
18 probate matters is not available, the petition may be filed and the hearing under sub.
19 (7) may be held before a judge or circuit court commissioner of any circuit court for
20 the county. For the purposes of this chapter, duties to be performed by a court shall
21 be carried out by the judge of the court or a circuit court commissioner of the court
22 who is designated by the chief judge to so act, in all matters prior to a final hearing
23 under this section. The petition shall contain a clear and concise statement of the
24 facts which constitute probable cause to believe the allegations of the petition. The
25 petition shall be sworn to be true. If a petitioner is not a petitioner having personal

ASSEMBLY BILL 1114

1 knowledge as provided in par. (b), the petition shall contain a statement providing
2 the basis for his or her belief.

3 **SECTION 10.** 51.20 (9) (a) 3. of the statutes is amended to read:

4 51.20 (9) (a) 3. If requested by the subject individual, the individual's attorney,
5 or any other interested party with court permission, the individual has a right at his
6 or her own expense or, if indigent and with approval of the court hearing the petition,
7 at the reasonable expense of the individual's county of legal residence, to secure an
8 additional medical or psychological examination and to offer the evaluator's personal
9 testimony as evidence at the hearing.

10 **SECTION 11.** 51.20 (13) (g) 4. of the statutes is created to read:

11 51.20 (13) (g) 4. The county department under s. 51.42 or 51.437 to which an
12 individual is committed under par. (a) 3. retains financial responsibility for the
13 individual when the individual voluntarily moves to another county until venue for
14 the individual is transferred to the county where the individual is residing or until
15 the individual is no longer a proper subject of continued commitment.

16 **SECTION 12.** 51.20 (18) (d) of the statutes is amended to read:

17 51.20 (18) (d) If the subject individual ~~has a legal residence in a county~~
18 individual's county of residence is other than the county from which he or she is
19 detained, committed or discharged, that county shall reimburse the county from
20 which the individual was detained, committed or discharged for all expenses under
21 pars. (a) to (c). The county clerk on each July 1 shall submit evidences of payments
22 of all such proceedings on nonresident payments to the department, which shall
23 certify such expenses for reimbursement in the form of giving credits to the
24 detaining, committing or discharging county and assessing such costs against the

ASSEMBLY BILL 1114**SECTION 12**

1 county of legal residence or against the state at the time of the next apportionment
2 of charges and credits under s. 70.60.

3 **SECTION 13.** 51.22 (4) of the statutes is amended to read:

4 51.22 (4) If a patient is placed under involuntary commitment or protectively
5 placed in a facility authorized by a county department under s. 51.42 or 51.437 and
6 ~~such~~ the placement or protective placement is outside the jurisdiction of that county
7 department under s. 51.42 or 51.437, the placement or protective placement does not
8 transfer the patient's legal residence to the county of the facility's location while ~~such~~
9 the patient is under involuntary commitment or protective placement.

10 **SECTION 14.** 51.37 (5) (c) of the statutes is amended to read:

11 51.37 (5) (c) No state treatment facility may accept for admission an individual
12 who is being transferred from a county jail under par. (a) or (b) without the approval
13 of the county department under s. 51.42 or 51.437 of the county in which the jail is
14 located. No state treatment facility may retain such an individual beyond 72 hours
15 without the approval of the county department under s. 51.42 or 51.437 of the county
16 ~~where of residence of~~ the transferred individual ~~has legal residence.~~

17 **SECTION 15.** 51.40 (title) of the statutes is repealed and recreated to read:

18 **51.40 (title) Determination of residence for certain adults; county of**
19 **responsibility.**

20 **SECTION 16.** 51.40 (1) (e) of the statutes is amended to read:

21 51.40 (1) (e) "County of responsibility" means the county responsible for
22 funding the provision of care, treatment, or services under this chapter or ch. 46 or
23 55 to an individual.

24 **SECTION 17.** 51.40 (1) (em) of the statutes is created to read:

ASSEMBLY BILL 1114

1 51.40 (1) (em) "Facility" means a place, other than a hospital, that is licensed,
2 registered, certified, or approved by the department or a county under ch. 50 or 51.

3 **SECTION 18.** 51.40 (1) (hm) of the statutes is created to read:

4 51.40 (1) (hm) "Other like incapacities" means those conditions incurred at any
5 age that are the result of accident, organic brain damage, mental or physical
6 disability, or continued consumption or absorption of substances, producing a
7 condition that substantially impairs an individual from adequately providing for his
8 or her care or custody.

9 **SECTION 19.** 51.40 (1) (k) of the statutes is created to read:

10 51.40 (1) (k) "Voluntary" has the meaning specified under s. 49.001 (8).

11 **SECTION 20.** 51.40 (2) (intro.) of the statutes is amended to read:

12 51.40 (2) DETERMINATION OF COUNTY OF RESIDENCE. (intro.) ~~For purposes of~~
13 ~~determining responsibility for funding the provision of services under chs. 46, 51 and~~
14 ~~55, the~~ The county of residence of individuals an individual aged 18 or older with a
15 developmental disability or chronic, serious and persistent mental illness in state
16 facilities or nursing homes, degenerative brain disorder, or other like incapacity who
17 is residing in a facility is the county of responsibility for the individual. The county
18 of residence shall be determined as follows:

19 **SECTION 21.** 51.40 (2) (a) of the statutes is amended to read:

20 51.40 (2) (a) *Directed placement.* 1. 'Commitment or ~~protection~~ protective
21 placement or protective services.' If an individual is under a court order of
22 commitment under this chapter or protective placement or protective services under
23 ~~s. 55.06 ch. 55,~~ the individual remains a resident of the county in which he or she has
24 residence at the time the initial commitment or initial order for protective placement
25 or protective services is made. If the court makes no specific finding of a county of

ASSEMBLY BILL 1114**SECTION 21**

1 residence, the individual is a resident of the county in which the court is located. The
2 court may make a specific finding of a county of residence, after notice, including
3 notice to the corporation counsel of each affected county by certified mail, after
4 opportunity to be heard has been provided to all affected counties and parties, and
5 if there is no objection. If any affected county or party objects to the court's proposed
6 finding of a county of residence, the county or party may request the department to
7 make a determination under par. (g) and any transfer of venue shall be suspended
8 until the determination is final.

9 2. 'Placement by a county.' Except for the provision of emergency services under
10 s. 51.15, 51.42 (1) (b), 51.437 (4) (c), 51.45 (11) and or (12) or ~~55.06 (11)~~ emergency
11 protective services or emergency or temporary protective placement under ch. 55, if
12 a county department or an agency of a county department arranges places or makes
13 arrangements for placement of the individual into a state facility ~~or nursing home,~~
14 the individual is a resident of the county of that county department. Any agency of
15 the county department is deemed to be acting on behalf of the county department in
16 arranging placing or making arrangements for placement. Placement of an
17 individual by a county department or an agency of a county department into a facility
18 outside the jurisdiction of the county department or agency does not transfer the
19 individual's legal residence to the county in which the facility is located. If a resident
20 of a county is physically present in another county and is in need of immediate care,
21 the county in which the individual is present may provide for the immediate needs
22 of a person under ss. 51.15, 51.20, 51.42 (1) (b), 51.437 (4) (c), 51.45 (11) and (12), and
23 880.07 and ch. 55 without becoming the county of residence.

24 **SECTION 22.** 51.40 (2) (b) (intro.) of the statutes is amended to read:

ASSEMBLY BILL 1114

1 51.40 (2) (b) *Other admissions.* (intro.) If par. (a) does not apply, ~~one of the~~
2 following shall apply the county of residence shall be determined as follows:

3 **SECTION 23.** 51.40 (2) (b) 1. of the statutes is amended to read:

4 51.40 (2) (b) 1. 'Individuals in state facilities.' An individual who is in a state
5 facility is a resident of the county in which he or she was a resident at the time the
6 admission to the state facility was made. This subdivision may not be applied to
7 change residence from a county, other than the county in which the facility is located,
8 which that has accepted responsibility for or provided services to the individual ~~prior~~
9 to August 1, 1987 before the effective date of this subdivision [revisor inserts date].

10 **SECTION 24.** 51.40 (2) (b) 2. (intro.) of the statutes is amended to read:

11 51.40 (2) (b) 2. 'Individuals in nursing homes.' (intro.) The following are
12 presumptions regarding the county of residence of an individual in a nursing home
13 that may be overcome by substantial evidence that clearly establishes other county
14 residence:

15 ag. An individual in a nursing home who was admitted under s. 50.04 (2r) to
16 the nursing home on or after August 1, 1987 the effective date of this subd. 2. ag.
17 [revisor inserts date], is a resident of the county which that approved the admission
18 under s. 50.04 (2r).

19 bg. An individual residing in a nursing home on or before August 1, 1987 the
20 effective date of this subd. 2. bg. [revisor inserts date], is presumed to be a resident
21 of the county in which the individual is physically present unless another county
22 accepts the individual as a resident. The presumption of residence may be overcome
23 by substantial evidence which clearly establishes residence in another county in one
24 of the following ways:

ASSEMBLY BILL 1114**SECTION 25**

1 **SECTION 25.** 51.40 (2) (b) 2. a. of the statutes is renumbered 51.40 (2) (b) 2. cg.
2 and amended to read:

3 51.40 (2) (b) 2. cg. ~~The~~ If the individual had an established residence in another
4 county prior to entering the nursing home; the individual or the individual's
5 guardian, if any, indicates an intent that the individual will return to that county
6 when the purpose of entering the nursing home has been accomplished or when
7 needed care and services can be obtained in ~~the other~~ that county; and the individual,
8 when capable of indicating intent, or a guardian for the individual, has made no
9 clearly documented expression to a court or county department of an intent to
10 establish residence elsewhere since leaving that county, the individual is a resident
11 of that county.

12 **SECTION 26.** 51.40 (2) (b) 2. b. of the statutes is renumbered 51.40 (2) (b) 2. dg.
13 and amended to read:

14 51.40 (2) (b) 2. dg. ~~The~~ If the individual is incapable of indicating intent as
15 determined by the county department, has no guardian, ordinarily resides in
16 another county, and is expected to return to that county within one year, the
17 individual is a resident of that county.

18 **SECTION 27.** 51.40 (2) (b) 2. c. of the statutes is renumbered 51.40 (2) (b) 2. eg.
19 and amended to read:

20 51.40 (2) (b) 2. eg. ~~Another~~ If another county has accepted responsibility for or
21 provided services to the individual prior to ~~August 1, 1987~~ the effective date of this
22 subd. 2. eg. [revisor inserts date], the individual is a resident of that county.

23 **SECTION 28.** 51.40 (2) (b) 2. d. of the statutes is renumbered 51.40 (2) (b) 2. fg.
24 and amended to read:

ASSEMBLY BILL 1114

1 51.40 (2) (b) 2. fg. ~~The~~ If the individual is incapable of indicating intent; the
2 individual was living in another county outside of a nursing home or state facility on
3 ~~December 1, 1982~~ the effective date of this subd. 2. fg. [revisor inserts date], or
4 under circumstances ~~which~~ that established residence in that county after ~~December~~
5 ~~1, 1982~~ the effective date of this subd. 2. fg. [revisor inserts date]; and that county
6 was the last county in which the individual had residence while living outside of a
7 nursing home or state facility, the individual is a resident of that county.

8 **SECTION 29.** 51.40 (2) (b) 3. of the statutes is created to read:

9 51.40 (2) (b) 3. 'Individuals in facilities.' If subd. 1. or 2. does not apply, an
10 individual who is incapable of indicating intent and is residing in a facility is a
11 resident of the county in which the individual resided before admittance to the
12 facility.

13 **SECTION 30.** 51.40 (2) (f) of the statutes is repealed and recreated to read:

14 51.40 (2) (f) *Guardian's authority to declare county of residence.* A guardian
15 may declare any of the following, under any of the following conditions:

16 1. The ward's county of residence is the guardian's county of residence, if pars.
17 (a) and (b) do not apply, if the guardian's ward is in a facility and is incapable of
18 indicating intent, and if the guardian is a resident of the county in which the facility
19 is located or states in writing that the ward is expected to return to the guardian's
20 county of residence when the purpose of entering the facility has been accomplished
21 or when needed care and services can be obtained in the guardian's county of
22 residence.

23 2. The ward's county of residence is the county in which the ward is physically
24 present, if pars. (a) and (b) do not apply and if all of the following apply:

25 a. The ward's presence in the county is voluntary.

ASSEMBLY BILL 1114**SECTION 30**

1 b. There is no current order under ch. 55 in effect with respect to the ward, and
2 the ward is not under an involuntary commitment order to the department of
3 corrections or to a county other than the county in which the ward is physically
4 present.

5 c. The ward is living in a place of fixed habitation.

6 d. The guardian states in writing that it is the ward's intent to remain in the
7 county for the foreseeable future.

8 3. The ward's county of residence is the county specified by the guardian,
9 regardless if a previous determination of county of residence has been made,
10 notwithstanding pars. (a) and (b) for good cause shown, if, in the ward's best interest,
11 the guardian files with the probate court having jurisdiction of the guardianship and
12 protective placement a written statement declaring the ward's domiciliary intent,
13 subject to court approval, and if notice and opportunity to be heard are provided to
14 all affected counties and parties. Notice under this subdivision shall be sent to the
15 corporation counsel of each affected county by certified mail.

16 **SECTION 31.** 51.40 (2) (g) 1. of the statutes is amended to read:

17 51.40 (2) (g) 1. An individual, an interested person on behalf of the individual,
18 or any county may request that the department make a determination of the county
19 of responsibility of the individual. Any motion for change of venue pending before
20 the court of jurisdiction shall be stayed until the determination under this paragraph
21 is final. Within 10 days after receiving the request, the department shall provide
22 written notice to the individual, to the individual's guardian, guardian ad litem, and
23 counsel, if any; to the individual's immediate family members, if they can be located;
24 and to all potentially responsible counties that a determination of county of

ASSEMBLY BILL 1114

1 responsibility shall be made and that written information and comments may be
2 submitted within 30 days after the date on which the notice is sent.

3 **SECTION 32.** 51.40 (2) (g) 6. of the statutes is created to read:

4 51.40 (2) (g) 6. The county that is determined to be the county of responsibility
5 shall reimburse any other county for all care, treatment, and services provided by the
6 other county to the individual under ch. 46, 51, or 55. Full reimbursement by the
7 county that is determined to be the county of responsibility shall be made within 120
8 days following the date of the department's determination of the county of
9 responsibility or within 120 days after the date of the outcome of any appeal of the
10 department's determination that is brought under ch. 227, or by a date or under a
11 schedule of 2 or more payments that is agreed to by both parties.

12 **SECTION 33.** 55.06 (1) (a) of the statutes is amended to read:

13 55.06 (1) (a) ~~The board designated under s. 55.02~~ department, the county
14 department, or an agency designated by it with which the county department
15 contracts under s. 55.02, a guardian, or an interested person may file a petition for
16 appointment of a guardian and for protective services or protective placement for the
17 individual. The department shall provide for a schedule of reimbursement for the
18 cost of such the proceedings based upon the ability to pay of the proposed ward or
19 ~~person~~ individual to be protected.

20 **SECTION 34.** 55.06 (3) (c) of the statutes is amended to read:

21 55.06 (3) (c) The A petition under sub. (1) shall be filed in the county of
22 residence of the ~~person~~ individual to be protected, as determined under s. 51.40 or
23 by the individual's guardian or where the individual is physically present due to
24 circumstances including those specified under s. 51.22 (4).

25 **SECTION 35.** 55.06 (3) (d) of the statutes is created to read:

ASSEMBLY BILL 1114**SECTION 35**

1 55.06 (3) (d) The court in which a petition is first filed under par. (c) shall
2 determine venue. The court shall direct that proper notice be given to any potentially
3 responsible or affected county. Proper notice is given to a potentially responsible or
4 affected county if written notice of the proceeding is sent by certified mail to the
5 county's clerk and corporation counsel. After all potentially responsible or affected
6 counties and parties have been given an opportunity to be heard, the court shall
7 determine that venue lies in the county in which the petition is filed under par. (c)
8 or in another county, as appropriate. If the court determines that venue lies in
9 another county, the court shall order the entire record certified to the proper court.
10 A court in which a subsequent petition is filed shall, upon being satisfied of an earlier
11 filing in another court, summarily dismiss the subsequent petition. If any
12 potentially responsible or affected county or party objects to the court's finding of
13 venue, the court may refer the issue to the department for a determination of the
14 county of residence under s. 51.40 (2) (g) and may suspend ruling on the motion for
15 change of venue until the determination under s. 51.40 (2) (g) is final.

16 **SECTION 36.** 55.06 (8) (intro.) of the statutes is amended to read:

17 55.06 (8) (intro.) Before ordering the protective placement of any individual,
18 the court shall direct a comprehensive evaluation of the person in need of placement,
19 if such an evaluation has not already been made. The court may utilize available
20 multidisciplinary resources in the community in determining the need for
21 placement. The board designated under s. 55.02 or an agency designated by it shall
22 cooperate with the court in securing available resources. Where applicable by reason
23 of the particular disability, the appropriate board designated under s. 55.02 or an
24 agency designated by it having responsibility for the place of legal residence of the
25 ~~individual as provided in s. 49.001 (6)~~ individual's county of residence shall make a

ASSEMBLY BILL 1114

1 recommendation for placement. If the court is considering placement of the
2 individual in a center for the developmentally disabled, the court shall request a
3 statement or testimony from the department regarding whether the placement is
4 appropriate for the person's needs and whether it is consistent with the purpose of
5 the center under s. 51.06 (1). If the individual has a developmental disability and
6 the court is considering placement of the individual in an intermediate facility or a
7 nursing facility, the court shall request a statement or testimony from the county
8 department of the individual's county of residence that is participating in the
9 program under s. 46.278 as to whether the individual's needs could be met in a
10 noninstitutional setting, except that, if s. 46.279 (4m) applies to the individual, the
11 court shall request the statement or testimony from the department, rather than the
12 county department. A copy of the comprehensive evaluation shall be provided to the
13 guardian, the guardian ad litem, and to the individual or attorney at least 96 hours
14 in advance of the hearing to determine placement. The court or the cooperating
15 agency obtaining the evaluation shall request appropriate information which shall
16 include at least the following:

17 **SECTION 37.** 880.06 (1) of the statutes is amended to read:

18 880.06 (1) ORIGINAL PROCEEDING. The court ~~wherein~~ in which a petition is first
19 filed shall determine venue. The court shall direct that proper notice be given to any
20 potentially responsible or affected county. Proper notice is given to a potentially
21 responsible or affected county if written notice of the proceeding is sent by certified
22 mail to the county's clerk and corporation counsel. After all potentially responsible
23 or affected counties and parties have been given an opportunity to be heard, the court
24 shall determine that venue lies in the county in which the petition is filed under sub.
25 (2) or in another county, as appropriate. If it is determined that venue lies in another

ASSEMBLY BILL 1114**SECTION 37**

1 county, the court shall order the entire record certified to the proper court. A court
2 ~~wherein in which~~ a subsequent petition is filed shall, ~~upon being~~ if it is satisfied of
3 that an earlier filing took place in another court, summarily dismiss ~~such the~~
4 petition. If any potentially responsible or affected county or party objects to the
5 court's finding of venue, the court may refer the issue to the department for a
6 determination of the county of residence under s. 51.40 (2) (g) and may suspend
7 ruling on the motion for change of venue until the determination under s. 51.40 (2)
8 (g) is final.

9 **SECTION 38.** 880.06 (2) of the statutes is repealed and recreated to read:

10 880.06 (2) CHANGE OF RESIDENCE OF WARD BY GUARDIAN. If s. 51.40 (2) (a) or (b)
11 does not apply, a guardian for good cause shown may change a ward's county of
12 residence by filing with the court a written statement as specified in s. 51.40 (2) (f).

13 **SECTION 39.** 880.33 (2) (a) 3. of the statutes is amended to read:

14 880.33 (2) (a) 3. If the person is an adult who is indigent, the county of legal
15 settlement residence as determined under s. 51.40 (2) shall be the county liable for
16 any fees due the guardian ad litem and, if counsel was not appointed under s. 977.08,
17 for any legal fees due the person's legal counsel. If the person is a minor, the person's
18 parents or the county of legal settlement shall be liable for any fees due the guardian
19 ad litem as provided in s. 48.235 (8).

20 (END)