



## 2007 SENATE BILL 153

April 19, 2007 – Introduced by Senators OLSEN, MILLER, ERPENBACH, ROESSLER, RISSER and PLALE, cosponsored by Representatives TOWNSEND, JESKEWITZ, HAHN, M. WILLIAMS, HINES, PRIDEMORE, MUSSER, BERCEAU, STRACHOTA, MURSAU, PETROWSKI, SHERMAN and KRUSICK. Referred to Committee on Judiciary and Corrections.

1     **AN ACT** *to repeal* 54.25 (4) (a), 54.40 (4) (am), 54.40 (4) (ar), 54.40 (4) (dm) and  
2           146.40 (1) (am); *to renumber and amend* 54.25 (2) (d) 2. a. and 54.25 (4) (b);  
3           **to consolidate and renumber** 54.25 (2) (c) 4. and 5.; *to amend* 46.90 (1) (eg)  
4           1., 46.90 (1) (eg) 2., 46.90 (1) (eg) 3., 46.90 (5m) (a), 46.90 (5m) (br) 2., 46.90 (6)  
5           (bt) 8., 48.368 (1), 48.415 (3) (a), 50.06 (2) (d) 3., 51.30 (4) (b) 17., 54.01 (13), 54.10  
6           (3) (d), 54.15 (intro.), 54.15 (5), 54.15 (6), 54.19 (1), 54.19 (8), 54.25 (2) (b) 4.,  
7           54.25 (2) (d) 2. n., 54.40 (4) (c), 54.40 (4) (ds), 54.44 (1) (a), 54.44 (2), 54.44 (4)  
8           (title), 54.44 (4) (a), 54.44 (4) (b), 54.48, 54.52 (2), 54.62 (1) (title), 54.64 (3) (a),  
9           54.93 (1) (b), 55.01 (1f), 55.01 (6p), 55.01 (6r) (k), 55.03 (3), 55.043 (1r) (a) 2.,  
10          55.043 (4) (am), 55.043 (4) (b) 1., 55.043 (6) (bt) 8., 55.075 (1), 55.075 (3), 55.075  
11          (5) (bm), 55.08 (2) (a), 55.08 (2) (b), 55.09 (1), 55.10 (4) (intro.), 55.10 (4) (a), 55.12  
12          (6), 55.13 (2), 55.135 (4), 55.135 (5), 55.15 (2), 55.16 (3) (c), 55.17 (1), 55.18 (1)  
13          (b), 55.18 (2) (a), 55.18 (2) (b) 6., 55.18 (2) (f) 4., 55.18 (3) (a), 55.18 (3) (d) (intro.),  
14          55.195 (4), 55.195 (5), 55.195 (6), 560.9811 (1), 813.123 (2) (b), 813.123 (4) (ar)

**SENATE BILL 153**

1 1., 813.123 (5) (a) 3. b., 813.123 (5) (ar) 1., 813.123 (5) (c) 1., 813.123 (7) and  
2 940.285 (1m); **to repeal and recreate** 46.21 (2m) (c), 46.215 (1m), 46.22 (1)  
3 (dm), 46.23 (3) (e), 46.286 (3) (a) 3., 49.001 (8), 50.06 (2) (c), 51.01 (5) (a), 51.01  
4 (14t), 51.03 (3) (a) 6., 51.10 (8), 51.20 (7) (d) 1., 51.40 (2) (a) 1., 51.40 (2) (a) 2.,  
5 51.42 (3) (e), 51.437 (4r) (b), 54.01 (8), 54.25 (1) (a), 54.25 (1) (b) (intro.), 54.36  
6 (1), 54.38 (2) (a), 54.40 (1), 54.42 (1) (a) (intro.), 54.42 (1) (c), 54.46 (3) (a), 54.75,  
7 55.01 (1v), 55.01 (2), 55.01 (6v), 55.02, 55.03 (1), 55.043 (1r) (b) 2., 55.043 (1r)  
8 (c) 2. c., 55.043 (4) (b) 2., 55.055 (1) (a), 55.055 (1) (b), 55.055 (3) (c), 55.06, 55.075  
9 (5) (a), 55.08 (1) (b), 55.08 (1) (c), 55.10 (4) (b), 55.11 (1) (c), 55.135 (1), 55.14 (1)  
10 (b) (intro.), 55.14 (2), 55.14 (3) (c), 55.14 (3) (e) (intro.), 55.14 (3) (e) 1., 55.14 (5),  
11 55.14 (6), 55.14 (7), 55.14 (8) (a), 55.14 (9), 55.14 (10), 55.14 (11), 55.175, 55.19  
12 (intro.), 55.19 (1) (a) (intro.), 55.19 (1) (a) 1., 55.19 (1) (b), 55.19 (1) (bm), 55.19  
13 (1) (c), 55.19 (1m), 55.19 (2) (b) 3., 55.19 (2) (b) 5., 55.19 (2) (b) 6., 55.19 (2) (c),  
14 55.19 (2) (f) 4., 55.19 (2) (g), 55.19 (3) (b) (intro.), 55.19 (3) (bm), 55.19 (3) (br),  
15 55.19 (3) (d) (intro.), 55.19 (3) (e) 1., 55.19 (3) (e) 2., 55.19 (3) (e) 3., 55.195  
16 (intro.), 55.22 (2), 146.82 (2) (a) 7., 609.65 (1) (intro.), 757.69 (1) (h), 813.123 (3)  
17 (b), 813.123 (4) (a) (intro.), 813.123 (4) (a) 2. a., 813.123 (5) (a) (intro.) and  
18 813.123 (6) (c); and **to create** 54.44 (5), 54.44 (5m) (title), 940.295 (1) (cr) and  
19 940.295 (1) (hr) of the statutes; **relating to:** protective placements and  
20 protective services; involuntary administration of psychotropic medication;  
21 guardianships, conservatorships, and wards; and services for adults at risk and  
22 elder adults at risk.

---

***Analysis by the Legislative Reference Bureau***

With respect to the laws relating to protective placements and protective services, involuntary administration of psychotropic medication, guardianships,

**SENATE BILL 153**

conservatorships, wards, and services for adults at risk and elder adults at risk, this bill reconciles 2005 Wisconsin Acts 264, 387, and 388, as to provisions that were mutually inconsistent and therefore could not be reconciled by the revisor of statutes in preparing the statutes. The bill makes numerous and diverse minor changes to correct incorrect cross-references, to align inconsistent provisions, to give effect to certain provisions superceded by subsequent acts, and to make more uniform the definitions of “developmental disability,” “degenerative brain disorder,” “serious and persistent mental illness,” and “voluntary.”

---

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

1           **SECTION 1.** 46.21 (2m) (c) of the statutes, as affected by 2005 Wisconsin Acts  
2 264 and 388, is repealed and recreated to read:

3           46.21 **(2m)** (c) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78  
4 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7) and 253.07  
5 (3) (c), a subunit of a county department of human services or tribal agency acting  
6 under this subsection may exchange confidential information about a client, without  
7 the informed consent of the client, with any other subunit of the same county  
8 department of human services or tribal agency, with a resource center, a care  
9 management organization, or a family care district, with an elder-adult-at-risk  
10 agency, an adult-at-risk agency, or any agency to which referral for investigation is  
11 made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with a person providing services  
12 to the client under a purchase of services contract with the county department of  
13 human services or tribal agency or with a resource center, a care management  
14 organization, or a family care district, if necessary to enable an employee or service  
15 provider to perform his or her duties, or to enable the county department of human  
16 services or tribal agency to coordinate the delivery of services to the client. An agency  
17 that releases information under this paragraph shall document that a request for  
18 information was received and what information was provided.

**SENATE BILL 153****SECTION 2**

1           **SECTION 2.** 46.215 (1m) of the statutes, as affected by 2005 Wisconsin Acts 264,  
2 388 and 406, is repealed and recreated to read:

3           46.215 **(1m)** EXCHANGE OF INFORMATION; LONG-TERM CARE. Notwithstanding ss.  
4 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82,  
5 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a subunit of a county department of social  
6 services or tribal agency acting under this section may exchange confidential  
7 information about a client, without the informed consent of the client, with any other  
8 subunit of the same county department of social services or tribal agency, with a  
9 resource center, a care management organization, or a family care district, with an  
10 elder–adult–at–risk agency, an adult–at–risk agency, or any agency to which referral  
11 for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with a person  
12 providing services to the client under a purchase of services contract with the county  
13 department of social services or tribal agency or with a resource center, a care  
14 management organization, or a family care district, if necessary to enable an  
15 employee or service provider to perform his or her duties, or to enable the county  
16 department of social services or tribal agency to coordinate the delivery of services  
17 to the client. An agency that releases information under this subsection shall  
18 document that a request for information was received and what information was  
19 provided.

20           **SECTION 3.** 46.22 (1) (dm) of the statutes, as affected by 2005 Wisconsin Acts  
21 264, 388 and 406, is repealed and recreated to read:

22           46.22 **(1)** (dm) *Exchange of information; long-term care.* Notwithstanding ss.  
23 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82,  
24 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a subunit of a county department of social  
25 services or tribal agency acting under this subsection may exchange confidential

**SENATE BILL 153**

1 information about a client, without the informed consent of the client, with any other  
2 subunit of the same county department of social services or tribal agency, with a  
3 resource center, a care management organization, or a family care district, with an  
4 elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral  
5 for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with a person  
6 providing services to the client under a purchase of services contract with the county  
7 department of social services or tribal agency or with a resource center, a care  
8 management organization, or a family care district, if necessary to enable an  
9 employee or service provider to perform his or her duties, or to enable the county  
10 department of social services or tribal agency to coordinate the delivery of services  
11 to the client. An agency that releases information under this paragraph shall  
12 document that a request for information was received and what information was  
13 provided.

14 **SECTION 4.** 46.23 (3) (e) of the statutes, as affected by 2005 Wisconsin Acts 264,  
15 388 and 406, is repealed and recreated to read:

16 46.23 (3) (e) *Exchange of information; long-term care.* Notwithstanding ss.  
17 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82,  
18 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a subunit of a county department of  
19 human services or tribal agency acting under this section may exchange confidential  
20 information about a client, without the informed consent of the client, with any other  
21 subunit of the same county department of human services or tribal agency, with a  
22 resource center, a care management organization, or a family care district, with an  
23 elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral  
24 for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with a person  
25 providing services to the client under a purchase of services contract with the county

**SENATE BILL 153****SECTION 4**

1 department of human services or tribal agency or with a resource center, a care  
2 management organization, or a family care district, if necessary to enable an  
3 employee or service provider to perform his or her duties, or to enable the county  
4 department of human services or tribal agency to coordinate the delivery of services  
5 to the client. An agency that releases information under this paragraph shall  
6 document that a request for information was received and what information was  
7 provided.

8 **SECTION 5.** 46.286 (3) (a) 3. of the statutes, as affected by 2005 Wisconsin Acts  
9 264 and 388, is repealed and recreated to read:

10 46.286 (3) (a) 3. Is functionally eligible at the intermediate level and is  
11 determined by an elder-adult-at-risk agency under s. 46.90 (2) or an adult-at-risk  
12 agency designated under s. 55.043 (1d) to be in need of protective services or  
13 protective placement under ch. 55.

14 **SECTION 6.** 46.90 (1) (eg) 1. of the statutes is amended to read:

15 46.90 (1) (eg) 1. A guardian of the estate appointed under ~~s. 880.03~~ s. 54.10.

16 **SECTION 7.** 46.90 (1) (eg) 2. of the statutes is amended to read:

17 46.90 (1) (eg) 2. A conservator appointed under ~~s. 880.31~~ s. 54.76.

18 **SECTION 8.** 46.90 (1) (eg) 3. of the statutes is amended to read:

19 46.90 (1) (eg) 3. An agent under a ~~financial~~ power of attorney under ~~s. 243.07~~  
20 ch. 243.

21 **SECTION 9.** 46.90 (5m) (a) of the statutes is amended to read:

22 46.90 (5m) (a) Upon responding to a report, the elder-adult-at-risk agency or  
23 the investigative agency shall determine whether the elder adult at risk or any other  
24 individual involved in the alleged abuse, financial exploitation, neglect, or  
25 self-neglect is in need of services under this chapter or ~~ch. 47, 49, 51, 55 or 880~~ ch.

**SENATE BILL 153**

1 47, 49, 51, 54, or 55. From the appropriation under s. 20.435 (7) (dh), the department  
2 shall allocate to selected counties not less than \$25,000 in each fiscal year, and within  
3 the limits of these funds and of available state and federal funds and of county funds  
4 appropriated to match the state and federal funds, the elder-adult-at-risk agency  
5 shall provide the necessary direct services to the elder adult at risk or other  
6 individual or arrange for the provision of the direct services with other agencies or  
7 individuals. Those direct services provided shall be rendered under the least  
8 restrictive conditions necessary to achieve their objective.

9 **SECTION 10.** 46.90 (5m) (br) 2. of the statutes is amended to read:

10 46.90 **(5m)** (br) 2. Take appropriate emergency action, including emergency  
11 protective placement under ~~s. 55.06~~ s. 55.135, if the elder-adult-at-risk agency  
12 determines that the emergency action is in the best interests of the elder adult at risk  
13 and the emergency action is the least restrictive appropriate intervention.

14 **SECTION 11.** 46.90 (6) (bt) 8. of the statutes is amended to read:

15 46.90 **(6)** (bt) 8. To the attorney or guardian ad litem for the elder adult at risk  
16 who is the alleged victim named in the record, to assist in preparing for any  
17 proceeding under ~~eh. 48, 51, 55, 813, 880, 971, or 975~~ ch. 48, 51, 54, 55, 813, 971, or  
18 975 pertaining to the alleged victim.

19 **SECTION 12.** 48.368 (1) of the statutes is amended to read:

20 48.368 **(1)** If a petition for termination of parental rights is filed under s. 48.41  
21 or 48.415 or an appeal from a judgment terminating or denying termination of  
22 parental rights is filed during the year in which a dispositional order under s. 48.355,  
23 an extension order under s. 48.365, a voluntary agreement for placement of the child  
24 under s. 48.63, or a guardianship order under ch. 880, 2003 stats., or s. 48.977 or ~~eh.~~  
25 ~~880~~ ch. 54 is in effect, the dispositional or extension order, voluntary agreement, or

**SENATE BILL 153****SECTION 12**

1 guardianship order shall remain in effect until all proceedings related to the filing  
2 of the petition or an appeal are concluded.

3 **SECTION 13.** 48.415 (3) (a) of the statutes is amended to read:

4 48.415 (3) (a) The parent is presently, and for a cumulative total period of at  
5 least 2 years within the 5 years immediately prior to the filing of the petition has  
6 been, an inpatient at one or more hospitals as defined in s. 50.33 (2) (a), (b) or (c),  
7 licensed treatment facilities as defined in s. 51.01 (2) or state treatment facilities as  
8 defined in s. 51.01 (15) on account of mental illness as defined in s. 51.01 (13) (a) or  
9 (b) or, developmental disability as defined in s. 55.01 (2), or other like incapacities,  
10 as defined in s. 55.01 (5);

11 **SECTION 14.** 49.001 (8) of the statutes, as affected by 2005 Wisconsin Acts 264  
12 and 387, is repealed and recreated to read:

13 49.001 (8) “Voluntary” means according to an individual’s free choice, if  
14 competent, or by choice of his or her guardian if the individual is adjudicated  
15 incompetent.

16 **SECTION 15.** 50.06 (2) (c) of the statutes, as affected by 2005 Wisconsin Acts 264  
17 and 387, is repealed and recreated to read:

18 50.06 (2) (c) A petition for guardianship for the individual under s. 54.34 and  
19 a petition under s. 55.075 for protective placement of the individual are filed prior  
20 to the proposed admission.

21 **SECTION 16.** 50.06 (2) (d) 3. of the statutes is amended to read:

22 50.06 (2) (d) 3. Comply with s. 55.135 if the requirements of s. 55.135 (1) are  
23 met and emergency protective placement in that facility or another facility is  
24 necessary ~~or file a petition for protective placement under s. 55.075.~~ The court, with



**SENATE BILL 153**

1 the permission of the facility, may order the incapacitated individual to remain in the  
2 facility pending the outcome of the protective placement proceedings.

3 **SECTION 17.** 51.01 (5) (a) of the statutes, as affected by 2005 Wisconsin Acts 264,  
4 387 and 388, is repealed and recreated to read:

5 51.01 (5) (a) "Developmental disability" means a disability attributable to  
6 brain injury, cerebral palsy, epilepsy, autism, Prader-Willi syndrome, mental  
7 retardation, or another neurological condition closely related to mental retardation  
8 or requiring treatment similar to that required for individuals with mental  
9 retardation, which has continued or can be expected to continue indefinitely and  
10 constitutes a substantial handicap to the afflicted individual. "Developmental  
11 disability" does not include dementia that is primarily caused by degenerative brain  
12 disorder.

13 **SECTION 18.** 51.01 (14t) of the statutes, as affected by 2005 Wisconsin Acts 264,  
14 387 and 388, is repealed and recreated to read:

15 51.01 (14t) "Serious and persistent mental illness" means a mental illness that  
16 is severe in degree and persistent in duration, that causes a substantially diminished  
17 level of functioning in the primary aspects of daily living and an inability to cope with  
18 the ordinary demands of life, that may lead to an inability to maintain stable  
19 adjustment and independent functioning without long-term treatment and support,  
20 and that may be of lifelong duration. "Serious and persistent mental illness" includes  
21 schizophrenia as well as a wide spectrum of psychotic and other severely disabling  
22 psychiatric diagnostic categories, but does not include degenerative brain disorder  
23 or a primary diagnosis of a developmental disability or of alcohol or drug dependence.

24 **SECTION 19.** 51.03 (3) (a) 6. of the statutes, as affected by 2005 Wisconsin Acts  
25 264 and 387, is repealed and recreated to read:

**SENATE BILL 153****SECTION 19**

1           51.03 (3) (a) 6. The number of individuals authorized to consent to involuntary  
2 administration of psychotropic medication under s. 55.14 (8) or for whom guardians  
3 were appointed under s. 880.33 (4m), 2003 stats.

4           **SECTION 20.** 51.10 (8) of the statutes, as affected by 2005 Wisconsin Acts 264  
5 and 387, is repealed and recreated to read:

6           51.10 (8) An adult for whom, because of incompetency, a guardian of the person  
7 has been appointed in this state may be voluntarily admitted to an inpatient  
8 treatment facility if the guardian consents after the requirements of sub. (4m) (a) 1.  
9 are satisfied or if the guardian and the ward consent to the admission under this  
10 section.

11           **SECTION 21.** 51.20 (7) (d) 1. of the statutes, as affected by 2005 Wisconsin Acts  
12 264 and 387, is repealed and recreated to read:

13           51.20 (7) (d) 1. If the court determines after hearing that there is probable cause  
14 to believe that the subject individual is a fit subject for guardianship and protective  
15 placement or services, the court may, without further notice, appoint a temporary  
16 guardian for the subject individual and order temporary protective placement or  
17 services under ch. 55 for a period not to exceed 30 days, and shall proceed as if  
18 petition had been made for guardianship and protective placement or services. If the  
19 court orders only temporary protective services for a subject individual under this  
20 paragraph, the individual shall be provided care only on an outpatient basis. The  
21 court may order the involuntary administration of psychotropic medication as a  
22 temporary protective service under this paragraph if it finds that there is probable  
23 cause to believe that the allegations under s. 55.14 (3) (e) apply, that the individual  
24 is not competent to refuse psychotropic medication and that the medication ordered  
25 will have therapeutic value and will not unreasonably impair the ability of the

**SENATE BILL 153**

1 individual to prepare for and participate in subsequent legal proceedings. An  
2 individual is not competent to refuse psychotropic medication if, because of serious  
3 and persistent mental illness, and after the advantages and disadvantages of and  
4 alternatives to accepting the particular psychotropic medication have been  
5 explained to the individual, one of the following is true:

6 a. The individual is incapable of expressing an understanding of the  
7 advantages and disadvantages of accepting treatment and the alternatives.

8 b. The individual is substantially incapable of applying an understanding of  
9 the advantages, disadvantages and alternatives to his or her serious and persistent  
10 mental illness in order to make an informed choice as to whether to accept or refuse  
11 psychotropic medication.

12 **SECTION 22.** 51.30 (4) (b) 17. of the statutes is amended to read:

13 51.30 (4) (b) 17. To the elder-adult-at-risk agency designated under s. 46.90  
14 (2) or other investigating agency under s. 46.90 for the purposes of s. 46.90 (4) and  
15 (5), to the county department as defined in s. 48.02 (2g) or the sheriff or police  
16 department for the purposes of s. 48.981 (2) and (3), or to the adult-at-risk agency  
17 designated under ~~s. 55.02~~ s. 55.043 (1d) for purposes of s. 55.043. The treatment  
18 record holder may release treatment record information by initiating contact with  
19 the elder-adult-at-risk agency, adult-at-risk agency, or county department, as  
20 defined in s. 48.02 (2g), without first receiving a request for release of the treatment  
21 record from the elder-adult-at-risk agency, adult-at-risk agency, or county  
22 department.

23 **SECTION 23.** 51.40 (2) (a) 1. of the statutes, as affected by 2005 Wisconsin Acts

24 264 and 387, is repealed and recreated to read:

**SENATE BILL 153****SECTION 23**

1           51.40 (2) (a) 1. ‘Commitment or protective placement or protective services.’  
2       If an individual is under a court order of commitment under this chapter or protective  
3       placement or protective services under s. 55.06, 2003 stats., or s. 55.12, the individual  
4       remains a resident of the county in which he or she has residence at the time the  
5       initial commitment or initial order for protective placement or protective services is  
6       made. If the court makes no specific finding of a county of residence, the individual  
7       is a resident of the county in which the court is located. After notice, including notice  
8       to the corporation counsel of each affected county by certified mail, after opportunity  
9       to be heard has been provided to all affected counties and parties, and if there is no  
10      objection, the court may make a specific finding of a county of residence. If any  
11      affected county or party objects to the court’s proposed finding, the county or party  
12      may request the department to make a determination under par. (g). Any transfer  
13      of venue may be suspended until the department’s determination is final.

14           **SECTION 24.** 51.40 (2) (a) 2. of the statutes, as affected by 2005 Wisconsin Acts  
15      264 and 387, is repealed and recreated to read:

16           51.40 (2) (a) 2. ‘Placement by a county.’ Except for the provision of emergency  
17      services under s. 51.15, 51.42 (1) (b), 51.437 (4) (c), or 51.45 (11) and (12), emergency  
18      protective services under s. 55.13, or emergency protective placement under s.  
19      55.135, if a county department or an agency of a county department places or makes  
20      arrangements for placement of the individual into a facility, the individual is a  
21      resident of the county of that county department. Any agency of the county  
22      department is deemed to be acting on behalf of the county department in placing or  
23      making arrangements for placement. Placement of an individual by a county  
24      department or an agency of a county department in a facility outside the jurisdiction  
25      of the county department or agency does not transfer the individual’s legal residence

**SENATE BILL 153**

1 to the county in which the facility is located. If a resident of a county is physically  
2 present in another county and is in need of immediate care, the county in which the  
3 individual is present may provide for his or her immediate needs under s. 51.15,  
4 51.20, 51.42 (1) (b), 51.437 (4) (c), or 51.45 (11) or (12), or ch. 54 or 55, without  
5 becoming the individual's county of residence.

6 **SECTION 25.** 51.42 (3) (e) of the statutes, as affected by Wisconsin Acts 264 and  
7 388, is repealed and recreated to read:

8 51.42 (3) (e) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78  
9 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 253.07 (3)  
10 (c) and 938.78 (2) (a), any subunit of a county department of community programs  
11 or tribal agency acting under this section may exchange confidential information  
12 about a client, without the informed consent of the client, with any other subunit of  
13 the same county department of community programs or tribal agency, with a  
14 resource center, a care management organization, or a family care district, or with  
15 any person providing services to the client under a purchase of services contract with  
16 the county department of community programs or tribal agency or with a resource  
17 center, care management organization, or family care district, if necessary to enable  
18 an employee or service provider to perform his or her duties, or to enable the county  
19 department of community programs or tribal agency to coordinate the delivery of  
20 services to the client. Any agency releasing information under this paragraph shall  
21 document that a request was received and what information was provided.

22 **SECTION 26.** 51.437 (4r) (b) of the statutes, as affected by 2005 Wisconsin Acts  
23 264 and 388, is repealed and recreated to read:

24 51.437 (4r) (b) Notwithstanding ss. 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83,  
25 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), any

**SENATE BILL 153****SECTION 26**

1 subunit of a county department of developmental disabilities services or tribal  
2 agency acting under this section may exchange confidential information about a  
3 client, without the informed consent of the client, with any other subunit of the same  
4 county department of developmental disabilities services or tribal agency, with a  
5 resource center, a care management organization, or a family care district, or with  
6 any person providing services to the client under a purchase of services contract with  
7 the county department of developmental disabilities services or tribal agency or with  
8 a resource center, a care management organization, or a family care district, if  
9 necessary to enable an employee or service provider to perform his or her duties, or  
10 to enable the county department of developmental disabilities services or tribal  
11 agency to coordinate the delivery of services to the client. Any agency releasing  
12 information under this paragraph shall document that a request was received and  
13 what information was provided.

14 **SECTION 27.** 54.01 (8) of the statutes, as affected by 2005 Wisconsin Acts 264,  
15 387 and 388, is repealed and recreated to read:

16 54.01 (8) "Developmental disability" means a disability attributable to mental  
17 retardation, cerebral palsy, epilepsy, autism, or another neurological condition  
18 closely related to mental retardation or requiring treatment similar to that required  
19 for individuals with mental retardation, which has continued or can be expected to  
20 continue indefinitely, substantially impairs an individual from adequately providing  
21 for his or her own care or custody, and constitutes a substantial handicap to the  
22 afflicted individual. The term does not include dementia that is primarily caused by  
23 degenerative brain disorder.

24 **SECTION 28.** 54.01 (13) of the statutes is amended to read:

**SENATE BILL 153**

1           54.01 (13) "Heir" means any person, including the surviving spouse, who is  
2 entitled under the statutes of intestate succession to an interest in property of a  
3 decedent. The state is an heir of the decedent and a person interested under s. 45.37  
4 (10) and (11) when the decedent was a member of the Wisconsin Veterans Home at  
5 King or at the facilities operated by the department of veterans affairs under s.  
6 ~~45.385~~ s. 45.50 at the time of the decedent's death.

7           **SECTION 29.** 54.10 (3) (d) of the statutes is amended to read:

8           54.10 (3) (d) Before appointing a guardian under this subsection, declaring  
9 incompetence to exercise a right under s. 54.25 (2) (c), or determining what powers  
10 are appropriate for the guardian to exercise under s. 54.18, 54.20, or 54.25 (2) (d), the  
11 court shall determine if additional medical, psychological, social, vocational, or  
12 educational evaluation is necessary for the court to make an informed decision  
13 respecting the individual's competency to exercise legal rights and may obtain  
14 assistance in the manner provided in ~~s. 55.06 (8)~~ s. 55.11 (1) whether or not protective  
15 placement is made.

16           **SECTION 30.** 54.15 (intro.) of the statutes is amended to read:

17           **54.15 Selection of guardian; nominations; preferences; other criteria.**  
18 (intro.) The court shall ~~do one of the following and shall~~ consider all of the following  
19 ~~nominations, applicable preferences, and criteria~~ in determining who is appointed  
20 as guardian:

21           **SECTION 31.** 54.15 (5) of the statutes is amended to read:

22           54.15 (5) PARENT OF A PROPOSED WARD. If one or both of the parents of a minor  
23 or an individual with developmental disability or with serious and persistent mental  
24 illness are suitable and willing, the court shall appoint one or both as guardian  
25 unless the court finds that the appointment is not in the proposed ~~ward,~~s ward's best

**SENATE BILL 153****SECTION 31**

1 interest. The court shall consider a proposed ward's objection to the appointment of  
2 his or her parent.

3 **SECTION 32.** 54.15 (6) of the statutes is amended to read:

4 54.15 (6) TESTAMENTARY NOMINATION BY PROPOSED WARD'S PARENTS. Subject to the  
5 rights of a surviving parent, a parent may by will nominate a guardian and successor  
6 guardian of the person or estate for any of his or her minor children who is in need  
7 of guardianship, unless the court finds that appointment of the guardian or successor  
8 guardian is not i in the minor's best interests. For an individual who is aged 18 or  
9 older and is found to be in need of guardianship by reason of a developmental  
10 disability or serious and persistent mental illness, a parent may by will nominate a  
11 testamentary guardian. The parent may waive the requirement of a bond for such  
12 an estate that is derived through a will.

13 **SECTION 33.** 54.19 (1) of the statutes is amended to read:

14 54.19 (1) Take possession of the ward's real and personal property, of any rents,  
15 income, and benefits accruing from the property, and of any proceeds arising from the  
16 sale, mortgage, lease, or exchange of the property, and prepare an inventory of these.  
17 Subject to this possession, the title of all the income and assets of the ward and the  
18 increment and proceeds of the income and assets of the ward remains vested in the  
19 ward and is not vested in the guardian.

20 **SECTION 34.** 54.19 (8) of the statutes is amended to read:

21 54.19 (8) File, with the register of deeds of any county in which the ward  
22 possesses real property of which the guardian has actual knowledge, a sworn and  
23 notarized statement that specifies the legal description of the property, the date that  
24 the ward is determined to be an incompetent, and the name, address, and telephone  
25 number of the ward's guardian and any surety on the guardian's bond.



**SENATE BILL 153**

1           **SECTION 35.** 54.25 (1) (a) of the statutes, as affected by 2005 Wisconsin Acts 264  
2 and 387, is repealed and recreated to read:

3           54.25 (1) (a) Make an annual report on the condition of the ward to the court  
4 that ordered the guardianship and to the county department designated under s.  
5 55.02 (2). That county department shall develop reporting requirements for the  
6 guardian of the person. The report shall include the location of the ward, the health  
7 condition of the ward, any recommendations regarding the ward, and a statement  
8 as to whether or not the ward is living in the least restrictive environment consistent  
9 with the needs of the ward.

10           **SECTION 36.** 54.25 (1) (b) (intro.) of the statutes, as affected by 2005 Wisconsin  
11 Acts 264 and 387, is repealed and recreated to read:

12           54.25 (1) (b) (intro.) Endeavor to secure any necessary care or services for the  
13 ward that are in the ward's best interests, based on all of the following:

14           **SECTION 37.** 54.25 (2) (b) 4. of the statutes is amended to read:

15           54.25 (2) (b) 4. To protest a residential placement made under ~~s. 55.05 (5) s.~~  
16 55.055, and to be discharged from a residential placement unless the individual is  
17 protectively placed under ~~s. 55.06 ch. 55~~ or the elements requirements of ~~s. 55.06 (11)~~  
18 s. 55.135 (1) are present met.

19           **SECTION 38.** 54.25 (2) (c) 4. and 5. of the statutes are consolidated and  
20 renumbered 54.25 (2) (c) 4.

21           **SECTION 39.** 54.25 (2) (d) 2. a. of the statutes is renumbered 54.25 (2) (d) 2. ac.  
22 and amended to read:

23           54.25 (2) (d) 2. ac. Except as provided under subd. 2. b., c., and d., and except  
24 for consent to psychiatric treatment and medication under ch. 51, and subject to any  
25 limitation under s. 54.46 ~~(3) (b)~~ (2) (b), the power to give informed consent, if in the

**SENATE BILL 153****SECTION 39**

1 ward's best interests, to ~~voluntary or~~ the involuntary administration of a medical  
2 examination, medication other than psychotropic medication, and medical  
3 treatment and to the voluntary receipt by the ward of medication, including any  
4 appropriate psychotropic medication that is in the ward's best interest, if the  
5 guardian has first made a good-faith attempt to discuss with the ward the ward's  
6 voluntary receipt of the psychotropic medication and the ward does not protest. For  
7 purposes of this subd. 2. a., "protest" means make more than one discernible negative  
8 response, other than mere silence, to the offer of, recommendation for, or other  
9 proffering of voluntary receipt of psychotropic medication. "Protest" does not mean  
10 a discernible negative response to a proposed method of administration of the  
11 psychotropic medication. A guardian may consent to the involuntary administration  
12 of psychotropic medication only under a court order under s. 55.14. In determining  
13 whether involuntary administration of a medical examination, medication other  
14 than psychotropic medication, or medical treatment, other than psychotropic  
15 medication, is in the ward's best interest, the guardian shall consider the  
16 invasiveness of the medical examination, medication, or treatment and the likely  
17 benefits and side effects of the medical examination, medication, or treatment.

18 **SECTION 40.** 54.25 (2) (d) 2. n. of the statutes is amended to read:

19 54.25 (2) (d) 2. n. The power to ~~apply~~ petition for protective placement under  
20 s. ~~55.06~~ 55.075 or for commitment under s. 51.20 or 51.45 (13) for the ward.

21 **SECTION 41.** 54.25 (4) (a) of the statutes is repealed.

22 **SECTION 42.** 54.25 (4) (b) of the statutes is renumbered 54.25 (2) (d) 2. ab. and  
23 and amended to read:

24 54.25 (2) (d) 2. ab. ~~A guardian may, without court approval, Except as provided~~  
25 under subd. 2. b., c., and d., and except for consent to psychiatric treatment and

**SENATE BILL 153**

1 medication under ch. 51, and subject to any limitation under s. 54.46 (2) (b), the  
2 power to give an informed consent to the voluntary receipt by the guardian's ward  
3 of a medical examination, medication, including any appropriate psychotropic  
4 medication, and medical treatment that is in the ward's best interest, if the guardian  
5 has first made a good-faith attempt to discuss with the ward the voluntary receipt  
6 of the examination, medication, or treatment and if the ward does not protest. For  
7 purposes of this subd. 2. ab., "protest" means, with respect to the voluntary receipt  
8 of a medical examination, medication, including appropriate psychotropic  
9 medication, or medical treatment, make more than one discernible negative  
10 response, other than mere silence, to the offer of, recommendation for, or other  
11 proffering of voluntary receipt of the medical examination, medication, or medical  
12 treatment. "Protest" does not mean a discernible negative response to a proposed  
13 method of administration of the medical examination, medication, or medical  
14 treatment. In determining whether a medical examination, medication, or medical  
15 treatment is in the ward's best interest, the guardian shall consider the invasiveness  
16 of the medical examination, medication, or treatment and the likely benefits and side  
17 effects of the medical examination, medication, or treatment.

18 **SECTION 43.** 54.36 (1) of the statutes, as affected by 2005 Wisconsin Acts 264  
19 and 387, is repealed and recreated to read:

20 54.36 (1) Whenever it is proposed to appoint a guardian on the ground that a  
21 proposed ward allegedly has incompetency or is a spendthrift, a physician or  
22 psychologist, or both, shall examine the proposed ward and furnish a written report  
23 stating the physician's or psychologist's professional opinion regarding the presence  
24 and likely duration of any medical or other condition causing the proposed ward to  
25 have incapacity or to be a spendthrift. The privilege under s. 905.04 does not apply

**SENATE BILL 153****SECTION 43**

1 to the report. The petitioner shall provide a copy of the report to the proposed ward  
2 or his or her counsel, the guardian ad litem, and the petitioner's attorney, if any.  
3 Prior to the examination on which the report is based, the guardian ad litem,  
4 physician, or psychologist shall inform the proposed ward that statements made by  
5 the proposed ward may be used as a basis for a finding of incompetency or a finding  
6 that he or she is a spendthrift, that he or she has a right to refuse to participate in  
7 the examination, absent a court order, or speak to the physician or psychologist, and  
8 that the physician or psychologist is required to report to the court even if the  
9 proposed ward does not speak to the physician or psychologist. The issuance of such  
10 a warning to the proposed ward prior to each examination establishes a presumption  
11 that the proposed ward understands that he or she need not speak to the physician  
12 or psychologist. Nothing in this section prohibits the use of a report by a physician  
13 or psychologist that is based on an examination of the proposed ward by the  
14 physician or psychologist before filing the petition for appointment of a guardian, but  
15 the court will consider the recency of the report in determining whether the report  
16 sufficiently describes the proposed ward's current state and in determining the  
17 weight to be given to the report.

18 **SECTION 44.** 54.38 (2) (a) of the statutes, as affected by 2005 Wisconsin Acts 264  
19 and 387, is repealed and recreated to read:

20 54.38 (2) (a) On the proposed ward or ward by personal service and an existing  
21 guardian, if any, by personal service or by registered or certified mail at least 10 days  
22 before the time set for hearing. If the proposed ward or ward is in custody or  
23 confinement, the petitioner shall have notice served by registered or certified mail  
24 on the proposed ward's or ward's custodian, who shall immediately serve it on the  
25 proposed ward or ward. The process server or custodian shall inform the proposed

**SENATE BILL 153**

1 ward or ward of the complete contents of the notice and petition, motion, or other  
2 required document; certify on the notice that the process server or custodian served  
3 and informed the proposed ward or ward; and return the certificate and notice to the  
4 court.

5 **SECTION 45.** 54.40 (1) of the statutes, as affected by 2005 Wisconsin Acts 264  
6 and 387, is repealed and recreated to read:

7 54.40 (1) APPOINTMENT. The court shall appoint a guardian ad litem when a  
8 petition for appointment of a guardian is brought under s. 54.34 (1), when a petition  
9 for receipt and acceptance of a foreign guardianship is brought under s. 54.34 (3), to  
10 review the scope of a guardianship, to provide protective placement to an individual  
11 or order protective services under ch. 55, to review any protective placement under  
12 s. 55.18, to terminate a protective placement under s. 55.17, to expand an order of  
13 guardianship under s. 54.63, to review incompetency and terminate a guardianship  
14 under s. 54.64, to review the conduct of a guardian under s. 54.68, or at any other time  
15 that the court determines it is necessary.

16 **SECTION 46.** 54.40 (4) (am) of the statutes is repealed.

17 **SECTION 47.** 54.40 (4) (ar) of the statutes is repealed.

18 **SECTION 48.** 54.40 (4) (c) of the statutes is amended to read:

19 54.40 (4) (c) Interview the proposed guardian, the proposed standby guardian,  
20 if any, and any other person seeking appointment as guardian and report to the court  
21 concerning the suitability of each individual interviewed to serve as guardian and  
22 concerning the ~~report~~ statement under s. 54.15 (8).

23 **SECTION 49.** 54.40 (4) (dm) of the statutes is repealed.

24 **SECTION 50.** 54.40 (4) (ds) of the statutes is amended to read:

**SENATE BILL 153****SECTION 50**

1           54.40 (4) (ds) Notify the guardian of the right to be present at and participate  
2 in the hearing, to present and cross-examine witnesses, to receive a copy of any  
3 evaluation under s. 55.11 (1) (intro.) or (2), and to secure and present a report on an  
4 independent evaluation under ~~s. 880.33 (2) (b)~~ s. 54.42 (3).

5           **SECTION 51.** 54.42 (1) (a) (intro.) of the statutes, as affected by 2005 Wisconsin  
6 Acts 264 and 387, is repealed and recreated to read:

7           54.42 (1) (a) (intro.) The proposed ward or ward has the right to counsel, if any  
8 of the following occurs:

9           **SECTION 52.** 54.42 (1) (c) of the statutes, as affected by 2005 Wisconsin Acts 264  
10 and 387, is repealed and recreated to read:

11           54.42 (1) (c) If par. (a) 1., 2., or 3. applies but the proposed ward or ward is  
12 unable to obtain legal counsel, the court shall appoint legal counsel. If the proposed  
13 ward or ward is represented by counsel appointed under s. 977.08 in a proceeding  
14 under a petition for protective placement brought under s. 55.075, the court shall  
15 order the counsel appointed under s. 977.08 to represent the proposed ward or ward.

16           **SECTION 53.** 54.44 (1) (a) of the statutes is amended to read:

17           54.44 (1) (a) *Time of hearing for petition.* A petition for guardianship, other  
18 than a petition under par. (b) or (c) or s. 54.50 (1), shall be heard within 90 days after  
19 it is filed. The guardian ad litem and attorney for the proposed ward or ward shall  
20 be provided with a copy of the report of the examining physician or psychologist  
21 under s. 54.36 (1) at least 96 hours before the time of the hearing.

22           **SECTION 54.** 54.44 (2) of the statutes is amended to read:

23           54.44 (2) **STANDARD OF PROOF.** Any determination by the court as to whether the  
24 proposed ward or ward is a minor, is incompetent, or is a spendthrift shall be by clear  
25 and convincing evidence.

**SENATE BILL 153**

1           **SECTION 55.** 54.44 (4) (title) of the statutes is amended to read:

2           54.44 (4) (title) PRESENCE OF PROPOSED WARD OR WARD.

3           **SECTION 56.** 54.44 (4) (a) of the statutes is amended to read:

4           54.44 (4) (a) *Adult proposed ward or ward*. The petitioner shall ensure that  
5 the proposed ward or ward attends the hearing unless the attendance is waived by  
6 the guardian ad litem. In determining whether to waive attendance by the proposed  
7 ward or ward, the guardian ad litem shall consider the ability of the proposed ward  
8 or ward to understand and meaningfully participate, the effect of the ~~proposed~~  
9 ~~ward's~~ attendance of the proposed ward or ward on his or her physical or  
10 psychological health in relation to the importance of the proceeding, and the  
11 ~~proposed ward's~~ expressed desires of the proposed ward or ward. If the proposed  
12 ward or ward is unable to attend the hearing because of residency in a nursing home  
13 or other facility, physical inaccessibility, or a lack of transportation and if the  
14 proposed ward or ward, guardian ad litem, advocate counsel, or other interested  
15 person so requests, the court shall hold the hearing in a place where the proposed  
16 ward or ward may attend.

17           **SECTION 57.** 54.44 (4) (b) of the statutes is amended to read:

18           54.44 (4) (b) *Minor proposed ward or ward*. A minor proposed ward or ward  
19 is not required to attend the hearing.

20           **SECTION 58.** 54.44 (5) of the statutes is created to read:

21           54.44 (5) PRIVACY OF HEARING. Every hearing under this chapter shall be closed,  
22 unless the proposed ward or ward or his or her attorney acting with the proposed  
23 ward's or ward's consent or the attorney for a foreign ward moves that it be open. If  
24 the hearing is closed, only interested persons, their attorneys, and witnesses may be  
25 present.

**SENATE BILL 153****SECTION 59**

1           **SECTION 59.** 54.44 (5m) (title) of the statutes is created to read:

2           54.44 **(5m)** (title) PARTICIPATION BY INTERESTED PERSONS.

3           **SECTION 60.** 54.46 (3) (a) of the statutes, as affected by 2005 Wisconsin Acts 264  
4 and 387, is repealed and recreated to read:

5           54.46 **(3)** (a) *Petitioner's attorney fees and costs.* If a guardian is appointed, the  
6 court shall award from the ward's income and assets payment of the petitioner's  
7 reasonable attorney fees and costs unless the court finds, after considering all of the  
8 following, that it would be inequitable to do so:

9           1. The petitioner's interest in the matter, including any conflict of interest that  
10 the petitioner may have had in pursuing the guardianship.

11           2. The ability of the ward's estate to pay the petitioner's reasonable attorney  
12 fees and costs.

13           3. Whether the guardianship was contested and, if so, the nature of the contest.

14           4. Whether the ward had executed a durable power of attorney under s. 243.07  
15 or a power of attorney for health care under s. 155.05 or had engaged in other advance  
16 planning for financial and health care decision making.

17           5. Any other factors that the court considers to be relevant.

18           **SECTION 61.** 54.48 of the statutes, as affected by 2005 Wisconsin Acts 264 and  
19 387, is amended to read:

20           **54.48 Protective placement and protective services.** A finding of  
21 incompetency and appointment of a guardian under this chapter is not grounds for  
22 involuntary protective placement or the provision of protective services. ~~Protective~~  
23 A protective placement and the provision of protective services may be made only in  
24 accordance with ch. 55.

25           **SECTION 62.** 54.52 (2) of the statutes is amended to read:



**SENATE BILL 153**

1           54.52 (2) At any hearing conducted under this section the court may designate  
2 one or more standby guardians of the person or estate whose appointment shall  
3 become effective immediately upon the death, unwillingness, or inability to act, or  
4 resignation or court's removal of the initially appointed guardian or during a period,  
5 as determined by the initially appointed guardian, when the initially appointed  
6 guardian ~~or the court~~ is temporarily unable to fulfill his or her duties, including  
7 during an extended vacation or illness. The powers and duties of the standby  
8 guardian shall be the same as those of the initially appointed guardian. The standby  
9 guardian shall receive a copy of the court order establishing or modifying the initial  
10 guardianship, and the order designating the standby guardian. Upon assuming  
11 office, the standby guardian shall so notify the court. Upon notification, the court  
12 shall issue new letters of guardianship that specify that the standby guardianship  
13 is permanent or that specify the time period for a limited standby guardianship.

14           **SECTION 63.** 54.62 (1) (title) of the statutes is amended to read:

15           54.62 (1) (title) ANNUAL REPORTS ACCOUNTS.

16           **SECTION 64.** 54.64 (3) (a) of the statutes is amended to read:

17           54.64 (3) (a) The court adjudicates a ward who was formerly found to be  
18 incompetent to be no longer incompetent ~~or a ward who was formerly found to be a~~  
19 ~~spendthrift to be capable of handling his or her income and assets~~, or terminates the  
20 guardianship under sub. (2) (d).

21           **SECTION 65.** 54.75 of the statutes, as affected by 2005 Wisconsin Acts 264 and  
22 387, is repealed and recreated to read:

23           **54.75 Access to court records.** All court records pertinent to the finding of  
24 incompetency are closed but subject to access as provided in s. 51.30 or 55.22 or under  
25 an order of a court under this chapter. The fact that an individual has been found

**SENATE BILL 153****SECTION 65**

1 incompetent and the name of and contact information for the guardian is accessible  
2 to any person who demonstrates to the custodian of the records a need for that  
3 information.

4 **SECTION 66.** 54.93 (1) (b) of the statutes is amended to read:

5 54.93 (1) (b) In this section, “3rd party” is means a person other than a bank,  
6 broker, transfer agent or issuer who with respect to a security held by an incompetent  
7 or spendthrift effects a transaction otherwise than directly with the incompetent or  
8 spendthrift.

9 **SECTION 67.** 55.01 (1f) of the statutes is amended to read:

10 55.01 (1f) “Adult-at-risk agency” means the agency designated by the county  
11 board of supervisors under ~~s. 55.043 (1)~~ s. 55.043 (1d) to receive, respond to, and  
12 investigate reports of abuse, neglect, self-neglect, and financial exploitation under  
13 s. 55.043.

14 **SECTION 68.** 55.01 (1v) of the statutes, as created by 2005 Wisconsin Acts 264,  
15 387 and 388, is repealed and recreated to read:

16 55.01 (1v) “Degenerative brain disorder” means the loss or dysfunction of brain  
17 cells to the extent that the individual is substantially impaired in his or her ability  
18 to provide adequately for his or her own care or custody or to manage adequately his  
19 or her property or financial affairs.

20 **SECTION 69.** 55.01 (2) of the statutes, as affected by 2005 Wisconsin Acts 264  
21 and 388, is repealed and recreated to read:

22 55.01 (2) “Developmental disability” means a disability attributable to mental  
23 retardation, cerebral palsy, epilepsy, autism or another neurological condition  
24 closely related to mental retardation or requiring treatment similar to that required  
25 for individuals with mental retardation, which has continued or can be expected to

**SENATE BILL 153**

1 continue indefinitely, substantially impairs an individual from adequately providing  
2 for his or her own care or custody, and constitutes a substantial handicap to the  
3 afflicted individual. The term does not include dementia that is primarily caused by  
4 degenerative brain disorder.

5 **SECTION 70.** 55.01 (6p) of the statutes is amended to read:

6 55.01 **(6p)** "Protective placement unit" means a ward, wing, or other  
7 designated part of a protective placement facility.

8 **SECTION 71.** 55.01 (6r) (k) of the statutes is amended to read:

9 55.01 **(6r)** (k) Any services that, when provided to an individual with  
10 developmental disabilities, degenerative brain disorder, serious and persistent  
11 mental illness, or other like incapacity, keep the individual safe from abuse, financial  
12 exploitation, neglect, or ~~misappropriation of property~~ self-neglect or prevent the  
13 individual from experiencing deterioration or from inflicting harm on himself or  
14 herself or another person.

15 **SECTION 72.** 55.01 (6v) of the statutes, as created by 2005 Wisconsin Acts 264  
16 and 387, is repealed and recreated to read:

17 55.01 **(6v)** "Serious and persistent mental illness" means a mental illness that  
18 is severe in degree and persistent in duration, that causes a substantially diminished  
19 level of functioning in the primary aspects of daily living and an inability to cope with  
20 the ordinary demands of life, that may lead to an inability to maintain stable  
21 adjustment and independent functioning without long-term treatment and support,  
22 and that may be of lifelong duration. "Serious and persistent mental illness" includes  
23 schizophrenia as well as a wide spectrum of psychotic and other severely disabling  
24 psychiatric diagnostic categories, but does not include degenerative brain disorder  
25 or a primary diagnosis of a developmental disability or of alcohol or drug dependence.

**SENATE BILL 153****SECTION 73**

1           **SECTION 73.** 55.02 of the statutes, as affected by 2005 Wisconsin Acts 264, 387  
2 and 388, is repealed and recreated to read:

3           **55.02 Protective services and protective placement: duties. (1)**

4           DEPARTMENT DUTIES. (a) The department shall do all of the following:

5           1. Cooperate with county departments to develop and operate a coordinated,  
6 statewide system for protective services and protective placement. The protective  
7 services and protective placement system shall be designed to encourage  
8 independent living and to avoid protective placement whenever possible.

9           2. Monitor and supervise the implementation and operation of the protective  
10 services and protective placement system.

11           3. Provide technical assistance to county departments providing protective  
12 services and protective placement.

13           4. Evaluate the protective services and protective placement system.

14           (b) The department may provide protective services and protective placement  
15 directly or contract for the provision of protective services or protective placement.

16           **(2) COUNTY DEPARTMENT DUTIES.** (a) The chairperson of each county board of  
17 supervisors shall designate a county department under s. 46.215, 46.22, 46.23, 51.42,  
18 or 51.437 that is providing services in the county on its own or through a joint  
19 mechanism with another county department or county to have the responsibility for  
20 planning for the provision of protective services and protective placement and for  
21 directly providing protective services, protective placement, or both, or entering into  
22 a contract under s. 46.036 with a responsible agency for the provision of protective  
23 services, protective placement, or both.

24           (b) In addition to the responsibilities specified in par. (a), the county  
25 department shall:

**SENATE BILL 153**

- 1           1. Monitor and evaluate protective services and protective placements.
- 2           2. Prepare and submit reports required by the department, or by a court if
- 3 protective services or protective placement are ordered by a court.
- 4           3. Develop requirements for submittal by guardians of the person of reports to
- 5 the county department under s. 54.25 (1) (a).
- 6           4. Designate at least one appropriate medical facility or protective placement
- 7 facility as an intake facility for the purpose of emergency protective placements
- 8 under s. 55.135.

9           **(3) CORPORATION COUNSEL.** The corporation counsel of the county in which the  
10 petition is brought may or, if requested by the court, shall assist in conducting  
11 proceedings under this chapter.

12           **SECTION 74.** 55.03 (1) of the statutes, as affected by 2005 Wisconsin Acts 264  
13 and 387, is repealed and recreated to read:

14           **55.03 (1) AGENCY AS BOTH GUARDIAN AND PROVIDER PROHIBITED.** No agency acting  
15 as a guardian appointed under ch. 880, 2003 stats., or ch. 54 may be a provider of  
16 protective services or protective placement for its ward under this chapter.

17           **SECTION 75.** 55.03 (3) of the statutes is amended to read:

18           **55.03 (3) GUARDIAN AUTHORITY AND RESPONSIBILITY APPLICABLE TO PARENT OF**  
19 **MINOR.** Where any responsibility or authority is created under this chapter upon or  
20 in relation to a guardian, the responsibility or authority is deemed to apply to a  
21 parent or person in the place of a parent in the case of a minor who is or who is alleged  
22 to be ~~developmentally disabled~~ have a developmental disability.

23           **SECTION 76.** 55.043 (1r) (a) 2. of the statutes is amended to read:

24           **55.043 (1r) (a) 2.** If an agent or employee of an adult-at-risk agency required  
25 to refer under this subsection is the subject of a report, or if the adult-at-risk agency

**SENATE BILL 153****SECTION 76**

1 or an agency under contract with the county department determines that the  
2 relationship between the adult-at-risk agency and the agency under contract with  
3 the county department would not allow for an unbiased response, the adult-at-risk  
4 agency shall, after taking any action necessary to protect the adult at risk, notify the  
5 department. Upon receipt of the notice, the department or a county department  
6 under s. 46.215, 46.22, 51.42, or 51.437 designated by the department shall conduct  
7 an independent investigation. The powers and duties of a county department  
8 making the independent investigation are those given to an adult-at-risk agency  
9 under ~~pars. (b) to (g)~~ pars. (b) to (d) and sub. (6).

10 **SECTION 77.** 55.043 (1r) (b) 2. of the statutes, as affected by 2005 Wisconsin Acts  
11 264 and 388, is repealed and recreated to read:

12 55.043 (1r) (b) 2. Observation of or an interview with the adult at risk, in  
13 private to the extent practicable, and with or without consent of his or her guardian  
14 or agent under an activated power of attorney for health care, if any.

15 **SECTION 78.** 55.043 (1r) (c) 2. c. of the statutes, as affected by 2005 Wisconsin  
16 Acts 264 and 388, is repealed and recreated to read:

17 55.043 (1r) (c) 2. c. The examination is authorized by order of a court.

18 **SECTION 79.** 55.043 (4) (am) of the statutes is amended to read:

19 55.043 (4) (am) Upon responding to a report, the adult-at-risk agency or the  
20 investigative agency shall determine whether the adult at risk or any other  
21 individual involved in the alleged abuse, financial exploitation, neglect, or  
22 self-neglect is in need of services under this chapter or ~~ch. 46, 47, 59, 51, or 880~~ ch.  
23 46, 47, 49, 51, and or 54. If provided, direct services shall be rendered under the least  
24 restrictive conditions necessary to achieve their objective.

**SENATE BILL 153**

1           **SECTION 80.** 55.043 (4) (b) 1. of the statutes, as affected by 2005 Wisconsin Acts  
2           264 and 388, is amended to read:

3           55.043 (4) (b) 1. Initiate a protective services,, action or contact an investigative  
4           agency, as appropriate.

5           **SECTION 81.** 55.043 (4) (b) 2. of the statutes, as affected by 2005 Wisconsin Acts  
6           264 and 388, is repealed and recreated to read:

7           55.043 (4) (b) 2. Take appropriate emergency action, including provision of  
8           emergency protective services under s. 55.13 or emergency protective placement  
9           under s. 55.135, if the adult-at-risk agency considers that the emergency action is  
10          in the best interests of the adult at risk and the emergency action is the least  
11          restrictive appropriate intervention.

12          **SECTION 82.** 55.043 (6) (bt) 8. of the statutes is amended to read:

13          55.043 (6) (bt) 8. To the attorney or guardian ad litem for the adult at risk who  
14          is the alleged victim named in the record, to assist in preparing for any proceeding  
15          under ch. 48, 51, 55, 813, 880, 971, or 975 this chapter or ch. 48, 51, 54, 813, 971, or  
16          975 pertaining to the alleged victim.

17          **SECTION 83.** 55.055 (1) (a) of the statutes, as affected by 2005 Wisconsin Acts  
18          264 and 387, is repealed and recreated to read:

19          55.055 (1) (a) The guardian of an individual who has been adjudicated  
20          incompetent may consent to the individual's admission to a foster home, group home,  
21          or community-based residential facility, as defined under s. 50.01 (1g), without a  
22          protective placement order under s. 55.12 if the home or facility is licensed for fewer  
23          than 16 beds. Prior to providing that consent, and annually thereafter, the guardian  
24          shall review the ward's right to the least restrictive residential environment and may  
25          consent only to admission to a home or facility that implements that right.

**SENATE BILL 153****SECTION 84**

1           **SECTION 84.** 55.055 (1) (b) of the statutes, as affected by 2005 Wisconsin Acts  
2 264 and 387, is repealed and recreated to read:

3           55.055 (1) (b) The guardian of an individual who has been adjudicated  
4 incompetent may consent to the individual's admission to a nursing home or other  
5 facility not specified in par. (a) for which protective placement is otherwise required  
6 for a period not to exceed 60 days. In order to be admitted under this paragraph, the  
7 individual must be in need of recuperative care or be unable to provide for his or her  
8 own care or safety so as to create a serious risk of substantial harm to himself or  
9 herself or others. Prior to providing that consent, the guardian shall review the  
10 ward's right to the least restrictive residential environment and consent only to  
11 admission to a nursing home or other facility that implements that right. Following  
12 the 60-day period, the admission may be extended for an additional 60 days if a  
13 petition for protective placement under s. 55.075 has been brought, or, if no petition  
14 for protective placement under s. 55.075 has been brought, for an additional 30 days  
15 for the purpose of allowing the initiation of discharge planning for the individual.  
16 Admission under this paragraph is not permitted for an individual for whom the  
17 primary purpose of admission is for treatment or services related to the individual's  
18 mental illness or developmental disability.

19           **SECTION 85.** 55.055 (3) (c) of the statutes is repealed and recreated to read:

20           55.055 (3) (c) Comply with s. 55.135, if the individual satisfies all criteria under  
21 s. 55.135 (1) and emergency placement in that home, nursing home, or other facility  
22 or another home, nursing home, or other facility is necessary, or file a petition for  
23 protective placement under s. 55.075. The court, with the permission of the home,  
24 nursing home, or other facility, may order the individual to remain in the home,



**SENATE BILL 153**

1 nursing home, or other facility pending the outcome of the protective placement  
2 proceedings.

3 **SECTION 86.** 55.06 of the statutes, as affected by 2005 Wisconsin Acts 264 and  
4 387, is repealed and recreated to read:

5 **55.06 Protective services and protective placement; eligibility.** To be  
6 eligible for court-ordered protective placement or protective services, an individual  
7 shall have filed a petition to transfer a foreign guardianship, whether present in the  
8 state or not, or shall be a resident of the state; and shall have a need for protective  
9 placement or protective services. The individual shall have attained the age of 18,  
10 but an individual who is alleged to have a developmental disability may receive  
11 protective placement or protective services upon attaining the age of 14. Protective  
12 placement or protective services may be ordered under this chapter only for an  
13 individual who is adjudicated incompetent in this state or for a minor who is alleged  
14 to have a developmental disability, and only if there is a finding of a need for  
15 protective placement under s. 55.08 (1), and ss. 55.055 (5), 55.13, and 55.135 are  
16 inappropriate or do not apply. A procedure for court-ordered protective placement  
17 or protective services may be initiated 6 months before a minor attains age 18.

18 **SECTION 87.** 55.075 (1) of the statutes, as affected by 2005 Wisconsin Acts 264  
19 and 387, is amended to read:

20 **55.075 (1) WHO MAY PETITION.** The department, the county department or an  
21 agency with which the county department contracts under s. 55.02 (2), a guardian,  
22 or an interested person may file a petition for appointment of a guardian and for  
23 protective services or protective placement for an ~~the~~ individual. The department  
24 shall provide for a schedule of reimbursement for the cost of the proceedings based  
25 upon the ability to pay of the proposed ward or individual to be protected.

**SENATE BILL 153****SECTION 88**

1           **SECTION 88.** 55.075 (3) of the statutes, as affected by 2005 Wisconsin Acts 264  
2 and 387, is amended to read:

3           **55.075 (3) PETITION FOR GUARDIANSHIP; REVIEW OF INCOMPETENCY.** A petition for  
4 guardianship described in s. 55.08 (1) (b) or (2) (a) shall be heard prior to ordering  
5 protective placement or protective services. If the individual is ~~incompetent~~  
6 adjudicated incompetent in this state more than 12 months before the filing of an  
7 application for protective placement or protective services on his or her behalf, the  
8 court shall review the finding of incompetency.

9           **SECTION 89.** 55.075 (5) (a) of the statutes, as affected by 2005 Wisconsin Acts  
10 264 and 387, is repealed and recreated to read:

11           **55.075 (5) (a)** A petition under sub. (1) shall be filed in the county of residence  
12 of the individual to be protected, as determined under s. 51.40 or by the individual's  
13 guardian or where the individual is physically present due to extraordinary  
14 circumstances including those specified under s. 51.22 (4). If an individual has not  
15 received services under this chapter or ch. 46 or 51 or if an individual has received  
16 services under this chapter or ch. 46 or 51 that have been terminated and has  
17 established residence in a county other than that in which the individual resided  
18 when the services were received, the court may determine the individual's county of  
19 residence. The county of residence under this paragraph is the county of  
20 responsibility.

21           **SECTION 90.** 55.075 (5) (bm) of the statutes is amended to read:

22           **55.075 (5) (bm)** The court in which a petition is first filed under ~~par. (e)~~ par. (a)  
23 shall determine venue. The court shall direct that proper notice be given to any  
24 potentially responsible or affected county. Proper notice is given to a potentially  
25 responsible or affected county if written notice of the proceeding is sent by certified

**SENATE BILL 153**

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

12 **SECTION 91.** 55.08 (1) (b) of the statutes, as affected by 2005 Wisconsin Acts 264  
13 and 387, is repealed and recreated to read:

14 55.08 (1) (b) The individual is a minor who is not alleged to have a  
15 developmental disability and on whose behalf a petition for guardianship has been  
16 submitted, or is an adult who has been determined to be incompetent by a circuit  
17 court.

18 **SECTION 92.** 55.08 (1) (c) of the statutes, as affected by 2005 Wisconsin Acts 264  
19 and 388, is repealed and recreated to read:

20 55.08 (1) (c) As a result of developmental disability, degenerative brain  
21 disorder, serious and persistent mental illness, or other like incapacities, the  
22 individual is so totally incapable of providing for his or her own care or custody as  
23 to create a substantial risk of serious harm to himself or herself or others. Serious  
24 harm may be evidenced by overt acts or acts of omission.

25 **SECTION 93.** 55.08 (2) (a) of the statutes is amended to read:

**SENATE BILL 153****SECTION 93**

1           55.08 (2) (a) The individual has been determined to be incompetent by a circuit  
2 court or is a minor who is alleged to be ~~developmentally disabled~~ have a  
3 developmental disability and on whose behalf a petition for a guardianship has been  
4 submitted.

5           **SECTION 94.** 55.08 (2) (b) of the statutes is amended to read:

6           55.08 (2) (b) As a result of developmental ~~disabilities~~ disability, degenerative  
7 brain disorder, serious and persistent mental illness, or other like incapacities, the  
8 individual will incur a substantial risk of physical harm or deterioration or will  
9 present a substantial risk of physical harm to others if protective services are not  
10 provided.

11           **SECTION 95.** 55.09 (1) of the statutes, as affected by 2005 Wisconsin Acts 264  
12 and 387, is amended to read:

13           55.09 (1) NOTICE TO INDIVIDUAL. Notice of a petition for protective placement  
14 or protective services shall be served upon the individual sought to be protected, by  
15 personal service, at least 10 days before the time set for a hearing. The person  
16 serving the notice shall inform the individual sought to be protected of the complete  
17 contents of the notice and shall return a certificate to the circuit judge verifying that  
18 the petition has been delivered and notice given. The notice shall include the names  
19 of all petitioners. ~~individual adjudicated for a determination of incompetency~~

20           **SECTION 96.** 55.10 (4) (intro.) of the statutes is amended to read:

21           55.10 (4) RIGHTS. (intro.) The Sections 54.42, 54.44, and 54.46 and the  
22 following provisions apply to all hearings under this chapter except transfers of  
23 placement under s. 55.15 and summary hearings under ss. 55.18 (3) (d) and 55.19 (3)  
24 (d):

25           **SECTION 97.** 55.10 (4) (a) of the statutes is amended to read:

**SENATE BILL 153**

1           55.10 (4) (a) *Counsel; costs.* The individual sought to be protected has the right  
2 to counsel whether or not the individual is present at the hearing on the petition.  
3 The court shall require representation by full legal counsel whenever the petition  
4 alleges that the individual is not competent to refuse psychotropic medication under  
5 s. 55.14, the individual sought to be protected requested such representation at least  
6 72 hours before the hearing, the guardian ad litem or any other person states that  
7 the individual sought to be protected is opposed to the petition, or the court  
8 determines that the interests of justice require it. If the individual sought to be  
9 protected or any other person on his or her behalf requests but is unable to obtain  
10 legal counsel, the court shall appoint legal counsel. Counsel shall be provided at  
11 public expense, as provided under s. 967.06 and ch. 977, if the individual is indigent.  
12 If the individual sought to be protected is an adult who is indigent, and if counsel was  
13 not appointed under s. 977.08, the county in which the hearing is held is liable for  
14 any fees due the individual's legal counsel. If the individual sought to be protected  
15 is represented by counsel appointed under s. 977.08 in a proceeding for the  
16 appointment of a guardian under ~~s. 880.33~~ ch. 54, the court shall order the counsel  
17 appointed under s. 977.08 to represent under this section the individual sought to  
18 be protected.

19           **SECTION 98.** 55.10 (4) (b) of the statutes, as affected by 2005 Wisconsin Acts 264  
20 and 387, is repealed and recreated to read:

21           55.10 (4) (b) *Guardian ad litem; costs.* The court shall in all cases require the  
22 appointment of an attorney as guardian ad litem in accordance with s. 757.48 (1).  
23 The responsibilities and duties of a guardian ad litem on behalf of a proposed ward  
24 or individual who is alleged incompetent specified in s. 54.40 apply to a guardian ad  
25 litem appointed in a proceeding for protective services or protective placement on

**SENATE BILL 153****SECTION 98**

1 behalf of an individual sought to be protected. If a guardian has been appointed for  
2 an individual who is the subject of a petition for court-ordered protective placement  
3 or protective services, the guardian ad litem shall interview the guardian. The  
4 guardian ad litem shall be present at all hearings under this chapter if the individual  
5 sought to be protected does not have full legal counsel. The court may, however,  
6 excuse a personal appearance by a guardian ad litem based on information contained  
7 in a written report by the guardian ad litem to the court. If the individual sought to  
8 be protected is an adult who is indigent, the county shall be liable for any fees due  
9 the guardian ad litem. If the individual sought to be protected is a minor, the minor's  
10 parents or the county in which the hearing is held shall be liable for any fees due the  
11 guardian ad litem as provided in s. 48.235 (8).

12 **SECTION 99.** 55.11 (1) (c) of the statutes, as affected by 2005 Wisconsin Acts 264  
13 and 387, is repealed and recreated to read:

14 55.11 (1) (c) A medical, psychological, social, vocational, and educational  
15 evaluation and review, if necessary, and any recommendations for or against  
16 maintenance of partial legal rights as provided in s. 54.25 (2). The evaluation and  
17 review shall include recommendations for the individual's placement that are  
18 consistent with the requirements of s. 55.12 (3), (4), and (5).

19 **SECTION 100.** 55.12 (6) of the statutes is amended to read:

20 55.12 (6) If the county department or agency with which it contracts under s.  
21 55.02 (2) proposes to provide protective placement to an individual who has a  
22 developmental disability in an intermediate facility or a nursing facility under an  
23 order under this section, the county department or agency, or, if s. 46.279 (4m) applies  
24 to the individual, the department or the department's contractor shall develop a plan  
25 under s. 46.279 (4) and furnish the plan to the county department or agency and to

**SENATE BILL 153**

1 the individual's guardian. The county department or agency with which it contracts  
2 under s. 55.02 (2) shall ~~plae~~ provide protective placement to the individual in a  
3 noninstitutional community setting in accord with the plan unless the court finds  
4 that protective placement in the intermediate facility or nursing facility is the most  
5 integrated setting, as defined in s. 46.279 (1) (bm), that is appropriate to the needs  
6 of the individual, taking into account information presented by all affected parties.

7 **SECTION 101.** 55.13 (2) of the statutes is amended to read:

8 55.13 (2) If the county department or agency with which the county  
9 department contracts under s. 55.02 (2) that is providing emergency protective  
10 services to an individual under sub. (1) has reason to believe that the individual  
11 meets the criteria for protective services under s. 55.08 (2), the county department  
12 or agency may file a petition under s. 55.075. If a petition is filed, a preliminary  
13 hearing shall be held within 72 hours, excluding Saturdays, Sundays, and legal  
14 holidays, to establish probable cause that the criteria under s. 55.08 (2) are present.  
15 The county department or agency shall provide the individual with written notice  
16 and orally inform the individual of the time and place of the preliminary hearing.  
17 If the individual is not under guardianship, a petition for guardianship shall  
18 accompany the petition under s. 55.08 (2), except in the case of a minor who is alleged  
19 to ~~be developmentally disabled~~ have a developmental disability.

20 **SECTION 102.** 55.135 (1) of the statutes, as affected by 2005 Wisconsin Acts 253,  
21 264 and 388, is repealed and recreated to read:

22 55.135 (1) If, from personal observation of, or a reliable report made by a person  
23 who identifies himself or herself to, a sheriff, police officer, fire fighter, guardian, if  
24 any, or authorized representative of a county department or an agency with which  
25 it contracts under s. 55.02 (2), it appears probable that an individual is so totally

**SENATE BILL 153****SECTION 102**

1 incapable of providing for his or her own care or custody as to create a substantial  
2 risk of serious physical harm to himself or herself or others as a result of  
3 developmental disability, degenerative brain disorder, serious and persistent mental  
4 illness, or other like incapacities if not immediately placed, the individual who  
5 personally made the observation or to whom the report is made may take into custody  
6 and transport the individual to an appropriate medical or protective placement  
7 facility. The person making emergency protective placement shall prepare a  
8 statement at the time of detention providing specific factual information concerning  
9 the person's observations or reports made to the person and the basis for emergency  
10 placement. The statement shall be filed with the director of the facility and with any  
11 petition under s. 55.075. At the time of emergency protective placement the  
12 individual shall be informed by the director of the facility or the director's designee,  
13 orally and in writing, of his or her right to contact an attorney and a member of his  
14 or her immediate family and the right to have an attorney provided at public  
15 expense, as provided under s. 967.06 and ch. 977, if the individual is a minor or is  
16 indigent. The director or designee shall also provide the individual with a copy of the  
17 statement by the person making emergency protective placement.

18 **SECTION 103.** 55.135 (4) of the statutes is amended to read:

19 55.135 (4) When an individual is detained under this section, a petition shall  
20 be filed under s. 55.075 by the person making the emergency protective placement  
21 and a preliminary hearing shall be held within 72 hours, excluding Saturdays,  
22 Sundays and legal holidays, to establish probable cause to believe the grounds for  
23 protective placement under s. 55.08 (1). The sheriff or other person making  
24 emergency protective placement under sub. (1) shall provide the individual with  
25 written notice and orally inform him or her of the time and place of the preliminary



**SENATE BILL 153****SECTION 103**

1 hearing. If the detainee is not under guardianship, a petition for guardianship shall  
2 accompany the protective placement petition, except in the case of a minor who is  
3 alleged to be ~~developmentally disabled~~ have a developmental disability. In the event  
4 that protective placement is not appropriate, the court may elect to treat a petition  
5 for protective placement as a petition for commitment under s. 51.20 or 51.45 (13).

6 **SECTION 104.** 55.135 (5) of the statutes is amended to read:

7 55.135 (5) Upon finding probable cause under sub. (4), the court may order  
8 temporary protective placement up to 30 days pending the hearing for a permanent  
9 protective placement, or the court may order such protective services as may be  
10 required. If the court orders under this subsection an individual who has a  
11 developmental disability to receive temporary protective placement in an  
12 intermediate facility or in a nursing facility, and if at the hearing for permanent  
13 protective placement the court orders that the individual be ~~provide~~ provided  
14 protective placement, the court may, before commencement of permanent protective  
15 placement, extend the temporary protective placement order for not more than 90  
16 days if necessary for the county department that is participating in the program  
17 under s. 46.278 or, if s. 46.279 (4m) applies, the department's contractor to develop  
18 the plan required under s. 46.279 (4).

19 **SECTION 105.** 55.14 (1) (b) (intro.) of the statutes, as affected by 2005 Wisconsin  
20 Acts 264 and 387, is repealed and recreated to read:

21 55.14 (1) (b) (intro.) "Not competent to refuse psychotropic medication" means  
22 that, as a result of developmental disability, degenerative brain disorder, serious and  
23 persistent mental illness, or other like incapacities, and after the advantages and  
24 disadvantages of and alternatives to accepting the particular psychotropic  
25 medication have been explained to an individual, one of the following is true:

**SENATE BILL 153****SECTION 106**

1           **SECTION 106.** 55.14 (2) of the statutes, as created by 2005 Wisconsin Acts 264  
2 and 387, is repealed and recreated to read:

3           55.14 (2) Involuntary administration of psychotropic medication, with consent  
4 of a guardian, may be ordered as a protective service only under the requirements  
5 of this section.

6           **SECTION 107.** 55.14 (3) (c) of the statutes, as created by 2005 Wisconsin Acts  
7 264 and 387, is repealed and recreated to read:

8           55.14 (3) (c) The individual has refused to take the psychotropic medication  
9 voluntarily or attempting to administer psychotropic medication to the individual  
10 voluntarily is not feasible or is not in the best interests of the individual. If the  
11 petition alleges that the individual has refused to take psychotropic medication  
12 voluntarily, the petition shall identify the reasons, if known, for the individual's  
13 refusal to take psychotropic medication voluntarily. The petition also shall provide  
14 evidence showing that a reasonable number of documented attempts to administer  
15 psychotropic medication voluntarily using appropriate interventions that could  
16 reasonably be expected to increase the individual's willingness to take psychotropic  
17 medication voluntarily have been made and have been unsuccessful. If the petition  
18 alleges that attempting to administer psychotropic medications to the individual  
19 voluntarily is not feasible or is not in the best interests of the individual, the petition  
20 shall identify specific reasons supporting that allegation.

21           **SECTION 108.** 55.14 (3) (e) (intro.) of the statutes, as created by 2005 Wisconsin  
22 Acts 264 and 387, is repealed and recreated to read:

23           55.14 (3) (e) (intro.) Unless psychotropic medication is administered  
24 involuntarily, the individual will incur a substantial probability of physical harm,  
25 impairment, injury, or debilitation or will present a substantial probability of

**SENATE BILL 153****SECTION 108**

1 physical harm to others. The substantial probability of physical harm, impairment,  
2 injury, or debilitation shall be evidenced by one of the following:

3 **SECTION 109.** 55.14 (3) (e) 1. of the statutes, as created by 2005 Wisconsin Acts  
4 264 and 387, is repealed and recreated to read:

5 55.14 (3) (e) 1. The individual's history of at least 2 episodes, one of which has  
6 occurred within the previous 24 months, that indicate a pattern of overt activity,  
7 attempts, threats to act, or omissions that resulted from the individual's failure to  
8 participate in treatment, including psychotropic medication, and that resulted in a  
9 finding of probable cause for commitment under s. 51.20 (7), a settlement agreement  
10 approved by a court under s. 51.20 (8) (bg), or commitment ordered under s. 51.20  
11 (13).

12 **SECTION 110.** 55.14 (5) of the statutes, as created by 2005 Wisconsin Acts 264  
13 and 387, is repealed and recreated to read:

14 55.14 (5) The guardian ad litem appointed under s. 55.10 (4) (b) for an  
15 individual who is the subject of a petition under this section shall report to the court  
16 whether the allegations in the petition required under sub. (3) are true, and whether  
17 involuntary administration of psychotropic medication is in the best interests of the  
18 individual.

19 **SECTION 111.** 55.14 (6) of the statutes, as created by 2005 Wisconsin Acts 264  
20 and 387, is repealed and recreated to read:

21 55.14 (6) If requested by an individual who is the subject of a petition under  
22 this section or anyone on his or her behalf, the individual has the right at his or her  
23 own expense, or if indigent at the expense of the county in which the petition is filed,  
24 to secure an independent medical or psychological examination relevant to the issues  
25 of whether the allegations in the petition required under sub. (3) are true, and

**SENATE BILL 153****SECTION 111**

1 whether involuntary administration of psychotropic medication is in the best  
2 interest of the individual, and to present a report of this independent evaluation or  
3 the evaluator's personal testimony as evidence at the hearing.

4 **SECTION 112.** 55.14 (7) of the statutes, as created by 2005 Wisconsin Acts 264  
5 and 387, is repealed and recreated to read:

6 55.14 (7) Upon the filing of a petition under this section, the court shall appoint  
7 counsel as required under s. 55.10 (4) (a). A petition under this section shall be heard  
8 within 30 days after it is filed.

9 **SECTION 113.** 55.14 (8) (a) of the statutes, as created by 2005 Wisconsin Acts  
10 264 and 387, is repealed and recreated to read:

11 55.14 (8) (a) Direct the development of a treatment plan for the individual  
12 specifying the protective services, including psychotropic medication as ordered by  
13 the treating physician, that the individual should receive. If the individual resides  
14 in a nursing home or hospital, the nursing home or hospital shall develop the  
15 treatment plan. If the individual resides elsewhere, the county department or an  
16 agency with which it contracts under s. 55.02 (2) shall develop the treatment plan.  
17 The treatment plan shall include a plan for the involuntary administration of  
18 psychotropic medication to the individual. The treatment plan is subject to the  
19 approval of the guardian and to review and approval by the court. If the court  
20 approves the plan, the court shall order the county department or an agency with  
21 which it contracts under s. 55.02 (2) to ensure that psychotropic medication is  
22 administered in accordance with the treatment plan.

23 **SECTION 114.** 55.14 (9) of the statutes, as created by 2005 Wisconsin Acts 264  
24 and 387, is repealed and recreated to read:

**SENATE BILL 153****SECTION 114**

1           55.14 (9) If an individual who is subject to an order under this section is not  
2 in compliance with the order because he or she refuses to take psychotropic  
3 medication as ordered under the treatment plan, and it is necessary for the  
4 individual to be transported to an appropriate facility for forcible restraint for  
5 administration of psychotropic medication, the corporation counsel may file with the  
6 court a statement of the facts that constitute the basis of the noncompliance of the  
7 individual. The statement shall be sworn to be true and shall be based upon the  
8 information and belief of the person filing the statement. The statement shall be  
9 signed by the individual's guardian and by the director or designee of the county  
10 department or an agency with which it contracts under s. 55.02 (2) to develop and  
11 administer the treatment plan. Upon receipt of the statement of noncompliance, if  
12 the court finds by clear and convincing evidence that the individual has substantially  
13 failed to comply with the administration of psychotropic medication as ordered under  
14 the treatment plan, the court may issue an order authorizing the sheriff or any other  
15 law enforcement agency in the county in which the individual is found or in which  
16 it is believed that the individual may be present to take the individual into custody  
17 and transport him or her to an appropriate facility for administration of psychotropic  
18 medication using forcible restraint, with consent of the guardian.

19           **SECTION 115.** 55.14 (10) of the statutes, as created by 2005 Wisconsin Acts 264  
20 and 387, is repealed and recreated to read:

21           55.14 (10) Nothing in this section prohibits the involuntary administration of  
22 psychotropic medication as an emergency protective service under s. 55.13.

23           **SECTION 116.** 55.14 (11) of the statutes, as created by 2005 Wisconsin Acts 264  
24 and 387, is repealed and recreated to read:

**SENATE BILL 153****SECTION 116**

1           55.14 (11) The county department or an agency with which it contracts under  
2 s. 55.02 (2) shall provide to the department a copy of any order issued under this  
3 section that applies to any protectively placed individual in the county.

4           **SECTION 117.** 55.15 (2) of the statutes is amended to read:

5           55.15 (2) WHO MAY TRANSFER. A guardian, a county department or agency with  
6 which it contracts under ~~s. 55.03 (2)~~ s. 55.02 (2) that provided protective placement  
7 to the individual pursuant to the order of the court, the department, or a protective  
8 placement facility may transfer an individual under a protective placement order  
9 under the requirements of this section, notwithstanding the fact that a court order  
10 has named a specific facility for the protective placement of the individual.

11           **SECTION 118.** 55.16 (3) (c) of the statutes is amended to read:

12           55.16 (3) (c) The hearing shall be subject to s. 55.10 (4).

13           **SECTION 119.** 55.17 (1) of the statutes is amended to read:

14           55.17 (1) PETITION. An individual, the individual's guardian or guardian ad  
15 litem, the department, a county department or agency with which it contracts under  
16 s. 55.02 (2), or any other interested person may file a petition at any time for  
17 termination of an order for protective placement or protective services. The petition  
18 shall be served on the individual; the individual's guardian; the individual's attorney  
19 and guardian ad litem, if any; and the county department. The petition shall allege  
20 that the individual no longer meets the standards under s. 55.08 (1) for  
21 court-ordered protective placement or under s. 55.08 (2) for court-ordered protective  
22 services.

23           **SECTION 120.** 55.175 of the statutes, as affected by 2005 Wisconsin Acts 264 and  
24 387, is repealed and recreated to read:

**SENATE BILL 153****SECTION 120**

1           **55.175 Discharge from protective placement.** Prior to discharge of an  
2 individual from a protective placement, the county department that is responsible  
3 for protective placement shall review the need for continuing protective services,  
4 continuation of full or limited guardianship, or, if the individual has no guardian,  
5 guardianship. If the county department's recommendation includes a course of  
6 action for which court approval would be required, the county department shall  
7 make the recommendation to the court. Prior to discharge of the individual from any  
8 mental health institute or center for the developmentally disabled, the department  
9 shall make the review under s. 51.35 (7).

10           **SECTION 121.** 55.18 (1) (b) of the statutes is amended to read:

11           55.18 (1) (b) If, following an annual review of an individual's status under par.  
12 (a), the individual or the individual's guardian or guardian ad litem requests  
13 modification or termination of the individual's protective placement and a hearing  
14 under the requirements of s. 55.10 (4) is provided, or if a hearing under the  
15 requirements of s. 55.10 (4) is provided pursuant to a petition for modification or  
16 termination of the protective placement, the county is not required to initiate a  
17 subsequent review of the individual's status under par. (a) until the first day of the  
18 11th month after the date that the court issues a final order after the hearing.

19           **SECTION 122.** 55.18 (2) (a) of the statutes is amended to read:

20           55.18 (2) (a) Review the report filed under sub. (1) (a) 1., the report required  
21 under s. ~~880.38 (3)~~ s. 54.25 (1) (a), and any other relevant reports on the individual's  
22 condition and placement.

23           **SECTION 123.** 55.18 (2) (b) 6. of the statutes is amended to read:

**SENATE BILL 153****SECTION 123**

1           55.18 (2) (b) 6. The right to a hearing under sub. (3) (d) and an explanation that  
2 the individual or the individual's guardian may request a hearing that meets the  
3 requirements under s. 55.10 (4).

4           **SECTION 124.** 55.18 (2) (f) 4. of the statutes is amended to read:

5           55.18 (2) (f) 4. The individual or the individual's guardian or guardian ad litem  
6 requests a full due process hearing under this section that meets the requirements  
7 of s. 55.10 for the individual.

8           **SECTION 125.** 55.18 (3) (a) of the statutes is amended to read:

9           55.18 (3) (a) The court that ordered protective placement for an individual  
10 under s. 55.12 shall review the report of the guardian ad litem under sub. (2) (f), the  
11 report filed under sub. (1) (a) 1., and the report required under ~~s. 880.38 (3)~~ s. 54.25  
12 (1) (a).

13           **SECTION 126.** 55.18 (3) (d) (intro.) of the statutes is amended to read:

14           55.18 (3) (d) (intro.) The court shall order either a summary hearing or a  
15 hearing under the requirements of s. 55.10 (4). A summary hearing shall be held on  
16 the record, may be held in court or by other means, including by telephone or  
17 videoconference, is not an evidentiary hearing, and does not require attendance by  
18 the individual. The court shall hold a hearing under the requirements of s. 55.10 (4)  
19 if any of the following apply:

20           **SECTION 127.** 55.19 (intro.) of the statutes, as created by 2005 Wisconsin Acts  
21 264 and 387, is repealed and recreated to read:

22           **55.19 Annual review of order authorizing involuntary administration**  
23 **of psychotropic medication.** (intro.) All of the following shall be performed  
24 annually with respect to any individual who is subject to an order under s. 55.14 or



**SENATE BILL 153**

1 an order initially issued under s. 880.33 (4r), 2003 stats., authorizing involuntary  
2 administration of psychotropic medication:

3 **SECTION 128.** 55.19 (1) (a) (intro.) of the statutes, as created by 2005 Wisconsin  
4 Acts 264 and 387, is repealed and recreated to read:

5 55.19 (1) (a) (intro.) The county department of the individual's county of  
6 residence shall, except as provided in sub. (1m), review, in compliance with the  
7 requirements of this section, the status of each individual who is the subject of the  
8 order. The review shall include a visit to the individual and a written evaluation of  
9 the physical, mental, and social condition of the individual that is relevant to the  
10 issue of the continued need for the order. The review shall be made a part of the  
11 permanent record of the individual. The county department shall inform the  
12 guardian of the individual of the review at the time the review is made and shall,  
13 before completing a report of the review, invite the individual and the guardian to  
14 submit comments or information concerning the individual's need for involuntary  
15 administration of psychotropic medication or other protective services. Not later  
16 than the first day of the 11th month after the initial order is made for an individual,  
17 except as provided in par. (b), and at least annually thereafter, the county  
18 department shall do all of the following:

19 **SECTION 129.** 55.19 (1) (a) 1. of the statutes, as created by 2005 Wisconsin Acts  
20 264 and 387, is repealed and recreated to read:

21 55.19 (1) (a) 1. File a report of the review with the court that issued the order.  
22 The report of the review shall include information on all of the following:

23 a. Whether the individual continues to meet the standards for protective  
24 services.

**SENATE BILL 153****SECTION 129**

1           b. Whether the individual is not competent to refuse psychotropic medication,  
2 as defined in s. 55.14 (1) (b).

3           c. Whether the individual continues to refuse to take psychotropic medication  
4 voluntarily; and whether attempting to administer psychotropic medication to the  
5 individual voluntarily is not feasible or is not in the best interests of the individual,  
6 including all information required to be specified under s. 55.14 (3) (c).

7           d. Whether the individual's condition for which psychotropic medication has  
8 been prescribed has been improved by psychotropic medication and the individual  
9 has responded positively to psychotropic medication.

10           e. If the petitioner alleged under s. 55.14 (3) (e) 2. that the individual met one  
11 of the dangerousness criteria set forth in s. 51.20 (1) (a) 2. a. to e., whether the  
12 individual continues to meet the criterion.

13           f. The comments of the individual and the individual's guardian during the  
14 performance of the review, as summarized by the county department, and the  
15 response of the county department to the comments.

16           g. The comments, if any, of a staff member at the facility at which the individual  
17 is placed or receives services or at which psychotropic medication is administered to  
18 the individual that are relevant to the review of the continued need for the order.

19           **SECTION 130.** 55.19 (1) (b) of the statutes, as created by 2005 Wisconsin Acts  
20 264 and 387, is repealed and recreated to read:

21           55.19 (1) (b) If, in an annual review of an individual's status under par. (a), the  
22 individual or the individual's guardian or guardian ad litem requests termination of  
23 the order and a hearing that meets the requirements of s. 55.10 is provided, or if a  
24 hearing under the requirements of s. 55.10 is provided pursuant to a petition for  
25 modification or termination of the order, the county department is not required to

**SENATE BILL 153****SECTION 130**

1 initiate a subsequent review under par. (a) until the first day of the 11th month after  
2 the date that the court issues a final order after the hearing.

3 **SECTION 131.** 55.19 (1) (bm) of the statutes, as created by 2005 Wisconsin Acts  
4 264 and 387, is repealed and recreated to read:

5 55.19 (1) (bm) If the individual is subject to a protective placement order, the  
6 review under par. (a) shall be conducted simultaneously with the review under s.  
7 55.18 of the individual's protective placement.

8 **SECTION 132.** 55.19 (1) (c) of the statutes, as created by 2005 Wisconsin Acts  
9 264 and 387, is repealed and recreated to read:

10 55.19 (1) (c) The review under par. (a) may not be conducted by a person who  
11 is an employee of a facility in which the individual resides or from which the  
12 individual receives services.

13 **SECTION 133.** 55.19 (1m) of the statutes, as created by 2005 Wisconsin Acts 264  
14 and 387, is repealed and recreated to read:

15 55.19 (1m) The county of residence of an individual who is subject to an order  
16 under s. 55.14 and is provided protective placement in a different county may enter  
17 into an agreement with that county under which the county of the individual's  
18 placement performs all or part of the duties of the county of residence under this  
19 section.

20 **SECTION 134.** 55.19 (2) (b) 3. of the statutes, as created by 2005 Wisconsin Acts  
21 264 and 387, is repealed and recreated to read:

22 55.19 (2) (b) 3. The right to an evaluation under sub. (3) (b).

23 **SECTION 135.** 55.19 (2) (b) 5. of the statutes, as created by 2005 Wisconsin Acts  
24 264 and 387, is repealed and recreated to read:

**SENATE BILL 153****SECTION 135**

1           55.19 (2) (b) 5. That a termination or modification of the order or modification  
2 of the treatment plan for involuntary administration of psychotropic medication may  
3 be ordered by the court.

4           **SECTION 136.** 55.19 (2) (b) 6. of the statutes, as created by 2005 Wisconsin Acts  
5 264 and 387, is repealed and recreated to read:

6           55.19 (2) (b) 6. The right to a hearing under sub. (3) (d) and an explanation that  
7 the individual or the individual's guardian may request a hearing that meets the  
8 requirements under s. 55.10.

9           **SECTION 137.** 55.19 (2) (c) of the statutes, as created by 2005 Wisconsin Acts  
10 264 and 387, is repealed and recreated to read:

11           55.19 (2) (c) Provide the information required under par. (b) to the individual  
12 and to the individual's guardian in writing.

13           **SECTION 138.** 55.19 (2) (f) 4. of the statutes, as created by 2005 Wisconsin Acts  
14 264 and 387, is repealed and recreated to read:

15           55.19 (2) (f) 4. The individual or the individual's guardian or guardian ad litem  
16 requests a hearing that meets the requirements of s. 55.10 for the individual.

17           **SECTION 139.** 55.19 (2) (g) of the statutes, as created by 2005 Wisconsin Acts  
18 264 and 387, is repealed and recreated to read:

19           55.19 (2) (g) Certify to the court that he or she has complied with the  
20 requirements of pars. (a) to (e).

21           **SECTION 140.** 55.19 (3) (b) (intro.) of the statutes, as created by 2005 Wisconsin  
22 Acts 264 and 387, is repealed and recreated to read:

23           55.19 (3) (b) (intro.) The court shall order an evaluation, by a person who is not  
24 an employee of the county department, of the physical, mental, and social condition  
25 of the individual that is relevant to the issue of the continued need for the order under

**SENATE BILL 153****SECTION 140**

1 s. 55.14 and that is independent of the review performed under sub. (1) (a) if any of  
2 the following apply:

3 **SECTION 141.** 55.19 (3) (bm) of the statutes, as created by 2005 Wisconsin Acts  
4 264 and 387, is repealed and recreated to read:

5 55.19 (3) (bm) If an evaluation is ordered under par. (b), it shall be performed  
6 at the expense of the individual or, if the individual is indigent, at the expense of the  
7 county of residence under sub. (1) (a).

8 **SECTION 142.** 55.19 (3) (br) of the statutes, as created by 2005 Wisconsin Acts  
9 264 and 387, is repealed and recreated to read:

10 55.19 (3) (br) The court shall order that the county department obtain any  
11 other necessary information with respect to the individual.

12 **SECTION 143.** 55.19 (3) (d) (intro.) of the statutes, as created by 2005 Wisconsin  
13 Acts 264 and 387, is repealed and recreated to read:

14 55.19 (3) (d) (intro.) The court shall order either a summary hearing or a  
15 hearing that meets the requirements of s. 55.10. A summary hearing shall be held  
16 on the record, may be held in court or by other means, including by telephone or  
17 videoconference, is not an evidentiary hearing, and does not require attendance by  
18 the individual. The court shall hold a hearing under the requirements of s. 55.10 if  
19 any of the following apply:

20 **SECTION 144.** 55.19 (3) (e) 1. of the statutes, as created by 2005 Wisconsin Acts  
21 264 and 387, is repealed and recreated to read:

22 55.19 (3) (e) 1. If the court finds that the individual continues to meet the  
23 standards for an order under s. 55.14 (8), the court shall order the continuation of the  
24 order. The court shall include in the decision the information relied upon as a basis  
25 for continuation of the order and shall make findings based on the requirements for

**SENATE BILL 153****SECTION 144**

1 allegations of a petition under s. 55.14 (3) in support of the need for continuation of  
2 the order.

3 **SECTION 145.** 55.19 (3) (e) 2. of the statutes, as created by 2005 Wisconsin Acts  
4 264 and 387, is repealed and recreated to read:

5 55.19 (3) (e) 2. If the court finds that the individual continues to meet the  
6 standards for an order under s. 55.14 (8) but that modification of the order or the  
7 treatment plan would be in the best interests of the individual, the court shall modify  
8 the order, order modifications to the individual's treatment plan, or both. Any  
9 modifications to the treatment plan are subject to the approval of the guardian. The  
10 court shall include in the decision the information relied upon as a basis for  
11 continuation of the order and shall make findings based on the requirements for  
12 allegations of a petition under s. 55.14 (3) in support of the need for authorizing the  
13 guardian to consent to involuntary administration of psychotropic medication.

14 **SECTION 146.** 55.19 (3) (e) 3. of the statutes, as created by 2005 Wisconsin Acts  
15 264 and 387, is repealed and recreated to read:

16 55.19 (3) (e) 3. If the court finds that the individual no longer meets the  
17 standards for an order under s. 55.14 (8), the court shall terminate the order. If the  
18 order is terminated, the court shall review the needs of the individual with respect  
19 to other protective services. If the court determines that the individual meets the  
20 standards under s. 55.08 (2) for other protective services that are not currently being  
21 provided to the individual, the court may order those protective services for the  
22 individual.

23 **SECTION 147.** 55.195 (intro.) of the statutes, as affected by 2005 Wisconsin Acts  
24 264 and 387, is repealed and recreated to read:

**SENATE BILL 153****SECTION 147****1           55.195 Duties of guardian ad litem for protective services reviews.**

2           (intro.) In any review of a protective services order made under s. 55.12, except as  
3           provided in s. 55.19 (2), the guardian ad litem shall do all of the following:

4           **SECTION 148.** 55.195 (4) of the statutes is amended to read:

5           55.195 (4) Review the annual report and relevant reports on the ward's  
6           condition and placement protective services.

7           **SECTION 149.** 55.195 (5) of the statutes is amended to read:

8           55.195 (5) Review the ward's condition, placement protective services, and  
9           rights with the guardian.

10          **SECTION 150.** 55.195 (6) of the statutes is amended to read:

11          55.195 (6) If relevant, report to the court that the ward objects to the finding  
12          of continuing incompetency, the present or proposed placement protective services,  
13          the position of the guardian, or the recommendation of the guardian ad litem as to  
14          the best interests of the ward or if there is ambiguity about the ward's position on  
15          these matters.

16          **SECTION 151.** 55.22 (2) of the statutes, as affected by 2005 Wisconsin Acts 264  
17          and 387, is repealed and recreated to read:

18          55.22 (2) If the individual is a minor, consent for release of information from  
19          and access to the court records may be given only as provided in s. 51.30. If the  
20          individual is an adult who has been adjudicated incompetent in this state, consent  
21          for release of information from and access to court records may be given only as  
22          provided in s. 54.75.

23          **SECTION 152.** 146.40 (1) (am) of the statutes is repealed.

24          **SECTION 153.** 146.82 (2) (a) 7. of the statutes is repealed and recreated to read:

**SENATE BILL 153****SECTION 153**

1           146.82 (2) (a) 7. To an elder–adult–at–risk agency designated under s. 46.90  
2 (2) or other investigating agency under s. 46.90 for purposes of s. 46.90 (4) and (5) or  
3 to an adult–at–risk agency designated under s. 55.043 (1d) for purposes of s. 55.043.  
4 The health care provider may release information by initiating contact with the  
5 elder–adult–at–risk agency or adult–at–risk agency without receiving a request for  
6 release of the information from the elder–adult–at–risk agency or adult–at–risk  
7 agency.

8           **SECTION 154.** 560.9811 (1) of the statutes is amended to read:

9           560.9811 (1) In this section, “~~mental illness~~ serious and persistent mental  
10 illness” has the meaning given in s. 51.01 (14t).

11           **SECTION 155.** 609.65 (1) (intro.) of the statutes, as affected by 2005 Wisconsin  
12 Acts 264 and 387, is repealed and recreated to read:

13           609.65 (1) (intro.) If an enrollee of a limited service health organization,  
14 preferred provider plan, or defined network plan is examined, evaluated, or treated  
15 for a nervous or mental disorder pursuant to a court order under s. 880.33 (4m) or  
16 (4r), 2003 stats., an emergency detention under s. 51.15, a commitment or a court  
17 order under s. 51.20, an order for protective placement or protective services under  
18 ch. 55, an order under s. 55.14 or 55.19 (3) (e), or an order under ch. 980, then,  
19 notwithstanding the limitations regarding participating providers, primary  
20 providers, and referrals under ss. 609.01 (2) to (4) and 609.05 (3), the limited service  
21 health organization, preferred provider plan, or defined network plan shall do all of  
22 the following:

23           **SECTION 156.** 757.69 (1) (h) of the statutes, as affected by 2005 Wisconsin Acts  
24 264 and 387, is repealed and recreated to read:



**SENATE BILL 153****SECTION 156**

1           757.69 (1) (h) Hear petitions for commitment and conduct probable cause  
2 hearings under ss. 51.20, 51.45, 55.13, and 55.135, conduct reviews of guardianships  
3 under ch. 54 and reviews of protective placements and protective services under ch.  
4 55, advise a person alleged to be mentally ill of his or her rights under the United  
5 States and Wisconsin constitutions, and, if the person claims or appears to be unable  
6 to afford counsel, refer the person to the authority for indigency determinations  
7 specified under s. 977.07 (1) or, if the person is a child, refer that child to the state  
8 public defender who shall appoint counsel for the child without a determination of  
9 indigency, as provided in s. 48.23 (4).

10           **SECTION 157.** 813.123 (2) (b) of the statutes is amended to read:

11           813.123 (2) (b) The court may go forward with a petition filed under sub. (6) if  
12 the individual at risk has been adjudicated incompetent under ~~ch. 880~~ ch. 880, 2003  
13 stats., or ch. 54, notwithstanding an objection by an individual at risk who is the  
14 subject of the petition, or an objection by the guardian of the individual at risk.

15           **SECTION 158.** 813.123 (3) (b) of the statutes, as affected by 2005 Wisconsin Acts  
16 387 and 388, is repealed and recreated to read:

17           813.123 (3) (b) The court or circuit court commissioner, on its or his or her own  
18 motion or the motion of any party, shall order that a guardian ad litem be appointed  
19 for the individual at risk, if the petition under sub. (6) was filed by a person other than  
20 the individual at risk, and may order that a guardian ad litem be appointed in other  
21 instances when justice so requires.

22           **SECTION 159.** 813.123 (4) (a) (intro.) of the statutes, as affected by 2005  
23 Wisconsin Acts 264 and 388, is repealed and recreated to read:

24           813.123 (4) (a) (intro.) Unless the individual at risk, guardian, or guardian ad  
25 litem consents in writing and the judge or circuit court commissioner agrees that the

**SENATE BILL 153****SECTION 159**

1 contact is in the best interests of the individual at risk, a judge or circuit court  
2 commissioner shall issue a temporary restraining order, as specified in par. (ar), if  
3 all of the following occur:

4 **SECTION 160.** 813.123 (4) (a) 2. a. of the statutes, as affected by 2005 Wisconsin  
5 Acts 264 and 388, is repealed and recreated to read:

6 813.123 (4) (a) 2. a. That the respondent has interfered with or, based on prior  
7 conduct of the respondent, may interfere with an investigation of the individual at  
8 risk, the delivery of protective services to or a protective placement of the individual  
9 at risk under ch. 55, or the delivery of services to an elder adult at risk under s. 46.90  
10 (5m); and that the interference complained of, if continued, would make it difficult  
11 to determine whether abuse, financial exploitation, neglect, or self-neglect has  
12 occurred, is occurring, or may recur.

13 **SECTION 161.** 813.123 (4) (ar) 1. of the statutes is amended to read:

14 813.123 (4) (ar) 1. Avoid interference with an investigation of the elder adult  
15 at risk under s. 46.90 or the adult at risk under s. 55.043, the delivery of protective  
16 services to ~~the individual at risk under s. 55.05~~ or a protective placement of the  
17 individual at risk under ~~s. 55.06~~ ch. 55, or the delivery of services to the elder adult  
18 at risk under s. 46.90 (5m).

19 **SECTION 162.** 813.123 (5) (a) (intro.) of the statutes, as affected by 2005  
20 Wisconsin Acts 264 and 388, is repealed and recreated to read:

21 813.123 (5) (a) (intro.) Unless the individual at risk, guardian, or guardian ad  
22 litem consents in writing to a contact and the judge agrees that the contact is in the  
23 best interests of the individual at risk, a judge may grant an injunction ordering the  
24 respondent as specified in par. (ar), if all of the following occur:

**SENATE BILL 153****SECTION 163**

1           **SECTION 163.** 813.123 (5) (a) 3. b. of the statutes, as affected by Wisconsin Acts  
2       264 and 388, is amended to read:

3           813.123 (5) (a) 3. b. That the respondent has interfered with the delivery  
4       ~~individual at risk~~ of protective services to or a protective placement of the individual  
5       at risk under ch. 55 after the offer of protective services or protective placement has  
6       been made and the individual at risk or his or her guardian, if any, has consented to  
7       receipt of the protective services or protective placement; or that the respondent has  
8       interfered with the delivery of services to an elder adult at risk under s. 46.90 (5m).

9           **SECTION 164.** 813.123 (5) (ar) 1. of the statutes is amended to read:

10          813.123 (5) (ar) 1. Avoid interference with an investigation of the elder adult  
11       at risk under s. 46.90 or the adult at risk under s. 55.043, the delivery of protective  
12       services to ~~the individual at risk under s. 55.05~~ or a protective placement of the  
13       individual at risk under ~~s. 55.06~~ ch. 55, or the delivery of services to the elder adult  
14       at risk under s. 46.90 (5m).

15          **SECTION 165.** 813.123 (5) (c) 1. of the statutes is amended to read:

16          813.123 (5) (c) 1. An injunction under this subsection is effective according to  
17       its terms, but for not more than 4 years.

18          **SECTION 166.** 813.123 (6) (c) of the statutes, as affected by 2005 Wisconsin Acts  
19       264 and 388, is repealed and recreated to read:

20          813.123 (6) (c) That the respondent interfered with or, based on prior conduct  
21       of the respondent, may interfere with an investigation of the elder adult at risk under  
22       s. 46.90 (5), an investigation of the adult at risk under s. 55.043, the delivery of  
23       protective services to or a protective placement of the individual at risk under ch. 55,  
24       or the delivery of services to the elder adult at risk under s. 46.90 (5m); or that the  
25       respondent engaged in, or threatened to engage in, the abuse, financial exploitation,

**SENATE BILL 153****SECTION 166**

1 neglect, stalking, or harassment of an individual at risk or mistreatment of an  
2 animal.

3 **SECTION 167.** 813.123 (7) of the statutes, as affected by Wisconsin Acts 264 and  
4 388, is amended to read:

5 813.123 (7) INTERFERENCE ORDER. Any order under ~~or ch. 55~~ sub. (4) (ar) 1. or  
6 2. or (5) (ar) 1. or 2. also shall prohibit the respondent from intentionally preventing  
7 a representative or employee of the county protective services agency from meeting,  
8 communicating, or being in visual or audio contact with the adult at risk, except as  
9 provided in the order.

10 **SECTION 168.** 940.285 (1m) of the statutes, as created by 2005 Wisconsin Act  
11 388, is amended to read:

12 940.285 (1m) EXCEPTION. Nothing in this section may be construed to mean  
13 that ~~a vulnerable adult~~ an individual at risk is abused solely because he or she  
14 consistently relies upon treatment by spiritual means through prayer for healing, in  
15 lieu of medical care, in accordance with his or her religious tradition.

16 **SECTION 169.** 940.295 (1) (cr) of the statutes is created to read:

17 940.295 (1) (cr) "Elder adult at risk" has the meaning given in s. 46.90 (1) (br).

18 **SECTION 170.** 940.295 (1) (hr) of the statutes is created to read:

19 940.295 (1) (hr) "Individual at risk" means an elder adult at risk or an adult  
20 at risk.

21 **SECTION 171. Effective date.**

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

24

(END)