



## 2019 SENATE BILL 565

November 22, 2019 - Introduced by Senators PETROWSKI, BEWLEY, TESTIN, BERNIER, COWLES, MARKLEIN, OLSEN, SCHACHTNER, SMITH and WANGGAARD, cosponsored by Representatives BORN, JAMES, ALLEN, ANDERSON, BROOKS, DOYLE, EDMING, EMERSON, FELZKOWSKI, JAGLER, KATSMA, KNODL, KULP, LOUDENBECK, MAGNAFICI, MILROY, MURSAU, NOVAK, PETRYK, PLUMER, ROHRKASTE, SANFELIPPO, SKOWRONSKI, SNYDER, SPIROS, SPREITZER, STAFSHOLT, STEFFEN, SUBECK, SUMMERFIELD, TITTL, TUSLER, VANDERMEER, WICHGERS, ZIMMERMAN and KRUG. Referred to Committee on Judiciary and Public Safety.

- 1     **AN ACT to amend** 51.15 (2) (a) and 51.15 (3); and **to create** 49.45 (29x) and 51.15  
2           (2) (e) of the statutes; **relating to:** transport for emergency detention.

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### *Analysis by the Legislative Reference Bureau*

This bill clarifies current law regarding transport of individuals for emergency detention, expressly providing that a law enforcement agency may contract with another law enforcement agency, an ambulance service provider, or a third-party vendor to transport an individual for emergency detention if the agency, provider, or vendor agrees to provide the transport. Under current law, certain individuals including a law enforcement officer or a person authorized to take a child into custody under certain circumstances may transport, or cause an individual to be transported, for emergency detention, if the county department of community programs in the county in which the individual was taken into custody approves the need for detention, and for evaluation, diagnosis, and treatment if permitted.

The bill also provides that an individual in custody being transported for emergency detention remains in the custody of the law enforcement officer or other authorized person who placed the individual in custody for purposes of emergency detention, except that if a law enforcement agency contracts with another law enforcement agency to transport an individual for the purposes of emergency detention, custody is transferred to the transporting law enforcement agency. The bill does not change the current law provision that upon arrival at the facility for emergency detention, custody of the individual is then transferred to the facility.

Finally, the bill requires the Department of Health Services to request any federal approval required to provide reimbursement to counties for the costs of

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transporting for emergency detention recipients under the Medical Assistance program and to provide that reimbursement to counties if federal approval is granted or not required. If federal approval is necessary but not granted, DHS may not provide reimbursement under the Medical Assistance program. Under the bill, if DHS provides reimbursement, a county may obtain reimbursement if the individual transported is a medical assistance recipient and if the transport is provided by a law enforcement agency or an entity that contracts with a law enforcement agency to provide transport for emergency detention.

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

1           **SECTION 1.** 49.45 (29x) of the statutes is created to read:

2           49.45 **(29x)** EMERGENCY DETENTION TRANSPORT REIMBURSEMENT. (a) Subject to  
3 par. (b), the department shall provide reimbursement as provided under s. 49.46 (2)  
4 (b) 3. to counties for transport of individuals who are recipients of medical assistance  
5 for purposes of emergency detention under s. 51.15 (2) as provided under s. 51.15 (2)  
6 (e).

7           (b) The department shall request any necessary federal approval required to  
8 provide reimbursement under par. (a) and, if approval is granted or if no federal  
9 approval is required, the department shall provide reimbursement as provided  
10 under par. (a). If federal approval is necessary but not granted, the department may  
11 not provide reimbursement under par. (a).

12           **SECTION 2.** 51.15 (2) (a) of the statutes is amended to read:

13           51.15 **(2)** (a) Subject to par. (b), the law enforcement officer or other person  
14 authorized to take a child into custody under ch. 48 or to take a juvenile into custody  
15 under ch. 938 shall transport the individual, or cause him or her to be transported,  
16 for detention, if the county department of community programs in the county in  
17 which the individual was taken into custody approves the need for detention, and for  
18 evaluation, diagnosis, and treatment if permitted under sub. (8). A law enforcement

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1 agency may also contract with another law enforcement agency, an ambulance  
2 service provider, or a 3rd-party vendor to transport an individual for detention as  
3 set forth in this paragraph if the agency, provider, or vendor agrees to provide the  
4 transport.

5 **SECTION 3.** 51.15 (2) (e) of the statutes is created to read:

6 51.15 (2) (e) Subject to s. 49.45 (29x), a county may obtain reimbursement  
7 through the Medical Assistance program under subch. IV of ch. 49 for transport of  
8 an individual for purposes of emergency detention if all of the following are true:

- 9 1. The individual transported is a medical assistance recipient.
- 10 2. The transport is provided by a law enforcement agency or an entity that  
11 contracts with a law enforcement agency under sub. (2) (a).

12 **SECTION 4.** 51.15 (3) of the statutes is amended to read:

13 51.15 (3) CUSTODY. An individual is in custody when the individual is under  
14 the physical control of the law enforcement officer, or other person authorized to take  
15 a child into custody under ch. 48 or to take a juvenile into custody under ch. 938, for  
16 the purposes of emergency detention. The individual remains in the custody of the  
17 law enforcement officer or other person authorized to take a child into custody under  
18 ch. 48 or to take a juvenile into custody under ch. 938 for transport for the purposes  
19 of emergency detention, except that if a law enforcement agency contracts with  
20 another law enforcement agency to transport an individual as described under sub.  
21 (2) (a) for the purposes of emergency detention, custody is transferred to the  
22 transporting law enforcement agency. Upon arrival at the facility under sub. (2),  
23 custody of the individual is transferred to the facility.

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(END)