

1973 Assembly Bill 589

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CHAPTER 198, Laws of 1973

(Vetoed in Part)

AN ACT to repeal 139.34 (1) (c) 3, 139.37 (1) (c) 3 and 947.03; to renumber 139.34 (1) (c) 4, 5, 6 and 7, and 139.37 (1) (c) 4, 5, 6 and 7; to renumber and amend 51.09 (5); to amend 20.435 (2) (a), (b) and (d) and (9) (km), 29.05 (1) and (2), 51.075, 51.09 (1), (2), (3) and (4), 51.24 (1), 51.25, 51.26, 51.35 (2), 51.36 (8) (a), 51.42 (5) (h) 6 and 7, 53.38, 56.07 (1), 57.06 (4) (a), 66.051 (3), 200.26 (6) (a) and (b), 257.23 (5) (a) and (6) and 292.01 (2); to repeal and recreate 51.09 (title) and 947.04 (1); and to create 15.197[(13) and](14), 20.435 (2) (jm), 46.10 (15), 51.42 (5) (h) 8 and (8) (e) and 51.45 of the statutes, relating to establishment of a program for prevention and control of alcoholism, granting rule-making authority, making an appropriation and providing a penalty.

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

SECTION 1. 15.197[(13) and](14) of the statutes are created to read:

Vetoed
in Part ~~15.197 (13) INTERDEPARTMENTAL COUNCIL ON ALCOHOLISM. There is created in the department of health and social services an interdepartmental council on alcoholism. The council shall consist of the secretary of the department of health and social services; administrators of the division of health, mental hygiene, family services and corrections; superintendent of public instruction; chairman of the highway commission; highway safety coordinator; the director of the board of vocational, technical and adult education and the director or directors responsible for the administration of s. 51.45, as determined by the secretary of health and social services.~~

(14) CITIZENS ADVISORY COUNCIL ON ALCOHOLISM. There is created in the department of health and social services a citizens advisory council on alcoholism. The council shall consist of 15 members appointed for staggered 3-year terms. Members shall have professional, research or personal interest in alcoholism problems.

SECTION 2. 20.435 (2) (a), (b) and (d) of the statutes is amended to read:

20.435 (2) (a) *General program operations.* The amounts in the schedule to operate institutions, conduct regulatory activities and provide boarding home care, field services and administrative services within the mental health program, less all payments of medical assistance pursuant to ch. 49 for the care of patients in the institutions for the retarded. Sums required for travel expenses in connection with recruitment of psychiatrists and hard-to-recruit professional medical personnel outside the classified service may also be expended from this appropriation.

(b) *Aids to community mental health clinics.* The amounts in the schedule as authorized by ~~ss.~~ 51.36 and 51.45.

(d) *Aids to county institutions.* A sum sufficient for state aid to county institutions as provided in ~~ss.~~ 48.58 (2), 49.173, 51.08, 51.09, 51.12, 51.24, 51.26 and 51.27 (2) and 51.45.

SECTION 3. 20.435 (2) (jm) of the statutes is created to read:

20.435 (2) (jm) *Alcoholic treatment facility inspection fees.* All moneys received from fees for inspection of approved treatment facilities for prevention and control of alcoholism under s. 51.45 (8) to be expended for the purpose of making inspections required under that subsection.

SECTION 4. 20.435 (9) (km) of the statutes is amended to read:

20.435 (9) (km) *County institutions intercounty payments.* All moneys collected under s. 46.106 as special charges on account of patients in county infirmaries, hospitals or facilities for the mentally infirm under ss. 49.173, 51.08, 51.09, 51.12, 51.24, ~~and 51.27 (2) and 51.45,~~ to be apportioned and paid to the respective counties under s. 46.106 by the department of administration.

SECTION 5. 29.05 (1) and (2) of the statutes are amended to read:

29.05 (1) **WARRANTS, ARRESTS.** The department and its wardens may execute and serve warrants and processes issued under any law relating to wild animals and ss. 29.221, 30.12, 30.125, 30.18, 30.195, 30.50 to 30.80, 346.19, 346.94 (6) and (6m), 940.24, 941.20, 941.22, ~~947.03~~ and 947.047 and ch. 350, except where applicable to highways, in the same manner as any constable may serve and execute such process; and may arrest, with or without a warrant, any person detected in the actual violation, or whom such officer has reasonable cause to believe guilty of a violation under this chapter or ss. 30.12, 30.18, 30.195, 30.50 to 30.80, 346.19, 346.94 (6) and (6m), 940.24, 941.20, 941.22, ~~947.03~~ and 947.047, or ch. 350, except where applicable to highways, and may take such person before any court in the county where the offense was committed and make proper complaint. For the purpose of enforcing ss. 30.50 to 30.80 and ch. 350, except where applicable to highways, any such officer may stop and board any boat and stop any snowmobile, if he has reasonable cause to believe there is a violation of such sections.

(2) **INVESTIGATIONS.** Such officers shall, upon receiving notice or information that this chapter or ss. 30.12, 30.18, 30.195, 346.19, 346.94 (6) and (6m), 940.24, 941.20, and 941.22 ~~and 947.03~~ or ch. 350, except s. 350.10 (6) to (13) and except where applicable to highways, has been violated, as soon as possible make a thorough investigation thereof, and cause proceedings to be instituted if the proofs at hand warrant it.

SECTION 6. 46.10 (15) of the statutes is created to read:

46.10 (15) Rights to payment under this section for services furnished under s. 51.45 are subject to rules adopted by the secretary under s. 51.45 (16) (c).

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SECTION 7. 51.075 of the statutes is amended to read:

51.075 (title) Right to reevaluation. ~~Every~~ With the exception of alcoholic commitments under s. 51.45 (13), every patient committed involuntarily under this chapter to any state or county hospital shall be ~~re-evaluated~~ reevaluated by the medical staff or visiting physician within 30 days after his commitment, and within 6 months after the initial ~~re-evaluation~~ reevaluation, and thereafter at least once each 12 months for the purpose of determining whether such patient has made sufficient progress to be entitled to release or discharge, and the findings of each such ~~re-evaluation~~ reevaluation shall be written and placed with his hospital record and a copy sent to the committing court.

SECTION 8. 51.09 (title) of the statutes is repealed and recreated to read:

51.09 (title) Drug addicts.

SECTION 9. 51.09 (1), (2), (3) and (4) of the statutes are amended to read:

51.09 (1) HEARING. (a) If it appears to any court of record, by an application of 3 reputable adult residents of the county, that a resident of the county or person temporarily residing therein is ~~an inebriate or~~ addicted to the use of a controlled substance under ch. 161 and in need of confinement or treatment, the court shall fix a time and place for hearing the application, on reasonable personal notice to the person in question, requiring him to appear at the hearing, and shall summarily hear the evidence. The court may cause notice to be given to such other persons as it deems advisable. The court may, by attachment for the person, require the sheriff or other police officer to take the alleged ~~inebriate or~~ drug addict into custody, detain him pending the hearing (but not to exceed 3 days) and bring him before the court at the hearing. The court may require notice to be given to known relatives of the person.

(b) At such hearing if the court finds that such person is ~~an inebriate or~~ addicted to the use of a controlled substance under ch. 161, and requires confinement or treatment, or that it is necessary for the protection of himself or the public or his relatives that he be committed, he may be committed to the county hospital or to the county reforestation camp or to the rehabilitation facilities established pursuant to s. 59.07 (76) or to Winnebago or Mendota state hospital or in counties having a population of 500,000 or more, to the rehabilitative facilities of the house of correction of such county. At the hearing the court shall determine the person's legal settlement, and the county of such settlement shall be liable over for his maintenance and treatment. The provisions against detaining patients in jails shall not apply to ~~inebriates or~~ persons addicted to controlled substances, except in case of acute illness.

(2) COMMITMENT. The commitment of ~~an inebriate or~~ a drug addict shall be for such period of time as in the judgment of the superintendent of the institution may be necessary to enable him to take care of himself. He shall be released upon the certificate of the superintendent that he has so recovered. When he has been confined 6 months and has been refused such a certificate he may obtain a hearing upon the question of his recovery in the manner and with the effect provided for a ~~re-examination~~ reevaluation under ~~section s.~~ 51.11.

(3) VOLUNTARY PATIENTS. Any adult resident of this state who believes himself to be ~~an inebriate or~~ a drug addict may make a signed application to a court of record of the county where he resides to be committed to a hospital. His application must be accompanied by the certificate of a resident physician of the county that confinement and treatment of the applicant are advisable for his health and for the public welfare. The court may act summarily upon the application and may take testimony. If it finds that the applicant satisfies the conditions of this section, it shall commit him as it

would had there been an application under sub. (1), including a finding as to legal settlement.

(4) **CONDITIONAL RELEASE.** A conditional release may be granted to the ~~inebriate~~ ~~or~~ drug addict under s. 51.13, except that in commitments to the rehabilitative facilities of the house of correction in counties having a population of 500,000 or more the superintendent of said institution has the same authority as superintendents under s. 51.13 but he shall exercise same only upon written recommendation of the visiting physician.

SECTION 10. 51.09 (5) of the statutes is amended to read:

51.09 (5) (title) **TREATMENT OF ALCOHOLICS AND DRUG ADDICTS.** The department shall provide for treatment for drug addicts and ~~inebriates~~ alcoholics at the state institutions to which they are committed; and counties having a population of 500,000 or more, shall provide treatment of drug addicts and ~~inebriates~~ alcoholics in local institutions to which they are committed. For each drug addict or ~~inebriate~~ alcoholic treated in any county mental hospital the county shall receive the same allowance from the state as it receives for the care of other patients in the same institutions and for each drug addict ~~or inebriate~~ committed to the rehabilitative facilities of the house of correction the state shall compensate the county at a rate equal to the actual average per capita cost of operating and maintaining such rehabilitative facilities minus \$5 per week. The actual average per capita cost of the rehabilitative facilities of the house of correction for the fiscal year ending June 30 (1959) shall be the basis for computing the compensation for the current calendar year and thereafter for each fiscal year ending June 30, the cost computation shall in turn be the basis for the existing calendar year. When any patient is temporarily transferred from the rehabilitative facilities of the house of correction or such other local institution to which he may be committed, to a county general hospital for surgical or medical care or both, the state charges or aid shall continue and shall be paid during the period of such transfer and the cost of such medical or surgical care or both shall be included within the actual average per capita cost of the rehabilitative facilities of the house of correction or such other local institutions to which the person has been committed. The superintendent of the house of correction to which a drug addict may be committed or the superintendent of such other local institution to which a drug addict or inebriate alcoholic may be committed shall promptly after the expiration of each computation period on June 30 of each year, prepare a statement giving the name of each person and the number of weeks maintained at such institution pursuant to this section during that period, the county of legal settlement if any, the aggregate of such weeks for all persons so maintained and the separate semiannual amounts of compensation to be made by the state, which statement shall be verified by the superintendent and thereafter delivered to the department. The department shall attach to the statement its certificate showing the number of weeks' maintenance furnished and shall file the same with the department of administration, which shall draw its warrant in favor of the county for the compensation specified in the certificate and deliver the warrant to the state treasurer, who shall thereupon pay the same. The department shall appropriately charge the statutory liability of \$5 per week for maintenance and treatment to any other county wherever a person's legal settlement is determined to be any such county under ~~sub. (1) ss. 51.09 (1) and 51.45 (16) (d).~~

SECTION 11. 51.24 (1) of the statutes is amended to read:

51.24 (1) Any county having a population of 500,000 or more may, pursuant to s. 46.17, establish and maintain a county mental health center. The county mental

health center, north division (hereafter in this section referred to as "north division"), shall be a hospital devoted to the detention and care of drug addicts, ~~inebriates~~ alcoholics and mentally ill persons whose mental illness is acute. Such hospital shall be governed pursuant to s. 46.21 and shall receive the aids and be subject to the charges under s. 51.24 (2) and (9). Treatment of alcoholics at the north division is subject to approval by the department under s. 51.45 (8). The county mental health center, south division, shall be a hospital for the treatment of chronic patients and shall be governed pursuant to s. 46.21 and shall receive the aids and be subject to the charges under ss. 51.08, 51.25 and 51.26. The county mental health center established pursuant to this section is subject to rules adopted by the department concerning hospital standards.

SECTION 12. 51.25 of the statutes is amended to read:

51.25 County hospitals. Any county having a population of less than 500,000 may establish a hospital or facilities for the detention and care of mentally ill persons, ~~inebriates~~ alcoholics and drug addicts; and in connection therewith a hospital or facility for the care of cases afflicted with pulmonary tuberculosis. County hospitals established pursuant to this section are subject to rules adopted by the department concerning hospital standards, including standards for alcoholic treatment facilities under s. 51.45 (8).

SECTION 13. 51.26 (1) (a) of the statutes is amended to read:

51.26 (1) (a) County hospitals which meet the minimum uniform standards established by the department, including standards adopted pursuant to s. 51.45 if alcoholics are to be treated, and which provide intensive treatment procedures approved by the secretary may, upon application to the secretary and in addition to the aid under s. 51.08 (2), (3) and (4), be granted state aid for such treatment of patients at the rate of 20% of the audited individual average per capita costs for the previous fiscal year, for the first 91 days of such treatment, 15% for the next 91 days, 10% for the next 91 days, and 5% for the next 91 days, provided that such additional grants-in-aid are limited to first admission of patients and patients readmitted after any absence, whether with or without authority, 30 consecutive days or more. For purposes of accumulating the 364 days, absence of a patient for less than 30 consecutive days shall not be deemed a change in the admission status of the patient. Reimbursement to county mental hospitals under this section shall commence for all patients admitted or readmitted after 30 days' absence, on or after the date the hospital is approved by the secretary. Approval by the secretary may be withdrawn by him at any time.

SECTION 14. 51.35 (2) of the statutes is amended to read:

51.35 (2) **PACKAGES AND COMMUNICATIONS TO PATIENTS.** Communications and packages for or addressed to a patient may be examined before delivery; and delivery may be withheld if there is any good reason therefor in the opinion of the superintendent of the institution. This subsection does not apply to patients in approved treatment facilities under s. 51.45.

SECTION 15. 51.36 (8) (a) of the statutes is amended to read:

51.36 (8) (a) *Formula.* The secretary may make state grants-in-aid which shall be based upon 60% state and 40% local sharing of the total expenditures in each county or combination of counties utilizing a comprehensive board for mental health services under s. 51.42, and 45% state and 55% local sharing in each county or group of counties not utilizing a comprehensive board, for: 1. salaries; 2. contract facilities and services; 3. operation, maintenance and service costs; 4. per diem and travel expense

of members of community mental health clinic boards; 5. purchase of community mental health clinic services from clinics established elsewhere, including out-of-state clinics; and 6. expenditures required for the administration of the treatment program for alcoholics established pursuant to s. 51.45; and 7. other expenditures specifically approved and authorized by the secretary. The grants may not be used to match other state or federal funds which may be available to clinics and the state's share shall be computed on the reimbursable expenditures after all federal matchable expenditures have first been billed to the counties under s. 49.51 (3). No grants shall be made for capital expenditures.

SECTION 16. 51.42 (5) (h) 6 and 7 of the statutes are amended to read:

51.42 (5) (h) 6. Fix fee schedules; ~~and~~

7. Enter into contracts to render services to or secure services from other agencies or resources including out-of-state agencies or resources; and

SECTION 17. 51.42 (5) (h) 8 of the statutes is created to read:

51.42 (5) (h) 8. Enter into contracts for the use of any facility as an approved public treatment facility under s. 51.45 for the treatment of alcoholics if the board deems it to be an effective and economical course to follow.

SECTION 18. 51.42 (8) (e) of the statutes is created to read:

51.42 (8) (e) No grants-in-aid may be made pursuant to this section for the treatment of alcoholics in treatment facilities unless such facilities are approved by the department in accordance with s. 51.45 (8).

SECTION 19. 51.45 of the statutes is created to read:

51.45 Prevention and control of alcoholism. (1) **DECLARATION OF POLICY.** It is the policy of this state that alcoholics and intoxicated persons may not be subjected to criminal prosecution because of their consumption of alcoholic beverages but rather should be afforded a continuum of treatment in order that they may lead normal lives as productive members of society.

(2) **DEFINITIONS.** As used in this section, unless the context otherwise requires:

(a) "Alcoholic" means a person who habitually lacks self-control as to the use of alcoholic beverages and uses alcoholic beverages to the extent that his health is substantially impaired and by reason of such use is deprived of his ability to support or care for himself or his family. This definition does not apply to sub. (10).

(b) "Approved private treatment facility" means a private agency meeting the standards prescribed in sub. (8) (a) and approved under sub. (8) (c).

(c) "Approved public treatment facility" means a treatment agency operating under the direction and control of the department or providing treatment under this section through a contract with the department under sub. (7) (g) or with the county mental health, mental retardation, alcoholism and drug abuse board under s. 51.42 (5) (h) 8, and meeting the standards prescribed in sub. (8) (a) and approved under sub. (8) (c).

(d) "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, is unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment, as evidenced objectively by extreme physical debilitation, physical harm or threats of harm to himself or to any other person, or to property.

(e) "Incompetent person" means a person who has been adjudged incompetent by the county court.

(f) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol.

(g) "State" means both the state government as represented by the department and any community mental health, mental retardation, alcoholism and drug abuse policy-making board under s. 51.42, unless the context otherwise requires.

(h) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, surgical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling, which may be extended to alcoholics and intoxicated persons, and psychiatric, psychological and social service care which may be extended to their families.

(3) POWERS OF DEPARTMENT. To implement this section, the department may:

(a) Plan, establish and maintain treatment programs as necessary or desirable.

(b) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including contracts with public and private agencies, organizations, and individuals to pay them for services rendered or furnished to alcoholics or intoxicated persons.

(c) Keep records and engage in research and the gathering of relevant statistics.

(4) DUTIES OF DEPARTMENT. The department shall:

(a) Develop, encourage and foster statewide, regional, and local plans and programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons in cooperation with public and private agencies, organizations, and individuals and provide technical assistance and consultation services for these purposes.

(b) Coordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in prevention of alcoholism and treatment of alcoholics and intoxicated persons.

(c) Assure cooperation between the divisions of corrections and mental hygiene in establishing and conducting programs to provide treatment for alcoholics and intoxicated persons in or on parole from penal institutions.

(d) Cooperate with the department of public instruction, local boards of education, schools, police departments, courts, and other public and private agencies, organizations and individuals in establishing programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons, and preparing curriculum materials thereon for use at all levels of school education.

(e) Prepare, publish, evaluate and disseminate educational material dealing with the nature and effects of alcohol.

(f) Develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of alcoholics and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of alcohol.

(g) Organize and foster training programs for all persons engaged in treatment of alcoholics and intoxicated persons.

(h) Sponsor and encourage research into the causes and nature of alcoholism and treatment of alcoholics and intoxicated persons, and serve as a clearing house for information relating to alcoholism.

(i) Specify uniform methods for keeping statistical information by public and private agencies, organizations, and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment.

(j) Advise the governor or the state health planning agency under P.L. 89-749, as amended, in the preparation of a comprehensive plan for treatment of alcoholics and intoxicated persons for inclusion in the state's comprehensive health plan.

(k) Review all state health, welfare and treatment plans to be submitted for federal funding under federal legislation, and advise the governor or the state health planning agency under P.L. 89-749, as amended, on provisions to be included relating to alcoholism and intoxicated persons.

(L) Assist in the development of, and cooperate with, alcohol education and treatment programs for employes of state and local governments and businesses and industries in the state.

(m) Utilize the support and assistance of interested persons in the community, particularly recovered alcoholics, to encourage alcoholics voluntarily to undergo treatment.

(n) Cooperate with the highway safety coordinator and highway commission in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated.

(o) Encourage general hospitals and other appropriate health facilities to admit without discrimination alcoholics and intoxicated persons and to provide them with adequate and appropriate treatment.

(p) Submit to the governor or the state health planning agency under P.L. 89-749, as amended, an annual report covering the activities of the department relating to treatment of alcoholism.

(q) Gather information relating to all federal programs concerning alcoholism, whether or not subject to approval by the department, to assure coordination and avoid duplication of efforts.

~~(5) INTERDEPARTMENTAL COUNCIL ON ALCOHOLISM. (a) The interdepartmental council on alcoholism shall meet at least twice annually at the call of the secretary, who shall be its chairman. The council shall provide for the coordination of, and exchange of information on, all programs relating to alcoholism, and shall act as a permanent liaison among the departments engaged in activities affecting alcoholics and intoxicated persons. The council shall assist the secretary in formulating a comprehensive plan for prevention of alcoholism and for treatment of alcoholics and intoxicated persons.~~

Vetoed
in Part

~~(b) In exercising its coordinating functions, the council shall assure that:~~

~~1. The appropriate state agencies provide necessary medical, social, treatment and educational services for alcoholics and intoxicated persons and for the prevention of alcoholism, without unnecessary duplication of services.~~

~~2. The several state agencies cooperate in the use of facilities and in the treatment of alcoholics and intoxicated persons.~~

~~3. All state agencies adopt approaches to the prevention of alcoholism and the treatment of alcoholics and intoxicated persons consistent with the policy of this section.~~

Vetoed
in Part

(6) CITIZENS ADVISORY COUNCIL ON ALCOHOLISM. (a) The citizens advisory council on alcoholism shall meet at least once every 3 months and report on its activities, advise and make recommendations under par. (b) to the secretary and the state health planning agency under P.L. 89-749, as amended, at least once a year.

~~(b) The council shall formulate advice on broad policies, goals and operation of the alcoholism program and on other matters referred to it, and shall encourage public understanding and support of the alcoholism program.~~

Vetoed
in Part

(7) COMPREHENSIVE PROGRAM FOR TREATMENT. (a) The department shall establish a comprehensive and coordinated program for the treatment of alcoholics and intoxicated persons.

(b) The program of the department shall include:

1. Emergency treatment provided by a facility affiliated with or part of the medical service of a general hospital.

2. Inpatient treatment.

3. Intermediate treatment.

4. Outpatient and follow-up treatment.

5. Custodial or long-term care.

6. Referral services.

(c) The department shall provide for adequate and appropriate treatment for alcoholics and intoxicated persons admitted under subs. (10) to (13). Treatment may not be provided at a correctional institution except for inmates.

(d) The superintendent of each facility shall make an annual report of its activities to the secretary in the form and manner the secretary specifies.

(e) All appropriate public and private resources shall be coordinated with and utilized in the program if possible.

(f) The secretary shall prepare, publish and distribute annually a list of all approved public and private treatment facilities.

(g) The department may contract for the use of any facility as an approved public treatment facility if the secretary considers this to be an effective and economical course to follow.

(8) STANDARDS FOR PUBLIC AND PRIVATE TREATMENT FACILITIES; ENFORCEMENT PROCEDURES. (a) The department shall establish minimum standards for approved treatment facilities that must be met for a treatment facility to be approved as a public or private treatment facility, and fix the fees to be charged by the department for the required inspections. The standards may concern only the health standards to be met and standards of treatment to be afforded patients. Nothing in this subsection shall prevent local boards organized under s. 51.42 from establishing reasonable higher standards.

(b) The department periodically shall make unannounced inspections of approved public and private treatment facilities at reasonable times and in a reasonable manner.

(c) Approval of a facility must be secured under this section before application for a grant-in-aid under s. 51.42.

(d) Each approved public and private treatment facility shall file with the department on request, data, statistics, schedules and information the department reasonably requires. An approved public or private treatment facility that without good cause fails to furnish any data, statistics, schedules or information as requested, or files fraudulent returns thereof, shall be removed from the list of approved treatment facilities.

(e) The department, after notice and hearing, may suspend, revoke, limit, or restrict an approval, or refuse to grant an approval, for failure to meet its standards.

(f) The county court may restrain any violation of this section, review any denial, restriction, or revocation of approval, and grant other relief required to enforce its provisions.

(9) ACCEPTANCE FOR TREATMENT; RULES. The secretary shall adopt and may amend and repeal rules for acceptance of persons into the treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics and intoxicated persons. In establishing the rules the secretary shall be guided by the following standards:

(a) If possible a patient shall be treated on a voluntary rather than an involuntary basis.

(b) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment.

(c) No person may be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

(d) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(e) Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment.

(10) VOLUNTARY TREATMENT OF ALCOHOLICS. (a) An alcoholic may apply for voluntary treatment directly to an approved public treatment facility. If the proposed patient is a minor or an incompetent person, he, a parent, a legal guardian, or other legal representative may make the application. For purposes of this subsection, an "alcoholic" is a person who habitually lacks self-control as to the use of alcoholic beverages, or uses such beverages to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted.

(b) Subject to rules adopted by the secretary, the superintendent in charge of an approved public treatment facility may determine who shall be admitted for treatment. If a person is refused admission to an approved public treatment facility, the superintendent, subject to rules adopted by the secretary, shall refer the person to another approved public treatment facility for treatment if possible and appropriate.

(c) If a patient receiving inpatient care leaves an approved public treatment facility, he shall be encouraged to consent to appropriate out-patient or intermediate treatment. If it appears to the superintendent in charge of the treatment facility that the patient is an alcoholic who requires help, the department shall arrange for assistance in obtaining supportive services and residential facilities.

(d) If a patient leaves an approved public treatment facility, with or against the advice of the superintendent in charge of the facility, the department shall make reasonable provisions for his transportation to another facility or to his home. If he has no home he shall be assisted in obtaining shelter. If he is a minor or an incompetent person the request for discharge from an inpatient facility shall be made by a parent, legal guardian, or other legal representative or by the minor or incompetent if he was the original applicant.

(11) TREATMENT AND SERVICES FOR INTOXICATED PERSONS AND OTHERS INCAPACITATED BY ALCOHOL. (a) An intoxicated person may come voluntarily to an approved public treatment facility for emergency treatment. A person who appears to be intoxicated in a public place and to be in need of help, if he consents to the proffered help, may be assisted to his home, an approved public treatment facility, an approved private treatment facility, or other health facility by any law enforcement officer.

(b) A person who appears to be incapacitated by alcohol shall be taken into protective custody by a law enforcement officer and forthwith brought to an approved public treatment facility for emergency treatment. If no approved public treatment facility is readily available he shall be taken to an emergency medical service customarily used for incapacitated persons. The law enforcement officer, in detaining the person and in taking him to an approved public treatment facility, is taking him into protective custody and shall make every reasonable effort to protect his health and safety. In taking the person into protective custody, the detaining officer may take reasonable steps to protect himself. A taking into protective custody under this subsection is not an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

(c) A person who comes voluntarily or is brought to an approved public treatment facility shall be examined by a licensed physician as soon as possible. He may then be admitted as a patient or referred to another health facility. The referring approved public treatment facility shall arrange for his transportation.

(d) A person who by medical examination is found to be incapacitated by alcohol at the time of his admission or to have become incapacitated at any time after his admission, may not be detained at the facility once he is no longer incapacitated by alcohol, or if he remains incapacitated by alcohol for more than 24 hours after admission as a patient, unless he is committed under sub. (12). A person may consent to remain in the facility as long as the physician in charge believes appropriate.

(e) A person who is not admitted to an approved public treatment facility, is not referred to another health facility, and has no funds, may be taken to his home, if any. If he has no home, the approved public treatment facility shall assist him in obtaining shelter.

(f) If a patient is admitted to an approved public treatment facility, his family or next of kin shall be notified as promptly as possible. If an adult patient who is not incapacitated requests that there be no notification, his request shall be respected.

(g) Any law enforcement officer who acts in compliance with this section is acting in the course of his official duty and is not criminally or civilly liable for false imprisonment.

(h) If the physician in charge of the approved public treatment facility determines it is for the patient's benefit, the patient shall be informed of the benefits of further diagnosis and appropriate voluntary treatment.

(12) EMERGENCY COMMITMENT. (a) An intoxicated person who has threatened, attempted or inflicted physical harm on another and is likely to inflict physical harm on another unless committed, or is incapacitated by alcohol, may be committed to the state and brought to an approved public treatment facility for emergency treatment. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment.

(b) The physician, spouse, guardian or a relative of the person to be committed, or any other responsible person, may make a written application for commitment under this section, directed to the superintendent of the approved public treatment facility. The application shall state facts to support the need for emergency treatment and shall be supported by one or more affidavits which aver with particularity the factual basis for the allegations contained in the petition.

(c) Upon approval of the application by the superintendent in charge of the approved public treatment facility, the person may be brought to the facility by a law enforcement officer, a health officer, the applicant for commitment, the patient's spouse, the patient's guardian or any other interested person. Upon arrival at the approved public treatment facility, the patient shall be advised both orally and in writing of his right to counsel, his right to trial by jury, his privilege against self-incrimination and of the reasons for detention and the standard under which he may be committed prior to all interviews with physicians, psychologists, or other personnel. The person may be retained at the facility to which he was admitted, or transferred by the department to another appropriate public or private treatment facility, until discharged under par. (f).

(d) An officer of the approved public treatment facility shall make application to a court commissioner or the county court of the county in which the person to be committed resides or is present for appointment of counsel, unless waived. If the person desires counsel and is indigent, counsel shall be provided. The application shall request the court to set a time for a preliminary hearing to determine if there is probable cause for believing the person is in need of commitment. It shall be made immediately upon the arrival of the person at the approved public treatment facility or as soon thereafter as possible, but in no event later than 24 hours after the person's arrival.

(e) The superintendent in charge of an approved public treatment facility shall refuse an application if in his opinion the application and supporting affidavit or affidavits fail to sustain the grounds for commitment.

(f) When on the advice of the medical staff the superintendent of an approved public treatment facility determines that the grounds for commitment no longer exist, he shall discharge a person committed under this subsection. No person committed under this subsection shall be detained in any treatment facility or facilities for more than 48 hours without a preliminary hearing pursuant to sub. (13) (b). If a petition for involuntary commitment under sub. (13) has been filed and a finding of probable cause for believing the patient is in need of commitment has been made pursuant to sub. (13) (b) and the superintendent has found that grounds for emergency commitment still exist, he may detain the person until the petition has been heard and determined.

(g) A copy of the written application for commitment and copies of all accompanying affidavits shall be given to the patient within 24 hours of commitment by the superintendent, who shall provide a reasonable opportunity for the person to consult counsel.

(13) INVOLUNTARY COMMITMENT OF ALCOHOLICS. (a) A person may be committed to the custody of the state by the county court upon the petition of his spouse or guardian, a relative, a physician, or the superintendent in charge of any approved public treatment facility. A refusal to undergo treatment shall not constitute evidence of lack of judgment as to the need for treatment. The petition for commitment shall:

1. Allege that the person is an alcoholic as defined in sub. (2) (a); and
2. Allege that the condition of the person as an alcoholic is evidenced by a pattern of conduct which is dangerous to the person or to others; and
3. Be supported by one or more affidavits which aver with particularity the factual basis for the allegations contained in the petition.

(b) Whenever it is desired to involuntarily commit a person, whether or not such person is already in custody pursuant to sub. (11) or (12), a preliminary hearing shall be held within 48 hours of the initial taking into custody. The person shall be represented by counsel at the preliminary hearing, although representation by counsel may be waived subject to the limitation in par. (L). An attorney shall timely be appointed, pursuant to par. (12) (d) where applicable, to represent such person, who shall be employed at county expense if the person is indigent. Counsel shall have access to all reports and records, psychiatric and otherwise, which have been made prior to the preliminary hearing. Any interviews must be in compliance with par. (d). The purpose of the preliminary hearing shall be to determine if there is probable cause for believing the person is in need of commitment. Effective and timely notice of the preliminary hearing shall be given to the person, his spouse or legal guardian if he is a minor or incompetent, and to his counsel. The detained person shall be present at the preliminary hearing, and he shall be afforded meaningful opportunity to be heard.

(c) Upon filing the petition, or upon a finding of probable cause at a preliminary hearing held under par. (b), the court shall fix a date for a full hearing, to be held not more than 14 days after the date the petition is filed or the date the person was first taken into detention, whichever is earlier. An extension of not more than 14 additional days may be had upon motion of the person sought to be committed upon a showing of cause. A copy of the petition and of all supporting affidavits, together with notice of the hearing specifying the date fixed by the court, shall timely be served on the petitioner, the person whose commitment is sought, his counsel, his next of kin other than the petitioner, a parent or legal guardian if he is a minor or incompetent, the superintendent in charge of the approved public treatment facility to which he has been committed for emergency care, and any other person the court believes advisable. A copy of the petition and of all supporting affidavits shall be delivered to each person notified.

(d) Counsel shall have access to all reports and records, psychiatric and otherwise, which have been made prior to the full hearing on commitment. No interviews may be held with any physician, psychologist or other official of the facility unless the patient is first informed of his right against self-incrimination and a transcript or recording is made available to counsel if desired.

(e) The hearing shall be open, unless the person sought to be committed or his attorney moves that it be closed, in which case only persons in interest (including representatives of the department in all cases) and their attorneys and witnesses may be present. At the hearing the jury, or, if trial by jury is waived, the court, shall hear all relevant evidence, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. Ordinary rules of evidence shall apply to any such proceeding. The person whose commitment is sought shall be present. If the person whose commitment is sought has refused to be

examined by a licensed physician, he shall be given an opportunity to be examined by a court-appointed licensed physician. If he refuses and there is sufficient evidence to believe that the allegations of the petition are true, or if the court believes that more medical evidence is necessary, the court may make a temporary order committing him to the state for a period of not more than 5 days for purposes of diagnostic examination.

(f) The court shall make an order of commitment to the state if, after hearing all relevant evidence, including the results of any diagnostic examination, the trier of fact finds: 1) that grounds for involuntary commitment as alleged pursuant to par. (a) have been established beyond a reasonable doubt; and 2) that there is a relationship between the alcoholic condition and the pattern of conduct which is dangerous to the person or others and that such relationship has been established to a reasonable medical certainty; and 3) that there is an extreme likelihood that the pattern of conduct will continue or repeat itself without the intervention of involuntary treatment or institutionalization. The court may not order commitment of a person unless it is shown that there is no suitable alternative available and that the state is able to provide the most appropriate treatment for him and that the treatment is likely to be beneficial.

(g) A person committed under this subsection shall remain in the custody of the state for treatment for a period of 30 days unless sooner discharged. At the end of the 30-day period, he shall be discharged automatically unless the state before expiration of the period obtains a court order for his recommitment upon the grounds set forth in par. (a) for a further period of 90 days unless sooner discharged. If a person has been committed because he is an alcoholic likely to inflict physical harm on another, the state shall apply for recommitment if after examination it is determined that the likelihood still exists.

(h) A person recommitted under par. (g) who has not been discharged by the state before the end of the 90-day period shall be discharged at the expiration of that period unless the state, before expiration of the period, obtains a court order on the grounds set forth in par. (a) for recommitment for a further period not to exceed 90 days. If a person has been committed because he is an alcoholic likely to inflict physical harm on another, the state shall apply for recommitment if after examination it is determined that the likelihood still exists. Only 2 recommitment orders under pars. (g) and (h) are permitted.

(i) Upon the filing of a petition for recommitment under par. (g) or (h), the court shall fix a date for hearing no later than 10 days after the date the petition was filed. A copy of the petition and of the notice of hearing, including the date fixed by the court, shall be served on the petitioner, the person whose commitment is sought, his legal counsel, his next of kin other than the petitioner, the original petitioner under par. (a) if different from the petitioner for recommitment, one of his parents or his guardian if he is a minor or incompetent, and any other person the court believes advisable. At the hearing the court shall proceed as provided in pars. (e) and (f).

(j) The state shall provide for adequate and appropriate treatment of a person committed to its custody. Any person committed to custody may be transferred by the department from one approved public treatment facility to another if transfer is medically advisable.

(k) A person committed to the custody of the state for treatment shall be discharged at any time before the end of the period for which he has been committed if either of the following conditions is met:

1. The patient is making a satisfactory recovery or the likelihood of infliction of physical harm on himself or another no longer exists; or

2. Further treatment will not be likely to bring about significant improvement in the person's condition, or treatment is no longer adequate or appropriate.

(L) The court shall inform the person whose commitment or recommitment is sought of his right to contest the application, to be represented by counsel at every stage of any proceedings relating to his commitment and recommitment, and to have counsel appointed by the court if he wants the assistance of counsel and is unable to obtain counsel, or provided by the court if he is indigent. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for him regardless of his wishes. The person whose commitment or recommitment is sought shall be informed of his right to be examined by a licensed physician of his choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

(m) If a private treatment facility agrees with the request of a competent patient or his parent, sibling, adult child, or guardian to accept the patient for treatment, the superintendent of the public treatment facility shall transfer him to the private treatment facility.

(n) A person committed under this section may at any time seek to be discharged from commitment by writ of habeas corpus pursuant to s. 292.01 (2).

(o) The venue for proceedings under this subsection is the place in which the person to be committed resides or is present.

(p) All fees and expenses incurred under this section which are required to be assumed by the state shall be governed by s. 51.07.

(q) A record shall be made of all proceedings held pursuant to this subsection. Transcripts shall be made available pursuant to s. 256.57. The department may in any case request a transcript.

(r) 1. Within 5 days after the date of mailing of notice of entry of judgment, as indicated in the case docket, an appeal from any final judgment under this section may be taken to the circuit court by any party to the action or proceedings, upon filing with the clerk of court which tried the case a notice of appeal signed by the appellant or his attorney, and serving a copy of such notice on all parties bound by the judgment who appeared in the action or their attorneys. Execution may be stayed under ch. 274. Within 40 days after notice of appeal is filed the appellant shall file with the clerk of court a transcript of the reporter's notes of the hearing. The appellant shall pay the costs of preparing the transcript.

2. Within 10 days after the transcript is filed with the clerk, the clerk shall return the case file and transcript to the circuit court and shall notify the parties of such filing.

3. On appeal, the circuit court has power similar to that of the supreme court to review and to affirm, reverse or modify the judgment appealed from. In addition, the circuit court may order a new hearing in whole or in part, which shall be in the county court.

4. At any time, after the filing in the circuit court of the return on an appeal, any party to the action or proceeding, upon notice, may move that the judgment appealed from be affirmed, or modified and affirmed as modified, or that the appeal be

dismissed, or may move for a new hearing or a reversal. This motion shall state concisely the grounds upon which it is made and shall be heard on the record.

(14) RECORDS OF ALCOHOLICS AND INTOXICATED PERSONS. (a) The registration and other records of treatment facilities shall remain confidential and are privileged to the patient.

(b) Notwithstanding par. (a), the secretary may make available information from patients' records for purposes of research into the causes and treatment of alcoholism. Information under this paragraph shall not be published in a way that discloses patients' names or other identifying information.

(c) This subsection shall not prevent the confidential exchange of information between a treatment facility and an official responsible for payment for treatment under sub. (16) (d) for the purpose of making a determination of liability for payment.

(15) VISITATION AND COMMUNICATION TO PATIENTS. (a) Subject to reasonable rules regarding hours of visitation which the secretary may adopt, patients in any approved treatment facility shall be granted opportunities for adequate consultation with counsel, and for continuing contact with family and friends consistent with an effective treatment program.

(b) Neither mail nor other communication to or from a patient in any approved treatment facility may be intercepted, read or censored. The secretary may adopt reasonable rules regarding the use of telephone by patients in approved treatment facilities.

(c) No provisions of this section shall be deemed to contradict any rules or regulations governing the conduct of any inmate of a state or county correctional institution who is being treated in an alcoholic treatment program within the institution.

(16) PAYMENT FOR TREATMENT. (a) If treatment is provided by an approved public treatment facility and the patient has not paid the charge therefor, the state is entitled to any payment received by the patient or to which he may be entitled because of the services rendered. It is also entitled to any public or private source available to it because of the treatment provided to the patient. Payment may be collected in accordance with s. 46.10.

(b) A patient in an approved treatment facility, or the estate of the patient, or a person obligated to provide for the cost of treatment and having sufficient financial ability, is liable to the department or the county for cost of maintenance and treatment of the patient therein in accordance with rates established.

(c) The secretary shall adopt rules governing financial ability that take into consideration the income, savings and other personal and real property of the person required to pay, and any support being furnished by him to any person he is required by law to support.

(d) Counties shall be liable for maintenance and treatment performed under this section in accordance with legal settlement as determined under s. 49.10.

(e) Payment for treatment of persons treated under s. 53.38 shall be made pursuant to that section.

(17) APPLICABILITY OF OTHER LAWS; PROCEDURE. (a) Nothing in this section affects any law, ordinance or rule the violation of which is punishable by fine, forfeiture or imprisonment.

(b) All administrative procedure followed by the secretary in the implementation of this section shall be in accordance with ch. 227.

(18) CONSTRUCTION. This section shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this section insofar as possible among states which enact similar laws.

(19) SHORT TITLE. This section may be cited as the "Alcoholism and Intoxication Treatment Act".

SECTION 20. 53.38 of the statutes is amended to read:

53.38 Medical care of prisoners. If a prisoner needs medical or hospital care or is intoxicated or incapacitated by alcohol the sheriff or other keeper of the jail shall provide ~~such appropriate care or treatment~~ and may transfer him to a hospital or to an approved treatment facility under s. 51.45 (2) (b) and (c), making provision for the security of the prisoner. The costs of medical and hospital care outside of the jail shall (if the prisoner is unable to pay for it) in the case of persons held under the state criminal laws or for contempt of court, be borne by the county and in the case of persons held under municipal ordinance by the municipality. The governmental unit paying such costs of medical or hospital care may collect the value of the same from him or his estate as provided for in ~~section s.~~ s. 49.08.

SECTION 21. 56.07 (1) of the statutes is amended to read:

56.07 (1) Any county may by ordinance designate any county forest project under s. 28.11 to be a county reforestation camp and provide facilities therein for keeping and maintaining prisoners ~~and inebriates~~ committed under s. 51.09 and giving them employment not exceeding 8 hours each day, without compensation unless otherwise determined by the county board, in charge of a superintendent who shall have the powers and duties of a jailer.

SECTION 22. 57.06 (4) (a) of the statutes is amended to read:

57.06 (4) (a) Any person convicted in the misdemeanor and traffic branches of the county court and any person convicted in the criminal branches of the circuit court in counties having a population of 500,000 or more and sentenced to 2 years or less in the house of correction and any person committed to said house of correction for treatment and rehabilitation ~~for alcoholism or for addiction to a controlled substance~~ under ch. 161, who during the period of confinement or treatment appears to have been rehabilitated or cured to the extent, in the opinion of the superintendent of said house of correction or the person in charge of treatment and rehabilitation of a prisoner at said institution, that the prisoner may be released, said prisoner may be released upon conditional parole.

SECTION 23. 59.07 (76) of the statutes is amended to read:

59.07 (76) REHABILITATION FACILITIES. Establish and maintain rehabilitation facilities in any part of the county under the jurisdiction of the sheriff as an extension of the jail, or separate from the jail under jurisdiction of a superintendent, to provide any person sentenced to the county jail ~~or committed under s. 51.09~~ with a program of rehabilitation for such part of his sentence or commitment as in the opinion of the court will be of rehabilitative value to such prisoner. ~~In case of commitment under s. 51.09 the court shall have the same power as the superintendent as therein provided.~~

SECTION 24. 66.051 (3) of the statutes is amended to read:

66.051 (3) Prohibit conduct which is the same as or similar to that prohibited by s. 947.01 ~~or 947.03~~.

SECTION 25. 139.34 (1) (c) 3 of the statutes is repealed.

SECTION 26. 139.34 (1) (c) 4, 5, 6 and 7 of the statutes are renumbered 139.34 (1) (c) 3, 4, 5 and 6, respectively.

SECTION 27. 139.37 (1) (c) 3 of the statutes is repealed.

SECTION 28. 139.37 (1) (c) 4, 5, 6 and 7 of the statutes are renumbered 139.37 (1) (c) 3, 4, 5 and 6, respectively.

SECTION 29. 200.26 (6) (a) and (b) of the statutes are amended to read:

200.26 (6) (a) Every contract issued by an organization and providing coverage for hospital treatment shall provide coverage for inpatient and outpatient hospital treatment of alcoholism.

(b) In this subsection "hospital" means a general hospital or special hospital as defined in s. 140.24 (1) (c) providing inpatient and outpatient alcoholic treatment and licensed under s. 140.26, including an approved public or private treatment facility for the treatment of alcoholics as defined in s. 51.45 (2) (b) and (c).

SECTION 30. 257.23 (5) (a) and (6) of the statutes are amended to read:

257.23 (5) (a) To determine the indigency subject to court review, of any person convicted of a felony or a gross misdemeanor, or of any person confined to central state hospital or an institution designated by the department of health and social services including any person subject to civil commitment for alcoholism, if any such person petitions either the supreme court or the state public defender requesting relief from his conviction, imprisonment or confinement.

(6) SUPREME COURT MAY APPOINT. Nothing in sub. (5) shall prevent the supreme court from appointing counsel for indigent persons convicted of crime, ~~or~~ confined to central hospital for the insane or subject to civil commitment for alcoholism, in those situations where the state public defender deems the application of such persons is without arguable merit or in other situations where the court determines it advisable that the state public defender not act. The court shall also be empowered to continue the appointment of counsel, who represented any such convicted indigent criminal defendant in the trial court, to prosecute a writ of error, appeal, writ of habeas corpus or other post-conviction remedy.

SECTION 31. 292.01 (2) of the statutes is amended to read:

292.01 (2) ~~All persons~~ Any person confined in any hospital or institution as mentally ill or committed for treatment of alcoholism under s. 51.45 (13) may prosecute such writ, and the question of mental illness or need for treatment shall be determined by the court or judge issuing the same; ~~and if.~~ If such court or judge decides that the person is mentally ill or in need of treatment such decision shall not bar the prosecution of such writ a 2nd time if it is claimed that such person has been restored to reason or is no longer in need of treatment.

SECTION 32. 947.03 of the statutes is repealed.

SECTION 33. 947.04 (1) of the statutes is repealed and recreated to read:

947.04 (1) Whoever while a passenger in a common carrier, publicly drinks intoxicants as a beverage or gives any other person intoxicants for that purpose under circumstances tending to provoke a disturbance, except in those portions of the common carrier in which intoxicants are specifically authorized by law to be sold or consumed, may be fined not more than \$100 or imprisoned not more than 3 months.

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SECTION 34. Appropriation increase. (1) The appropriation under section 20.435 (2) (a) of the statutes, as affected by the laws of 1973, to the department of health and social services is increased by ~~\$91,900 for 1973-74~~ and \$87,900 for 1974-75 to provide funds for increased administrative services and regulatory activities under this act.

Vetoed in Part (2) The appropriation under section 20.435 (2) (b) of the statutes, as affected by the laws of 1973, to the department of health and social services is increased by ~~\$621,000 for 1973-74~~ and \$621,000 for 1974-75 to provide funds for increased treatment of alcoholics under this act.

SECTION 35. Effective date. This act shall take effect on the first day of the third month after publication.

SECTION 36. Reconciliation. The treatment of sections 51.26 (1) (a) and 51.36 (8) (a) of the statutes by this act shall be superseded by the treatment, if any, of the same statute section by chapter 90, laws of 1973.