



1997 SENATE BILL 197

May 7, 1997 - Introduced by Senators ROSENZWEIG, HUELSMAN, ROESSLER, PANZER, FARROW, ZIEN, SCHULTZ and DRZEWIECKI, cosponsored by Representatives GARD, WALKER, ALBERS, BRANDEMUEHL, AINSWORTH, ZIEGELBAUER, POWERS, LAZICH, F. LASEE, MUSSER, M. LEHMAN, LADWIG, HARSDORF, GOETSCH, GUNDERSON, SCHAFER, OTT, HAHN, OWENS, HUEBSCH and SYKORA. Referred to Committee on Health, Human Services, Aging, Corrections, Veterans and Military Affairs.

1 **AN ACT to repeal** 51.13 (1) (b), 51.13 (2) (b) and (d) and (3) (b), 51.13 (4) (g) 1. and
2 51.13 (7) (title), (a) and (b); **to renumber and amend** 51.13 (7) (c); **to amend**
3 51.13 (1) (a), 51.13 (1) (c), 51.13 (1) (d), 51.13 (1) (e), 51.13 (2) (a), 51.13 (3) (c),
4 51.13 (3) (e), 51.13 (4) (a) (intro.), 51.13 (4) (c), 51.13 (4) (d), 51.13 (4) (g) (intro.),
5 51.13 (6) (a), 51.14 (3) (a), 51.14 (3) (b) 3., 51.14 (3) (b) 4., 51.14 (3) (g), 51.14 (3)
6 (h) (intro.), 51.14 (4) (a), 51.14 (4) (b), 51.14 (4) (c), 51.14 (4) (g) (intro.), 51.20
7 (16) (a), 51.22 (2), 51.30 (5) (a), 51.30 (5) (b) 1., 51.30 (5) (b) 2., 51.35 (3) (a), 51.35
8 (3) (b), 51.35 (3) (g) and 51.61 (6); and **to create** 51.46 of the statutes; **relating**
9 **to:** mental health treatment of minors

Analysis by the Legislative Reference Bureau

Under current law, the Mental Health Act distinguishes between minors under 14 years of age and minors 14 years of age or over with regard to giving informed consent for treatment for mental illness, developmental disability, alcoholism or drug dependence (mental health treatment), voluntary admission to and discharge from an inpatient facility for mental health treatment, reexamination under or modification or cancellation of an involuntary commitment order, transfers from a juvenile secured correctional facility to an inpatient facility for mental health

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treatment and access and consent to the release of court records and treatment records. This bill eliminates the distinction between a minor under 14 years of age and a minor 14 years of age or over with regard to those areas of the Mental Health Act.

Specifically, under current law, subject to certain exceptions, before a minor may receive mental health treatment, the written, informed consent of the minor's parent or guardian is required. If, however, the minor is 14 years of age or over, the written, informed consent of the minor is also required, subject to certain exceptions. This bill eliminates the requirement that a minor 14 years of age or over provide his or her written, informed consent, in addition to that of his or her parent or guardian, before he or she may receive mental health treatment.

Under current law, subject to certain exceptions, before a minor may be admitted voluntarily to an inpatient facility for mental health treatment, the minor's parent who has legal custody of the minor or the minor's guardian must execute an application for voluntary admission to the facility. If, however, the minor is 14 years of age or over, the minor must also execute the application for voluntary admission to the facility. This bill eliminates the requirement that a minor 14 years of age or over execute the application for voluntary admission to an inpatient facility, along with his or her parent or guardian, before the minor may be admitted to the facility.

Under current law, if a minor 14 years of age or over wishes to be admitted to an inpatient facility, but the minor's parent who has legal custody of the minor or the minor's guardian refuses to execute the application for admission or cannot be found, the minor may petition the court assigned to exercise jurisdiction under the children's code (juvenile court) for approval of the admission. This bill permits a minor under 14 years of age to petition the juvenile court for approval of his or her admission to an inpatient facility if the minor's parent or guardian refuses to execute the application for admission or cannot be found.

Under current law, a minor 14 years of age or over who is voluntarily admitted to an inpatient facility may request that he or she be discharged from the facility and, subject to certain exceptions, must be discharged within 48 hours after submission of the request. A minor under 14 years of age, however, may be discharged on his or her request only after a hearing before the juvenile court to determine the continued appropriateness of the admission. This bill eliminates the requirement that a minor 14 years of age or over who has been voluntarily admitted to an inpatient facility be discharged within 48 hours after his or her request and instead requires the juvenile court to hold a hearing on such a request to determine the continued appropriateness of the admission, as is the case for minors under 14 years of age under current law.

Under current law, a minor 14 years of age or over, but not a minor under 14 years of age, who has been involuntarily committed for mental health treatment may petition the juvenile court for an order that his or her mental condition be reexamined or for an order modifying or cancelling his or her commitment. This bill eliminates the right of a minor 14 years of age or over to petition for such a reexamination, modification or cancellation.

Under current law, a minor may be transferred from a juvenile secured correctional facility to an inpatient facility if the juvenile court finds that the transfer

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is appropriate and consistent with the needs of the minor and, if the minor is 14 years of age or over, that the transfer is voluntary on the part of the minor. This bill eliminates the requirement that a minor 14 years of age or over must consent to being transferred from a juvenile correctional facility to an inpatient facility. Under the bill, only the minor's parent or guardian need consent, as is the case for minors under 14 years of age under current law.

Under current law, a minor 14 years of age or over may have access to his or her court records and treatment records on the same basis as an adult, but a minor under 14 years of age may have access to his or her court records only in the presence of his or her parent, guardian, counsel, guardian ad litem or a judge and a minor under 14 years of age may have access to his or her treatment records only in the presence of his or her parent, guardian, counsel, guardian ad litem or a staff member of the treatment facility. This bill permits a minor 14 years of age or over to have access to his or her court records or treatment records only in the presence of a person whose presence is required under current law for a minor under 14 years of age.

Under current law, subject to certain exceptions, confidential information in a minor's court records or treatment records may be released only on the consent of the minor's parent, guardian or person in the place of a parent, except that if the minor is 14 years of age or over, the minor may consent to the release of such information without the consent of his or her parent, guardian or person in place of a parent. This bill eliminates the right of a minor 14 years of age or over to consent to the release of confidential information in his or her court records or treatment records without the consent of his or her parent, guardian or person in place of a parent.

Finally, the bill permits a minor's parent or guardian to consent to have the minor tested for drugs or alcohol without the consent of the minor.

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.** 51.13 (1) (a) of the statutes is amended to read:
2 51.13 (1) (a) Except as provided in s. 51.45 (2m), the application for voluntary
3 admission of a minor ~~who is under 14 years of age~~ to an approved inpatient treatment
4 facility shall be executed by a parent who has legal custody of the minor or the
5 minor's guardian. Any statement or conduct by a minor ~~under the age of 14~~
6 indicating that the minor does not agree to admission to the facility shall be noted
7 on the face of the application and shall be noted in the petition required by sub. (4).

SENATE BILL 197**SECTION 2**

1 **SECTION 2.** 51.13 (1) (b) of the statutes is repealed.

2 **SECTION 3.** 51.13 (1) (c) of the statutes is amended to read:

3 51.13 (1) (c) If a minor ~~14 years of age or older~~ wishes to be admitted to an
4 approved inpatient treatment facility but a parent with legal custody or the guardian
5 refuses to execute the application for admission or cannot be found, or if there is no
6 parent with legal custody, the minor or a person acting on the minor's behalf may
7 petition the court assigned to exercise jurisdiction under chs. 48 and 938 in the
8 county of residence of the parent or guardian for approval of the admission. A copy
9 of the petition and a notice of hearing shall be served upon the parent or guardian
10 at his or her last-known address. If, after a hearing, the court determines that the
11 ~~parent~~ parent's or guardian's consent is unreasonably withheld ~~or~~, that the parent
12 or guardian cannot be found or that there is no parent with legal custody, and that
13 the admission is proper under the standards prescribed in sub. (4) (d), it shall
14 approve the minor's admission without the ~~parent~~ parent's or guardian's consent.
15 The court may, at the minor's request, temporarily approve the admission pending
16 hearing on the petition. If a hearing is held under this subsection, no review or
17 hearing under sub. (4) is required.

18 **SECTION 4.** 51.13 (1) (d) of the statutes is amended to read:

19 51.13 (1) (d) A minor against whom a petition or statement has been filed under
20 s. 51.15, 51.20 or 51.45 (12) or (13) may be admitted under this section. The court
21 may permit the minor to become a voluntary patient pursuant to this section upon
22 approval by the court of an application executed pursuant to par. (a), ~~(b)~~ or (c), and
23 the judge shall then dismiss the proceedings under s. 51.15, 51.20 or 51.45. If a
24 hearing is held under this subsection, no hearing under sub. (4) is required.

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

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1 51.13 (1) (e) A minor may be admitted immediately upon the approval of the
2 application executed under par. (a) ~~or (b)~~ by the treatment director of the facility or
3 his or her designee or, in the case of a center for the developmentally disabled, the
4 director of the center or his or her designee, and the director of the appropriate county
5 department under s. 51.42 or 51.437 if such the county department is to be
6 responsible for the cost of the minor's therapy and treatment. Approval shall be
7 based upon an informed professional opinion that the minor is in need of psychiatric
8 services or services for developmental disability, alcoholism or drug abuse, that the
9 treatment facility offers inpatient therapy or treatment which is appropriate for the
10 minor's needs and that inpatient care in the facility is the least restrictive therapy
11 or treatment consistent with the minor's needs.

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

13 51.13 (2) (a) A minor may be admitted to an inpatient treatment facility
14 without complying with the requirements of this section if the admission does not
15 involve the department or a county department under s. 51.42 or 51.437, or a contract
16 between a treatment facility and the department or between a treatment facility and
17 a county department. The application for voluntary admission of a minor ~~who is 14~~
18 ~~years of age or over~~ shall be executed by the minor and a parent who has legal custody
19 of the minor or the minor's guardian.

20 **SECTION 7.** 51.13 (2) (b) and (d) and (3) (b) of the statutes are repealed.

21 **SECTION 8.** 51.13 (3) (c) of the statutes is amended to read:

22 51.13 (3) (c) A minor ~~under 14 years of age~~ and his or her parent or guardian
23 shall also be informed by the director or his or her designee, both orally and in
24 writing, in easily understandable language, of the minor's right to a hearing to
25 determine continued appropriateness of the admission as provided in sub. (7).

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1 **SECTION 9.** 51.13 (3) (e) of the statutes is amended to read:

2 51.13 (3) (e) Writing materials for use in requesting a hearing ~~or discharge~~
3 under this section shall be made available to minors at all times by every inpatient
4 treatment facility. The staff of each ~~such~~ facility shall assist minors in preparing and
5 submitting requests for ~~discharge or hearing~~ hearings.

6 **SECTION 10.** 51.13 (4) (a) (intro.) of the statutes is amended to read:

7 51.13 (4) (a) (intro.) Within 3 days ~~of~~ after the admission of a minor under sub.
8 (1), or within 3 days ~~of~~ after application for admission of the minor, whichever occurs
9 first, the treatment director of the facility to which the minor is admitted or, in the
10 case of a center for the developmentally disabled, the director of the center, shall file
11 a verified petition for review of the admission in the court assigned to exercise
12 jurisdiction under chs. 48 and 938 in the county in which the facility is located. A
13 copy of the application for admission and of any relevant professional evaluations
14 shall be attached to the petition. The petition shall contain all of the following:

15 **SECTION 11.** 51.13 (4) (c) of the statutes is amended to read:

16 51.13 (4) (c) A copy of the petition shall be provided by the petitioner to the
17 minor and his or her parents or guardian within 5 days ~~of~~ after admission.

18 **SECTION 12.** 51.13 (4) (d) of the statutes is amended to read:

19 51.13 (4) (d) Within 5 days ~~of~~ after the filing of the petition, the court assigned
20 to exercise jurisdiction under chs. 48 and 938 shall determine, based on the
21 allegations of the petition and accompanying documents, ~~whether the admission is~~
22 ~~voluntary on the part of the minor if the minor is 14 years of age or older and whether~~
23 there is a prima facie showing that the minor is in need of psychiatric services, or
24 services for developmental disability, alcoholism or drug abuse, that the treatment
25 facility offers inpatient therapy or treatment which is appropriate to the minor's

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1 needs, and that inpatient care in the treatment facility is the least restrictive therapy
2 or treatment consistent with the needs of the minor. If such a showing is made, the
3 court shall permit voluntary admission. If the court is unable to make such those
4 determinations based on the petition and accompanying documents, ~~it shall the~~
5 court may dismiss the petition as provided in par. (h); ~~or~~ order additional information
6 to be produced as ~~it deems~~ necessary for the court to make ~~such review, and make~~
7 ~~such those~~ determinations within 14 days ~~of~~ after admission or application for
8 admission, whichever is sooner; or ~~it may~~ hold a hearing within 14 days ~~of~~ after
9 admission or application for admission, whichever is sooner. If a notation of the
10 minor's unwillingness appears on the face of the petition, or if a hearing has been
11 requested by the minor, the minor's counsel, parent or guardian, the court shall hold
12 a hearing to review the admission within 14 days ~~of~~ after admission or application
13 for admission, whichever is sooner, and shall appoint counsel to represent the minor
14 if the minor is unrepresented. If the court ~~deems~~ considers it necessary, ~~it the court~~
15 shall also appoint a guardian ad litem to represent the minor.

16 **SECTION 13.** 51.13 (4) (g) (intro.) of the statutes is amended to read:

17 51.13 (4) (g) (intro.) If the court finds that the minor is in need of psychiatric
18 services, or services for developmental disability, alcoholism or drug abuse in an
19 inpatient facility, and that the inpatient facility to which the minor is admitted offers
20 therapy or treatment ~~which that~~ is appropriate for the minor's needs and ~~which that~~
21 is the least restrictive therapy or treatment consistent with the minor's needs ~~and,~~
22 ~~in the case of a minor aged 14 or older, the application is voluntary on the part of the~~
23 ~~minor, it, the court~~ shall permit voluntary admission. If the court finds that the
24 therapy or treatment in the inpatient facility to which the minor is admitted is not
25 appropriate or is not the least restrictive therapy or treatment consistent with the

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

7 **SECTION 14.** 51.13 (4) (g) 1. of the statutes is repealed.

8 **SECTION 15.** 51.13 (6) (a) of the statutes is amended to read:

9 51.13 **(6)** (a) A minor may be admitted to an inpatient treatment facility
10 without review of the application under sub. (4) for diagnosis and evaluation or for
11 dental, medical or psychiatric services for a period not to exceed 12 days. The
12 application for short-term admission of a minor shall be executed by the minor's
13 parent or guardian, ~~and by the minor if he or she is 14 years of age or older.~~ A minor
14 may not be readmitted to an inpatient treatment facility for psychiatric services
15 under this paragraph within 120 days of after a previous admission under this
16 paragraph.

17 **SECTION 16.** 51.13 (7) (title), (a) and (b) of the statutes are repealed.

18 **SECTION 17.** 51.13 (7) (c) of the statutes is renumbered 51.13 (7) and amended
19 to read:

20 51.13 **(7)** (title) ~~COURT HEARING~~ CONTINUED APPROPRIATENESS OF ADMISSION. Any
21 minor ~~under 14 years of age~~ who is voluntarily admitted under this section may
22 submit a written request to the court for a hearing to determine the continued
23 appropriateness of the admission. If the director or staff of the inpatient treatment
24 facility to which a minor ~~under the age of 14~~ is admitted observes conduct by the
25 minor which demonstrates an unwillingness to remain at the facility, including ~~but~~

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1 not limited to a written expression of opinion or unauthorized absence, the director
2 shall file a written request with the court to determine the continued
3 appropriateness of the admission. A request ~~which~~ that is made personally by a
4 minor under this ~~paragraph~~ subsection shall be signed by the minor but need not be
5 written or composed by him or her. A request for a hearing under this ~~paragraph~~
6 ~~which~~ subsection that is received by staff or the director of the facility in which the
7 ~~child~~ minor is admitted shall be filed with the court by the director. The court shall
8 order a hearing upon request if no hearing concerning the minor's admission has
9 been held within 120 days ~~of receipt of~~ before the request is received. The court shall
10 appoint counsel and, if the court ~~deems~~ considers it necessary, a guardian ad litem
11 to represent the minor ~~and if~~. If a hearing is held, the court shall hold the hearing
12 within 14 days ~~of~~ after the request, unless the parties agree to a longer period. After
13 the hearing, the court shall ~~make disposition~~ dispose of the matter in the manner
14 provided in sub. (4).

15 **SECTION 18.** 51.14 (3) (a) of the statutes is amended to read:

16 51.14 (3) (a) ~~Either a~~ A minor 14 years of age or older ~~or his or her parent or~~
17 ~~guardian~~ may petition the mental health review officer in the county in which the
18 parent or guardian has residence for a review of a refusal of ~~either the minor or his~~
19 ~~or her parent or guardian~~ to provide the informed consent for outpatient mental
20 health treatment required under s. 51.61 (6).

21 **SECTION 19.** 51.14 (3) (b) 3. of the statutes is amended to read:

22 51.14 (3) (b) 3. The facts substantiating the ~~petitioner's~~ minor's belief that ~~the~~
23 ~~minor~~ he or she needs outpatient mental health treatment.

24 **SECTION 20.** 51.14 (3) (b) 4. of the statutes is amended to read:

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1 51.14 (3) (b) 4. Any available information which substantiates the
2 appropriateness of the particular treatment sought ~~for~~ by the minor and that the
3 particular treatment sought is the least restrictive treatment consistent with the
4 needs of the minor.

5 **SECTION 21.** 51.14 (3) (g) of the statutes is amended to read:

6 51.14 (3) (g) Within 21 days after the filing of a petition under this subsection,
7 the mental health review officer shall hold a hearing on the refusal of ~~the minor or~~
8 the minor's parent or guardian to provide informed consent for outpatient treatment.
9 The mental health review officer shall provide notice of the date, time and place of
10 the hearing to the minor and the minor's parent or guardian at least 96 hours prior
11 to the hearing.

12 **SECTION 22.** 51.14 (3) (h) (intro.) of the statutes is amended to read:

13 51.14 (3) (h) (intro.) If following the hearing under par. (g) and after taking into
14 consideration the recommendations, if any, of the county department under s. 51.42
15 or 51.437 made under par. (e), the mental health review officer finds all of the
16 following, he or she shall issue a written order that, notwithstanding the written,
17 informed consent requirement of s. 51.61 (6), ~~the written, informed consent of the~~
18 minor, ~~if the minor is refusing to provide consent, or the written, informed consent~~
19 of the minor's parent or guardian, ~~if the parent or guardian is refusing to provide~~
20 consent, is not required for outpatient mental health treatment for the minor:

21 **SECTION 23.** 51.14 (4) (a) of the statutes is amended to read:

22 51.14 (4) (a) Within 21 days after the issuance of the order by the mental health
23 review officer under sub. (3) or if the requirements of sub. (3) (f) are satisfied, the
24 minor or his or her parent or guardian may petition a court assigned to exercise
25 jurisdiction under ~~ch.~~ chs. 48 and 938 in the county of residence of the minor's parent

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1 or guardian for a review of the refusal of ~~either the minor or his or her~~ the parent or
2 guardian to provide the informed consent for outpatient mental health treatment
3 required under s. 51.61 (6).

4 **SECTION 24.** 51.14 (4) (b) of the statutes is amended to read:

5 51.14 (4) (b) The petition in par. (a) shall conform to the requirements set forth
6 in sub. (3) (b). ~~If the minor has refused to provide informed consent, a notation of this~~
7 ~~fact shall be made on the face of the petition.~~

8 **SECTION 25.** 51.14 (4) (c) of the statutes is amended to read:

9 51.14 (4) (c) ~~If a notation of a minor's refusal to provide informed consent to~~
10 ~~outpatient mental health treatment appears on the petition, the court shall, at least~~
11 ~~7 days prior to the time scheduled for the hearing, appoint counsel to represent the~~
12 ~~minor if the minor is unrepresented.~~ If the minor's parent or guardian has refused
13 to provide informed consent and the minor is unrepresented, the court shall appoint
14 counsel to represent the minor, if requested by the minor or determined by the court
15 to be in the best interests of the minor.

16 **SECTION 26.** 51.14 (4) (g) (intro.) of the statutes is amended to read:

17 51.14 (4) (g) (intro.) After the hearing under this subsection, the court shall
18 issue a written order stating that, notwithstanding the written, informed consent
19 requirement of s. 51.61 (6), ~~the written, informed consent of the minor, if the minor~~
20 ~~refuses to provide consent, or the written, informed consent of the parent or~~
21 ~~guardian, if the parent or guardian refuses to provide consent,~~ is not required for
22 outpatient mental health treatment for the minor if the court finds all of the
23 following:

24 **SECTION 27.** 51.20 (16) (a) of the statutes is amended to read:

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1 51.20 (16) (a) Except in the case of alcoholic commitments under s. 51.45 (13),
2 any patient who is involuntarily committed for treatment under this chapter, may
3 on the patient's own verified petition, except in the case of a minor ~~who is under 14~~
4 ~~years of age~~, or on the verified petition of the patient's guardian, relative, friend, or
5 any person providing treatment under the order of commitment, request a
6 reexamination or request the court to modify or cancel an order of commitment.

7 **SECTION 28.** 51.22 (2) of the statutes is amended to read:

8 51.22 (2) ~~Voluntary~~ Except as provided in s. 51.13 (2), voluntary admissions
9 under ss. 51.10, 51.13 and 51.45 (10) shall be through the county department under
10 s. 51.42 or 51.437 serving the person's county of residence, or through the
11 department if the person to be admitted is a nonresident of this state. Admissions
12 through a county department under s. 51.42 or 51.437 shall be made in accordance
13 with s. 51.42 (3) (as) 1. or 51.437 (4rm) (a). Admissions through the department shall
14 be made in accordance with sub. (3).

15 **SECTION 29.** 51.30 (5) (a) of the statutes is amended to read:

16 51.30 (5) (a) *Consent for release of information.* The parent, guardian, or person
17 in the place of a parent of a minor or the guardian of an adult adjudged incompetent
18 under ch. 880 may consent to the release of confidential information in court or
19 treatment records. ~~A minor who is aged 14 or more may consent to the release of~~
20 ~~confidential information in court or treatment records without the consent of the~~
21 ~~minor's parent, guardian or person in the place of a parent.~~ Consent under this
22 paragraph must conform to the requirements of sub. (2).

23 **SECTION 30.** 51.30 (5) (b) 1. of the statutes is amended to read:

24 51.30 (5) (b) 1. The guardian of an individual who is adjudged incompetent
25 under ch. 880 shall have access to the individual's court and treatment records at all

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1 times. The parent, guardian or person in the place of a parent of a developmentally
2 disabled minor shall have access to the minor's court and treatment records at all
3 times ~~except in the case of a minor aged 14 or older who files a written objection to~~
4 ~~such access with the custodian of the records.~~ The parent, guardian or person in the
5 place of a parent of other minors shall have the same rights of access as provided to
6 subject individuals under this section.

7 **SECTION 31.** 51.30 (5) (b) 2. of the statutes is amended to read:

8 51.30 (5) (b) 2. ~~A minor upon reaching the age of 14 shall have access to his or~~
9 ~~her own court and treatment records, as provided in this section.~~ A minor under the
10 age of 14 shall have access to court records but only in the presence of parent,
11 guardian, counsel, guardian ad litem or judge and shall have access to treatment
12 records as provided in this section but only in the presence of parent, guardian,
13 counsel, guardian ad litem or staff member of the treatment facility.

14 **SECTION 32.** 51.35 (3) (a) of the statutes is amended to read:

15 51.35 (3) (a) A licensed psychologist of a juvenile correctional facility or a
16 secured child caring institution, as defined in s. 938.02 (15g), or a licensed physician
17 of the department of corrections, who has reason to believe that any individual
18 confined in the facility or institution is, in his or her opinion, in need of services for
19 developmental disability, alcoholism or drug dependency or in need of psychiatric
20 services, and who has obtained voluntary consent to make a transfer for treatment,
21 shall make a report, in writing, to the superintendent of the facility or institution,
22 stating the nature and basis of the belief and verifying the consent. In the case of
23 a minor age 14 and over, the minor and, the minor's parent or guardian shall consent
24 unless the minor is admitted under s. 51.13 (1) (c); ~~and in the case of a minor under~~
25 ~~the age of 14, only the minor's parent or guardian need consent.~~ The superintendent

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1 shall inform, orally and in writing, the minor and the minor's parent or guardian,
2 that transfer is being considered and shall inform them of the basis for the request
3 and their rights as provided in s. 51.13 (3). If the department of corrections, upon
4 review of a request for transfer, determines that transfer is appropriate, that
5 department shall immediately notify the department of health and family services
6 and, if the department of health and family services consents, the department of
7 corrections may immediately transfer the individual. The department of corrections
8 shall file a petition under s. 51.13 (4) (a) in the court assigned to exercise jurisdiction
9 under chs. 48 and 938 of the county where the treatment facility is located.

10 **SECTION 33.** 51.35 (3) (b) of the statutes is amended to read:

11 51.35 (3) (b) The court assigned to exercise jurisdiction under chs. 48 and 938
12 shall determine, based on the allegations of the petition and accompanying
13 documents, ~~whether the transfer is voluntary on the part of the minor if he or she is~~
14 ~~aged 14 or over, and whether the transfer of the minor to an inpatient facility is~~
15 ~~appropriate and consistent with the needs of the minor. In the event that~~ If the court
16 is unable to make ~~such determinations~~ that determination based on the petition and
17 accompanying documents, ~~it shall~~ the court may order additional information to be
18 produced as it deems necessary for the court to make such review, ~~and make such~~
19 ~~determinations~~ the determination within 14 days of after admission, or ~~it~~ the court
20 may hold a hearing within 14 days of after admission. If a notation of the minor's
21 unwillingness appears on the face of the petition, or ~~that~~ if a hearing has been
22 requested by the minor, the minor's counsel, guardian ad litem, parent or guardian,
23 the court shall hold a hearing and appoint counsel or a guardian ad litem for the
24 minor as provided in s. 51.13 (4) (d). At the conclusion of the hearing, the court shall
25 approve or disapprove the request for transfer. If the minor is under the continuing

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1 jurisdiction of the court of another county, the court may order the case transferred
2 together with all appropriate records to that court.

3 **SECTION 34.** 51.35 (3) (g) of the statutes is amended to read:

4 51.35 (3) (g) A parent or guardian of a minor 14 years of age or older who is
5 transferred to a treatment facility under par. (a) may request in writing a return of
6 the minor to the juvenile correctional facility or secured child caring institution, as
7 defined in s. 938.02 (15g). ~~In the case of a minor under 14 years of age, the parent~~
8 ~~or guardian may make the request. Upon receipt of a request for return from a minor~~
9 ~~14 years of age or over, the director shall immediately notify the minor's parent or~~
10 ~~guardian.~~ The minor shall be returned to the juvenile correctional facility or secured
11 child caring institution within 48 hours after submission of the request unless a
12 petition or statement is filed for emergency detention, emergency commitment,
13 involuntary commitment or protective placement.

14 **SECTION 35.** 51.46 of the statutes is created to read:

15 **51.46 Alcohol and other drug testing for minors.** A minor's parent or
16 guardian may consent to have the minor tested for the presence of alcohol or other
17 drugs in the minor's body. Consent of the minor is not required under this section.

18 **SECTION 36.** 51.61 (6) of the statutes is amended to read:

19 51.61 (6) Subject to the rights of patients provided under this chapter, the
20 department, county departments under s. 51.42 or 51.437 and any agency providing
21 services under an agreement with the department or those county departments have
22 the right to use customary and usual treatment techniques and procedures in a
23 reasonable and appropriate manner in the treatment of patients who are receiving
24 services under the mental health system, for the purpose of ameliorating the
25 conditions for which the patients were admitted to the system. The written,

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1 informed consent of any patient shall first be obtained, unless the person is a minor
2 or has been found not competent to refuse medication and treatment under s. 51.61
3 (1) (g). In the case of a minor, the written, informed consent of the parent or guardian
4 is required. ~~Except, except~~ as provided under an order issued under s. 51.13 (1) (c)
5 or 51.14 (3) (h) or (4) (g), if the minor is 14 years of age or older, the written, informed
6 ~~consent of the minor and the minor's parent or guardian is required.~~ A refusal of
7 ~~either a parent or guardian of a minor 14 years of age or older or the minor's parent~~
8 ~~or guardian to provide written, informed consent for inpatient mental health~~
9 treatment is reviewable under s. 51.13 (1) (c) and a refusal of a parent or guardian
10 of a minor to provide written, informed consent for outpatient mental health
11 treatment is reviewable under s. 51.14.

SECTION 37. Initial applicability.

12 (1) This act first applies to individuals who are receiving inpatient or
13 outpatient mental health treatment on the effective date of this subsection
14 regardless of whether admission to an inpatient facility or an outpatient program
15 occurred or was sought prior to the effective date of this subsection.
16

SECTION 38. Effective date.

17 (1) This act takes effect on the first day of the 2nd month beginning after
18 publication.
19

20 (END)