

CHAPTER 428, Laws of 1977

AN ACT to repeal 15.197 (10), 46.12, 49.15 (1), 51.10 (2), 51.20 (14) (e), 51.45 (14) (b), (c) and (d) and (15) (b) and (c) and 51.61 (5); to renumber 48.24, 49.15 (3) and (4), 51.01 (5) and (11) to (17), 51.10 (1) (d), (e) 2, (g) and (h), 51.20 (4), (5), (7), (8) (b), (9) (a), (10) (b) and (c), (11) (b) and (c), (12) (b), (14) (a) 1, 3 and 5 and (b) to (d) and (f), (15), (16) (b), (17) (a), (b), (d), (e) and (h) to (k), (18) and (19) (a) and (b), 51.45 (14) (e) and (15) (d) and (e) and 51.61 (1) (n) to (r); to renumber and amend 49.15 (2), 51.10 (1) (a) to (c), (e) 1 and 3 and (f), 51.20 (1) (a) 3, (6), (8) (a), (c) and (d), (9) (b) and (c), (10) (a), (11) (a), (12) (a), (13), (14) (a) 2 and 4 and (g), (16) (a) and (c), (17) (c), (f) and (g) and (19) (c) and (d), 51.35 (3) (b) and (c) and 51.61 (6) and (7); to amend 45.30 (1) (b), 46.10 (2), 51.01 (2) and (10), 51.05 (2), 51.10 (title), 51.20 (1) (a) 1 and 2 and (c) and (2), 51.22 (3), 51.35 (1) (e), (2), (4) (a) to (d) and (f) and (6) (a), 51.37 (5) and (9), 51.38, 51.39, 51.42 (1) (b) and (9) (a), 51.437 (8), 51.45 (10) (a), (14) (a) and (15) (a), 51.61 (1) (intro.), (c), (e), (g), (h), (i) and (j) and (2), 51.67, 55.06 (11) (a) and (b) and 706.03 (4); to repeal and recreate 51.15, 51.30, 51.35 (3) (a) and 51.61 (1) (b) and (3); and to create 48.24 (2), 51.01 (5) (b), (11) and (19), 51.13, 51.20 (1) (am), (7) (e), (10) (d), (11) (c), (13) (e) and (h) and (16) (L), 51.35 (1) (f), (3) (b), (c), (f) and (g) and (8), 51.37 (10) and (11), 51.437 (16), 51.45 (10) (e) and (13) (dm), 51.59, 51.61 (1) (n) and (o), (5) (b) and (7) to (9), 55.06 (11) (am) and 55.07 of the statutes, relating to various changes in the state mental health act and related provisions, granting rule-making authority and providing penalties.

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

SECTION 1. 15.197 (10) of the statutes is repealed.

SECTION 2. 45.30 (1) (b) of the statutes is amended to read:

45.30 (1) (b) Any commitment of a veteran under this section shall be in accordance with s. 51.20. The commitment of a person to a veterans facility within this state by a judge of or a court of record of another state under a similar provision of law has the same force as if such commitment were made by a court of this state. After a person has been legally committed to the department of health and social services or to a community board under s. 51.42 in this state, the department of health and social services ~~when the admission has been made to any other treatment facility,~~ upon request of such person and upon receipt of a certificate of eligibility from the veterans administration evidencing the right of such person to be admitted to a veterans facility, may transfer such person to such facility and the cost of the person's transportation, together with that of any necessary attendant, shall be a proper charge against such person's care in such institution. After such transfer the powers granted by this section to the chief officer of such veterans facility shall be applicable. Any person transferred as provided in this subsection is deemed committed to the veterans administration pursuant to the original commitment.

SECTION 3. 46.10 (2) of the statutes, as affected by chapter 29, laws of 1977, is amended to read:

46.10 (2) Except as provided in sub. (2m), any person, including but not limited to a person admitted or committed under ss. 51.10, 51.13, 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.06, 971.14 (2) and (5), 971.17 (1), 975.01, 975.02, 975.06 and 975.17, receiving care, maintenance, services and supplies provided by any institution in this state including Wisconsin general hospital, in which

the state is chargeable with all or part of the person's care, maintenance, services and supplies, and any person receiving care and services under boards or facilities established under ss. 49.175, 51.42 and 51.437, and the person's property and estate, including the homestead, and the spouse of such person, and the spouse's property and estate, including the homestead, and, in the case of a minor child, the parents of such person, and their property and estates, including their homestead, shall be liable for the cost of the care, maintenance, services and supplies in accordance with the fee schedule established by the department under s. 46.03 (18). The department may bring action for the enforcement of such liability. If a spouse, widow or minor, or an incapacitated person may be lawfully dependent upon such property for their support, the court shall release all or such part of the property and estate from such charges that may be necessary to provide for such persons. The department shall make every reasonable effort to notify the relatives liable as soon as possible after the beginning of the maintenance, but such notice or the receipt thereof is not a condition of liability of the relative.

SECTION 4. 46.12 of the statutes, as affected by chapter 83, laws of 1977, is repealed.

SECTION 5. 48.24 of the statutes is renumbered 48.24 (1).

SECTION 6. 48.24 (2) of the statutes is created to read:

48.24 (2) Admissions, placements or commitments of any child made in or to an inpatient facility as defined in s. 51.01 (10) shall be governed by ch. 51 or 55.

SECTION 7. 49.15 (1) of the statutes is repealed.

SECTION 8. 49.15 (2) of the statutes is renumbered 49.15 (1) and amended to read:

49.15 (1) Any person upon his or her application to the board of trustees may be admitted to the county home upon such terms as may be prescribed by the board. If such person or his or her relatives are unable to pay for his or her care and maintenance ~~he~~ the person may be admitted as a charge of the municipality of his or her legal settlement or the county if he or she has no settlement, but no municipality or county ~~shall~~ may be bound without the written approval of its relief officer or agency, except as provided in ~~subsection (3) sub. (2)~~.

SECTION 9. 49.15 (3) and (4) of the statutes are renumbered 49.15 (2) and (3), respectively.

SECTION 10. 51.01 (2) of the statutes is amended to read:

51.01 (2) "Approved treatment facility" means any publicly or privately operated treatment facility or unit thereof approved by the department for treatment of alcoholic, drug dependent, mentally ill or developmentally disabled persons.

SECTION 11. 51.01 (5) of the statutes is renumbered 51.01 (5) (a).

SECTION 12. 51.01 (5) (b) of the statutes is created to read:

51.01 (5) (b) "Developmental disability", for purposes of involuntary commitment, does not include cerebral palsy or epilepsy.

SECTION 13. 51.01 (10) of the statutes is amended to read:

51.01 (10) "Inpatient facility" means a public or private hospital or unit of a hospital which ~~is operated by an organization having~~ has as its primary ~~concern~~ purpose the diagnosis, treatment and rehabilitation of ~~persons~~ persons mental illness, developmental disability, alcoholism or drug abuse and which provides 24-hour care.

SECTION 14. 51.01 (11) of the statutes is renumbered 51.01 (12).

SECTION 15. 51.01 (11) of the statutes is created to read:

51.01 (11) "Law enforcement officer" means any person who by virtue of the person's office or public employment is vested by law with the duty to maintain public order or to make arrests for crimes while acting within the scope of the person's authority.

SECTION 16. 51.01 (12) to (17) of the statutes are renumbered 51.01 (13) to (18), respectively.

SECTION 17. 51.01 (19) of the statutes is created to read:

51.01 (19) "Treatment facility" means any publicly or privately operated facility or unit thereof providing treatment of alcoholic, drug dependent, mentally ill or developmentally disabled persons, including but not limited to inpatient and outpatient treatment programs and rehabilitation programs.

SECTION 18. 51.05 (2) of the statutes is amended to read:

51.05 (2) The department may not accept for admission to a mental health institute any resident person, except in an emergency, unless the board established under s. 51.42 in the county where the person has legal residency authorizes such care, as provided in s. 51.42 (9). Patients who are committed to the department under ~~ss. s.~~ 971.14, 971.17, 975.01, 975.02 ~~and or~~ 975.06 ~~or are~~, admitted by the department under s. 975.17, or are transferred from a juvenile correctional facility to a state treatment facility under s. 51.35 (3) or from a jail or prison to a state treatment facility under s. 51.37 (5) are not subject to this section.

SECTION 19. 51.10 (title) of the statutes is amended to read:

51.10 (title) Voluntary admission of adults.

SECTION 20. 51.10 (1) (a) to (c) of the statutes are renumbered 51.10 (1) to (3) and amended to read:

51.10 (1) With the approval of the treatment director of the treatment facility or the director's designee, or in the case of a center for the developmentally disabled, the director of the center or the director's designee, and the approval of the director of the appropriate community board established under ss. 51.42 and 51.437, ~~a person an~~ adult desiring admission to an approved inpatient treatment facility may be admitted upon application. This subsection applies only to admissions made through a board established under s. 51.42 or 51.437 or through the department.

(2) With the approval of the director of the treatment facility or the director's designee and the director of the appropriate community board established under s. 51.42 or 51.437, ~~a person an~~ adult may be voluntarily admitted to a state inpatient treatment facility.

(3) Voluntary admission of adult alcoholics shall be in accordance with s. 51.45 (10).

SECTION 21. 51.10 (1) (d) of the statutes is renumbered 51.10 (4).

SECTION 22. 51.10 (1) (e) 1 of the statutes is renumbered 51.10 (5) (a) and amended to read:

51.10 (5) (a) At the time of admission to an inpatient ~~treatment~~ facility the individual being admitted shall be informed orally and in writing of his or her right to leave ~~no later than 48 hours after~~ upon submission of a written request to the staff of the facility except when the director or such person's designee ~~notifies the individual within 48 hours that an affidavit files a statement~~ of emergency detention ~~pursuant to under s. 51.15 will be filed and such affidavit is filed~~ with the court by the end of the next day in which the court transacts business.

SECTION 23. 51.10 (1) (e) 2 of the statutes is renumbered 51.10 (5) (b).

SECTION 24. 51.10 (1) (e) 3 and (f) of the statutes are renumbered 51.10 (5) (c) and (6) and amended to read:

51.10 (5) (c) Whenever a patient or resident who is voluntarily admitted to an inpatient facility ~~under this section~~ requests discharge, the patient or resident shall be discharged ~~within 48 hours as provided in subd. 1,~~ unless the treatment director or such person's designee has reason to believe that the patient or resident is dangerous pursuant to in accordance with the standards provided under s. 51.20 (1) (a) 2. ~~Where the treatment director has reason to believe that the patient or resident is dangerous, an affidavit shall be executed by the treatment director pursuant to s. 51.15~~

~~(7) and files a statement of emergency detention under s. 51.15 with the court by the end of the next day in which the court transacts business. The patient or resident shall be notified immediately when such a statement is to be filed. Prior to the filing of a statement, the patient or resident may be detained only long enough for the staff of the facility to evaluate the individual's condition and to file the statement of emergency detention. Such time period shall not exceed the end of the next day in which the court transacts business. Once a statement is filed, a patient or resident may be detained as provided in s. 51.15 (1).~~

(6) A person against whom a petition for involuntary commitment has been filed under s. 51.15 or 51.20 may agree to be admitted under this section. The court may permit the person to become a voluntary patient or resident pursuant to this section upon signing an application for voluntary admission, if the director of the appropriate board established under s. 51.42 or 51.437 and the director of the facility to which the person will be admitted approve of the voluntary admission within 14 days of such admission, and the judge shall then dismiss the proceedings under s. 51.20 within 14 days of such admission.

SECTION 25. 51.10 (1) (g) and (h) of the statutes are renumbered 51.10 (7) and (8), respectively.

SECTION 26. 51.10 (2) of the statutes is repealed.

SECTION 27. 51.13 of the statutes is created to read:

51.13 Admission of minors. (1) **ADMISSION THROUGH BOARD OR DEPARTMENT.** (a) The application for voluntary admission of a minor who is under 14 years of age to an approved inpatient treatment facility shall be executed by a parent who has legal custody of the minor or the minor's guardian. Any statement or conduct by a minor under the age of 14 indicating that the minor does not agree to admission to the facility shall be noted on the face of the application and shall be noted in the petition required by sub. (4).

(b) The application for voluntary admission of a minor who is 14 years of age or over shall be executed by the minor and a parent who has legal custody of the minor or the minor's guardian, except as provided in par. (c).

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

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

(e) A minor may be admitted immediately upon the approval of the application executed pursuant to par. (a) or (b) by the treatment director of the facility or his or her designee or, in the case of a center for the developmentally disabled, the director of the center or his or her designee, and the director of the appropriate board established under s. 51.42 or 51.437 if such board is to be responsible for the cost of the minor's

therapy and treatment. Approval shall be based upon an informed professional opinion that the minor is in need of psychiatric services or services for developmental disability, alcoholism or drug abuse, that the treatment facility offers inpatient therapy or treatment which is appropriate for the minor's needs and that inpatient care in the facility is the least restrictive therapy or treatment consistent with the minor's needs.

(f) Admission under par. (c) or (d) shall also be approved by the treatment director of the facility or his or her designee, or in the case of a center for the developmentally disabled, the director of the center or his or her designee, and the director of the appropriate board established under s. 51.42 or 51.437 if the board is to be responsible for the cost of the minor's therapy and treatment, within 14 days of the minor's admission.

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

(b) Notwithstanding par. (a), any minor who is 14 years of age or older who is admitted to an inpatient treatment facility for the primary purpose of treatment of mental illness, developmental disability, alcoholism or drug abuse has the right to be discharged within 48 hours of his or her request, as provided in sub. (7) (b). At the time of admission, any minor who is 14 years of age or older shall be informed of this right orally and in writing by the director of the hospital or such person's designee. This paragraph does not apply to individuals who receive services in hospital emergency rooms.

(c) A copy of the patient's rights established under s. 51.61 shall be given and explained to the minor and the minor's parent or guardian at the time of admission by the director of the facility or such person's designee.

(d) Writing materials for use in requesting a discharge shall be made available at all times to all minors who are 14 years of age or older admitted under this subsection. The staff of the facility shall assist such minors in preparing or submitting requests for discharge.

(3) NOTICE OF RIGHTS. (a) Prior to admission if possible, or as soon thereafter as possible, the minor and the parent or guardian shall be informed by the director of the facility or his or her designee, both orally and in writing, in easily understandable language, of the review procedure in sub. (4), including the standards to be applied by the court and the possible dispositions, the right to a hearing upon request under sub. (4), and the minor's right to appointed counsel as provided in sub. (4) (d) if a hearing is held.

(b) A minor 14 years of age or older and his or her parent or guardian shall also be informed by the director or his or her designee, both orally and in writing, in easily understandable language, of the minor's right to request discharge and to be discharged within 48 hours of the request if no petition or statement is filed for emergency detention, emergency commitment, involuntary commitment or protective placement, and the minor's right to consent to or refuse treatment as provided in s. 51.61 (6).

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

(d) A copy of the patient's rights established in s. 51.61 shall be given and explained to the minor and the minor's parent or guardian at the time of admission by the director of the facility or such person's designee.

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

(4) REVIEW PROCEDURE. (a) Within 3 days of the admission of a minor under sub. (1), or within 3 days of application for such admission, whichever occurs first, the treatment director of the facility to which the minor is admitted or, in the case of a center for the developmentally disabled, the director of the center, shall file a verified petition for review of the admission in the juvenile court in the county in which the facility is located. The petition shall contain: 1) the name, address and date of birth of the minor; 2) the names and addresses of the parents or guardian; 3) the facts substantiating the petitioner's belief in the minor's need for psychiatric services, or services for developmental disability, alcoholism or drug abuse; 4) the facts substantiating the appropriateness of inpatient treatment in the inpatient treatment facility; 5) the basis for petitioner's opinion that inpatient care in the facility is the least restrictive treatment consistent with the needs of the minor; and 6) notation of any statement made or conduct demonstrated by the minor in the presence of the director or staff of the facility indicating that inpatient treatment is against the wishes of the minor. A copy of the application for admission and of any relevant professional evaluations shall be attached to the petition.

(b) If hardship would otherwise occur and if the best interests of the minor would be served thereby, the court may, on its own motion or on the motion of any interested party, remove the petition to the juvenile court of the county of residence of the parent or guardian.

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

(d) Within 5 days of the filing of the petition, the juvenile court shall determine, based on the allegations of the petition and accompanying documents, whether the admission is voluntary on the part of the minor if the minor is 14 years of age or older and whether there is a prima facie showing that the minor is in need of psychiatric services, or services for developmental disability, alcoholism or drug abuse, that the treatment facility offers inpatient therapy or treatment which is appropriate to the minor's needs, and that inpatient care in the treatment facility is the least restrictive therapy or treatment consistent with the needs of the minor. If such a showing is made, the court shall permit voluntary admission. If the court is unable to make such determinations based on the petition and accompanying documents, it shall dismiss the petition as provided in par. (h); or order additional information to be produced as it deems necessary to make such review, and make such determinations within 14 days of admission or application for admission, whichever is sooner; or it may hold a hearing within 14 days of admission or application for admission, whichever is sooner. If a notation of the minor's unwillingness appears on the face of the petition, or if a hearing has been requested by the minor, the minor's counsel, parent or guardian, the court shall hold a hearing to review the admission within 14 days of admission or application for admission, whichever is sooner, and shall appoint counsel to represent the minor if the minor is unrepresented. If the court deems it necessary, it shall also appoint a guardian ad litem to represent the minor.

(e) Notice of the hearing under this subsection shall be provided by the court by certified mail to the minor, the minor's parents or guardian, the minor's counsel and guardian ad litem if any, the petitioner and any other interested party at least 96 hours prior to the time of hearing.

(f) The rules of evidence in civil actions shall apply to any hearing under this section. A record shall be maintained of the entire proceedings. The record shall include findings of fact and conclusions of law. Findings shall be based on a clear and convincing standard of proof.

(g) If the court finds that the minor is in need of psychiatric services, or services for developmental disability, alcoholism or drug abuse in an inpatient facility, that the

inpatient facility to which the minor is admitted offers therapy or treatment which is appropriate for the minor's needs and which is the least restrictive therapy or treatment consistent with the minor's needs and, in the case of a minor aged 14 or older, the application is voluntary on the part of the minor, it shall permit voluntary admission. If the court finds that the therapy or treatment in the inpatient facility to which the minor is admitted is not appropriate or is not the least restrictive therapy or treatment consistent with the minor's needs, the court may order placement in or transfer to another more appropriate or less restrictive inpatient facility subject to approval of the minor if he or she is aged 14 or older, the treatment director of the facility or his or her designee, and the director of the appropriate board established under s. 51.42 or 51.437 if the board is to be responsible for the cost of the minor's therapy or treatment.

(h) If the court does not permit voluntary admission under par. (g), it shall do one of the following:

1. Dismiss the petition and order the application for admission denied and the minor released.

2. Order the petition to be treated as a petition for involuntary commitment and refer it to the court where the review under this section was held, or if it was not held in the county of legal residence of the subject individual's parent or guardian and hardship would otherwise occur and if the best interests of the subject individual would be served thereby, to the juvenile court in such county for a hearing under s. 51.20 or 51.45 (13).

3. If the minor is 14 years of age or older and appears to be developmentally disabled, proceed in the manner provided in s. 51.67 to determine whether the minor should receive protective placement, except that a minor shall not have a temporary guardian appointed if he or she has a parent or guardian.

4. If there is a reason to believe the minor is neglected or dependent, dismiss the petition and authorize the filing of a petition under s. 48.20. The court may release the minor or may order appropriate placement of the minor under s. 48.28 pending a hearing on the new petition.

(i) Approval of an admission under this subsection does not constitute a finding of mental illness, developmental disability, alcoholism or drug dependency.

(5) APPEAL. (a) Any person aggrieved by a determination or order under this section and directly affected thereby has the right to appeal to the circuit court for the county in which the determination or order is made within 40 days of the entry of the determination or order in the manner in which appeals are taken from judgments in civil actions. No undertaking is required on such appeal. The order of the juvenile court shall stand pending the determination of the appeal, but the circuit court may upon application stay the order. The appeal shall be on the record prepared by the juvenile court.

(b) The juvenile court shall make available to the appellant a transcript of the proceedings. The appellant shall pay the costs of preparing the transcript, except that the county shall pay the costs if the appellant is financially unable to do so.

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

(b) The application shall be reviewed by the treatment director of the facility or, in the case of a center for the developmentally disabled, by the director, and shall be accepted only if the director determines that the admission constitutes the least restrictive means of obtaining adequate diagnosis and evaluation of the minor or adequate provision of medical, dental or psychiatric services.

(c) At the end of the 12-day period, the minor shall be released unless an application has been filed for voluntary admission under sub. (1) or a petition or statement has been filed for emergency detention, emergency commitment, involuntary commitment or protective placement.

(7) DISCHARGE. (a) If a minor is admitted to an inpatient treatment facility while under 14 years of age, and if upon reaching age 14 is in need of further inpatient care and treatment, the director of the facility shall request the minor and the minor's parent or guardian to execute an application for voluntary admission. Such an application may be executed within 30 days prior to a minor's 14th birthday. If the application is executed, a petition for review shall be filed in the manner prescribed in sub. (4), unless such a review has been held within the last 120 days. If the application is not executed by the time of the minor's 14th birthday, the minor shall be discharged unless a petition or statement is filed for emergency detention, emergency commitment, involuntary commitment or protective placement by the end of the next day in which the court transacts business.

(b) Any minor 14 years of age or over voluntarily admitted under this section may request discharge in writing. Upon receipt of any form of written request for discharge, the director of the facility in which the minor is admitted shall immediately notify the minor's parent or guardian. The minor shall be discharged within 48 hours after submission of the request, exclusive of Saturdays, Sundays and legal holidays, unless a petition or statement is filed for emergency detention, emergency commitment, involuntary commitment or protective placement.

(c) Any minor under 14 years of age who is voluntarily admitted under this section may submit a written request to the court for a hearing to determine the continued appropriateness of the admission. If the director or staff of the inpatient treatment facility to which a minor under the age of 14 is admitted observes conduct by the minor which demonstrates an unwillingness to remain at the facility, including but not limited to a written expression of opinion or unauthorized absence, the director shall file a written request with the court to determine the continued appropriateness of the admission. A request which is made personally by a minor under this paragraph shall be signed by the minor but need not be written or composed by him or her. A request for a hearing under this paragraph which is received by staff or the director of the facility in which the child is admitted shall be filed with the court by the director. The court shall order a hearing upon request if no hearing concerning the minor's admission has been held within 120 days of receipt of the request. The court shall appoint counsel and, if the court deems it necessary, a guardian ad litem to represent the minor and if a hearing is held shall hold the hearing within 14 days of the request, unless the parties agree to a longer period. After the hearing, the court shall make disposition of the matter in the manner provided in sub. (4).

SECTION 28. 51.15 of the statutes, as affected by chapter 29, laws of 1977, is repealed and recreated to read:

51.15 Emergency detention. (1) BASIS FOR DETENTION. (a) A law enforcement officer may take an individual into custody if the officer has cause to believe that such individual is mentally ill, drug dependent or developmentally disabled, and that the individual evidences:

1. A substantial probability of physical harm to himself or herself as manifested by evidence of recent threats of or attempts at suicide or serious bodily harm;

2. A substantial probability of physical harm to other persons as manifested by evidence of recent homicidal or other violent behavior on his or her part, or by evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them, as evidenced by a recent overt act, attempt or threat to do such physical harm on his or her part; or

3. A very substantial probability of physical impairment or injury to himself or herself due to impaired judgment, as manifested by evidence of a pattern of recent acts or omissions. The probability of physical impairment or injury may not be deemed very substantial under this subdivision if reasonable provision for the individual's protection is available in the community.

(b) The officer's belief shall be based on specific recent overt acts, attempts or threats to act or on a pattern of recent acts or omissions made by the individual and observed by or reliably reported to the officer.

(2) FACILITIES FOR DETENTION. The law enforcement officer shall transport the individual, or cause him or her to be transported for detention and for treatment if permitted under sub. (6) to any of the following facilities:

(a) A hospital which is approved by the department as a detention facility or under contract with a board established under s. 51.42 or 51.437, or an approved public treatment facility;

(b) A center for the developmentally disabled;

(c) A state treatment facility; or

(d) An approved private treatment facility, if the facility agrees to detain the individual.

(3) CUSTODY. Upon arrival at the facility, the individual is deemed to be in the custody of the facility.

(4) DETENTION PROCEDURE; MILWAUKEE COUNTY. (a) In counties having a population of 500,000 or more, the law enforcement officer shall sign a statement of emergency detention which shall provide detailed specific information concerning the recent overt acts, attempts or threats to act or the pattern of recent acts or omissions on which the belief under sub. (1) is based and the names of the persons observing or reporting such recent overt acts, attempts or threats to act or pattern of recent acts or omissions. The law enforcement officer is not required to designate in the statement whether the subject individual is mentally ill, developmentally disabled or drug dependent, but shall allege that he or she has cause to believe that the individual evidences one or more of these conditions. The law enforcement officer shall deliver, or cause to be delivered, the statement to the detention facility upon the delivery of the individual to it.

(b) Upon delivery of the statement, the treatment director of the facility, or his or her designee, shall determine within 24 hours whether the individual shall be detained, or shall be detained and treated, if treatment is permitted under sub. (8), and shall either release the individual or detain him or her for a period not to exceed 48 hours from the time that the decision to detain the individual is made, exclusive of Saturdays, Sundays and legal holidays. If the treatment director, or his or her designee, determines that the individual is not mentally ill, drug dependent or developmentally disabled or that there is no substantial probability of physical harm to himself or herself or to others, or that there is not a very substantial probability of physical impairment or injury to himself or herself due to impaired judgment as manifested by evidence of a pattern of recent acts or omissions, the treatment director shall release the individual immediately, unless otherwise authorized by law. If the individual is detained, the treatment director or his or her designee may supplement in writing the statement filed by the law enforcement officer, and shall designate whether the subject individual is believed to be mentally ill, developmentally disabled or drug dependent, if no designation was made by the law enforcement officer. The director or designee may also include other specific information concerning his or her belief that the individual meets the standard for commitment. The treatment director or designee shall then promptly file the original statement together with any supplemental statement and notification of detention with the court having probate jurisdiction in the county in which the individual was taken into custody. The filing of the statement and notification has the same effect as a petition for commitment under s. 51.20.

(5) DETENTION PROCEDURE; OTHER COUNTIES. In counties having a population of less than 500,000, the law enforcement officer shall sign a statement of emergency detention which shall provide detailed specific information concerning recent acts or omissions on which the belief under sub. (1) is based and the names of persons observing or reporting such recent overt acts, attempts or threats to act or pattern of acts or omissions. The law enforcement officer is not required to designate in the

statement whether the subject individual is mentally ill, developmentally disabled or drug dependent, but shall allege that he or she has cause to believe that the individual evidences one or more of these conditions. Such statement of emergency detention shall be filed by the officer with the detention facility at the time of admission, and with the court immediately thereafter. The filing of the statement has the same effect as a petition for commitment under s. 51.20. When upon the advice of the treatment staff, the director of a facility specified in sub. (2) determines that the grounds for detention no longer exist, he or she shall discharge the individual detained under this section. Unless a hearing is held under s. 51.20 (7) or 55.06 (11) (b), the subject individual may not be detained by the law enforcement officer and the facility for more than a total of 72 hours, exclusive of Saturdays, Sundays and holidays.

(6) **RELEASE.** If the individual is released, the treatment director or his or her designee, upon the individual's request, shall arrange for the individual's transportation to the locality where he or she was taken into custody.

(7) **INTERCOUNTY AGREEMENTS.** Counties may enter into contracts whereby one county agrees to conduct commitment hearings for individuals who are detained in that county but who are taken into custody under this section in another county. Such contracts shall include provisions for reimbursement to the county of detention for all reasonable direct and auxiliary costs of commitment proceedings conducted under this section and s. 51.20 by the county of detention concerning individuals taken into custody in the other county and shall include provisions to cover the cost of any voluntary or involuntary services provided under this chapter to the subject individual as a result of proceedings or conditional suspension of proceedings resulting from the notification of detention. Where there is such a contract binding the county where the individual is taken into custody and the county where the individual is detained, the statements and notification of detention specified in par. (a) shall be filed with the court having probate jurisdiction in the county of detention, unless the subject individual requests that the proceedings be held in the county in which the individual is taken into custody.

(8) **TREATMENT.** When an individual is detained under this section, the director and staff of the treatment facility may treat the individual during detention, if the individual consents. The individual has a right to refuse medication and treatment as provided in s. 51.61 (1) (g) and (h). The individual shall be advised of that right by the director of the facility or his or her designee, and a report of all treatment provided shall be filed by that person with the court.

(9) **NOTICE OF RIGHTS.** At the time of detention the individual shall be informed by the director of the facility or such person's designee, both orally and in writing, of his or her right to contact an attorney and a member of his or her immediate family, the right to have an attorney provided at public expense, as provided under s. 967.06 and ch. 977, if the individual is indigent, the right to remain silent and that the individual's statements may be used as a basis for commitment. The individual shall also be provided with a copy of the statement of emergency detention.

(10) **VOLUNTARY PATIENTS.** If an individual has been admitted to an approved treatment facility under s. 51.10 or 51.13, or has been otherwise admitted to such facility, the treatment director or his or her designee, if conditions exist for taking the individual into custody under sub. (1), may sign a statement of emergency detention and may detain, or detain and treat, such individual as provided in this section. In such case, the treatment director shall undertake all responsibilities which are required of a law enforcement officer under this section. The treatment director shall promptly file the statement with the court having probate jurisdiction in the county of detention as provided in this section.

(11) **LIABILITY.** Any individual acting in accordance with this section is not liable for any actions taken in good faith.

(12) **PENALTY.** Whoever signs a statement under sub. (4), (5) or (10) knowing the information contained therein to be false may be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

SECTION 29. 51.20 (1) (a) 1 and 2 of the statutes are amended to read:

51.20 (1) (a) 1. Is mentally ill, drug dependent, or developmentally disabled and is a proper subject for treatment; and ~~either~~

2. Is dangerous because ~~of the individual~~:

a. ~~A~~ Evidences a substantial risk probability of physical harm to ~~the subject individual himself or herself~~ as manifested by evidence of recent threats of or attempts at suicide of serious bodily harm; or

b. ~~A~~ Evidences a substantial risk probability of physical harm to other ~~persons individuals~~ as manifested by evidence of recent homicidal or other violent behavior, or by evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them, as evidenced by a recent overt act, attempt or threat to do such physical harm; or

SECTION 30. 51.20 (1) (a) 3 of the statutes is renumbered 51.20 (1) (a) 2. c and amended to read:

51.20 (1) (a) 2. c. ~~Evidences such impaired judgment, manifested by evidence of a pattern of recent acts or omissions, that there is a very substantial risk probability of physical impairment or injury to the subject individual, as manifested by evidence that his or her judgment is so affected that he or she is unable to protect himself or herself. The probability of physical impairment or injury may not be deemed very substantial under this subparagraph if reasonable provision for the subject individual's protection is available in the community and that reasonable provision for his or her protection is not available in the community and if the individual is not appropriate for placement under s. 55.06. The subject individual's status as a minor does not automatically establish dangerousness a very substantial probability of physical impairment or injury under this subparagraph.~~

SECTION 30m. 51.20 (1) (am) of the statutes is created to read:

51.20 (1) (am) If the individual has been the subject of inpatient treatment for mental illness, developmental disability or drug dependency as a result of a voluntary admission or a commitment or placement ordered by a court under this section or s. 55.06 or ch. 971 or 975 immediately prior to commencement of the proceedings, the requirements of specific recent overt acts, attempts or threats to act or pattern of recent acts or omissions may be satisfied by a showing that there is a substantial likelihood, based on the subject individual's treatment record, that the individual would be a proper subject for commitment if treatment were withdrawn.

SECTION 31. 51.20 (1) (c) and (2) of the statutes are amended to read:

51.20 (1) (c) The petition shall contain the names and mailing addresses of the petitioners and their relation to the subject individual, and shall also contain the names and mailing addresses of the individual's spouse, adult children, parents or guardian, custodian, brothers, sisters, person in loco parentis and person with whom the individual resides or lives. If this information is unknown to the petitioners or inapplicable, the petition shall so state. The petition may be filed in the branch of the county court which handles probate matters in the county where the subject individual is present or the county of the individual's legal residence. If the judge of such county court or a court commissioner who handles probate matters is not available, the petition may be filed and the hearing under sub. ~~(8)~~ (7) may be held before a judge or court commissioner of any court of record of the county. For the purposes of this chapter, duties to be performed by a court shall be carried out by the judge of such court or a court commissioner of such court who is an attorney and is designated by the judge to so act, in all matters prior to a final hearing under this section. The petition shall contain a clear and concise statement of the facts which constitute probable cause to believe the allegations of the petition. The petition shall be sworn to be true. If a petitioner is not a petitioner having personal knowledge as provided in par. (b), the petition shall contain a statement providing the basis for his or her belief.

(2) NOTICE OF HEARING AND DETENTION. Upon filing of a petition for examination, the court shall review the petition to determine whether an order of detention should be issued. The subject individual shall be detained only if there is cause to believe that the individual is mentally ill, drug dependent or developmentally disabled and the individual presents a substantial risk of serious physical harm to himself or herself or to others based on information regarding evidences the conditions specified in sub. (1) (a) and (am) based upon specific recent overt acts, attempts, or threats to inflict such harm to the subject individual or to others; or if the individual presents a very substantial risk of physical impairment or injury to the person himself or herself, as manifested by evidence that his or her judgment is so affected that he or she is unable to protect himself or herself in the community and that reasonable provision for his or her protection is not available in the community and the individual is not appropriate for placement under s. 55.06 act or on a pattern of recent acts or omissions made by the individual. The sheriff or any other person authorized by the court shall serve If the subject individual is to be detained, a law enforcement officer shall present the subject individual with a notice of hearing, a copy of the petition and detention order and a written statement of the individual's right to an attorney, a jury trial if requested more than 48 hours prior to the final hearing, the standard upon which he or she may be committed under this section and the right to a hearing to determine probable cause for commitment within 48 hours, exclusive of Saturdays, Sundays and legal holidays the period specified in s. 51.15 (4) or (5) for the county of detention, if detained. The person making service and shall orally inform the individual that he or she is being taken into custody as the result of a petition and detention order issued under the mental health act. If the individual is not to be detained, the law enforcement officer shall serve these documents on the subject individual and shall also orally inform the subject individual of these rights. The individual who is the subject of the petition and, his or her counsel and if the individual is a minor, his or her parent or guardian, if known, shall receive notice of all proceedings under this section. The court may also designate other persons to receive notice notices of hearings and rights under this chapter. The notice of time and place of a hearing shall be served personally on the subject of the petition, at least 12 hours in advance of and his or her attorney, within a reasonable time prior to the hearing to determine probable cause for commitment. If the sheriff law enforcement officer has a detention order issued by a court, or if it appears to the sheriff law enforcement officer has cause to believe that the subject individual presents a substantial risk of serious physical harm to himself or herself or to others, based on information regarding recent overt acts, attempts or threats to inflict such harm; or the individual presents a very substantial risk of physical impairment or injury to the person himself or herself, as manifested by evidence that his or her judgment is so affected that he or she is unable to protect himself or herself in the community and that reasonable provision for his or her protection is not available in the community and the individual is not appropriate for placement under s. 55.06 is mentally ill, drug dependent or developmentally disabled, and evidences the conditions specified in sub. (1) (a) and (am), based upon specific recent overt acts, attempts or threats to act or on a pattern of omissions made by the individual, the sheriff law enforcement officer shall take the subject individual into custody. If the individual is detained by a law enforcement officer, the individual shall be orally informed of his or her rights under this section on arrival at the detention facility by the facility staff, who shall also serve all documents required by this section on the individual. Placement shall be made in a hospital which is approved by the department as a detention facility or under contract with a board established under s. 51.42 or 51.437, approved public treatment facility, mental health institute, center for the developmentally disabled, state treatment facility, or in an approved private treatment facility if the facility agrees to detain the subject individual. Upon arrival at the facility, the individual is deemed to be in the custody of the facility.

SECTION 32. 51.20 (4) of the statutes, as affected by chapter 29, laws of 1977, is renumbered 51.20 (3).

SECTION 33. 51.20 (5) of the statutes is renumbered 51.20 (4).

SECTION 34. 51.20 (6) of the statutes, as affected by chapter 187, laws of 1977, is renumbered 51.20 (5) and amended to read:

51.20 (5) HEARING REQUIREMENTS. The hearings which are required to be held under this chapter shall conform to the essentials of due process and fair treatment including the right to an open hearing, the right to request a closed hearing, the right to counsel, the right to present and cross-examine witnesses, the right to remain silent and the right to a jury trial if requested under sub. ~~(12)~~ (11). The parent or guardian of a minor who is the subject of a hearing shall have the right to participate in the hearing and to be represented by counsel. All proceedings under this chapter shall be reported as provided in s. 757.55. The court may determine to hold a hearing under this section at the institution at which the individual is detained, whether or not located in the same county as the court with which the petition was filed, unless the individual or his or her attorney objects.

SECTION 35. 51.20 (7) of the statutes is renumbered 51.20 (6).

SECTION 35m. 51.20 (7) (e) of the statutes is created to read:

51.20 (7) (e) If the court determines that probable cause does not exist to believe the allegations, or to proceed under par. (d), the court shall dismiss the proceeding.

SECTION 35p. 51.20 (8) (a) of the statutes is renumbered 51.20 (7) (a) and amended to read:

51.20 (7) (a) After the filing of the petition under sub. (1), if the subject individual is detained under s. 51.15 or this section, within 48 hours of the detention, exclusive of Saturdays, Sundays and legal holidays the period specified in s. 51.15 (4) or (5) for the county of detention, the court shall hold a hearing to determine whether there is probable cause to believe the allegations made under sub. (1) (a). At the request of the subject individual or his or her counsel the hearing may be postponed, but in no case may the postponement exceed 7 days from the date of detention.

SECTION 35r. 51.20 (8) (b) of the statutes is renumbered 51.20 (7) (b).

SECTION 36. 51.20 (8) (c) and (d) of the statutes are renumbered 51.20 (7) (c) and (d) and amended to read:

51.20 (7) (c) If the court determines that there is probable cause to believe such allegations, it shall schedule the matter for a hearing within 14 days from the time that of detention of the subject individual is taken into custody, except as provided in sub. ~~(12)~~ (11) (a). If a postponement has been granted under par. (a), the matter shall be scheduled for hearing within 21 days from the time that of detention of the subject individual is taken into custody. If the subject individual is not detained under s. 51.15 or this section, the hearing shall be scheduled within 30 days of the hearing to determine probable cause for commitment. In the event that the subject individual fails to appear for the hearing to determine probable cause for commitment, the court may issue an order for the subject individual's detention and shall hold the hearing to determine probable cause for commitment within 48 hours, exclusive of Saturdays, Sundays and legal holidays, from the time that the individual is detained.

(d) If the court determines after hearing that there is probable cause to believe that the subject individual is a fit subject for guardianship and protective placement or services, the court may appoint a temporary guardian and order emergency protective placement or services under ch. 55, and shall proceed as if petition had been made for guardianship and protective placement or services.

SECTION 37. 51.20 (9) (a) of the statutes is renumbered 51.20 (8) (a).

SECTION 38. 51.20 (9) (b) and (c) of the statutes are renumbered 51.20 (8) (b) and (c) and amended to read:

51.20 (8) (b) If the court finds the services provided under par. (a) are not available, suitable, or desirable based on the condition of the individual, it may issue a detention order and the subject individual may be detained pending the hearing as provided in sub. ~~(8)~~ (7) (c). Detention may be in a hospital which is approved by the department as a detention facility or under contract with a board established under

s. 51.42 or 51.437, approved public treatment facility, mental health institute, center for the developmentally disabled, state treatment facility, or in an approved private treatment facility if the facility agrees to detain the subject individual.

(c) During detention a physician may ~~administer order the administration of such medications and therapies as are required to sustain life or to protect the person or others from serious physical harm unless the patient refuses treatment permitted~~ under s. 51.61 (1) ~~(g) and (h)~~. The subject individual may consent to ~~other~~ treatment but only after he or she has been informed of his or her right to refuse treatment and has signed a written consent to such treatment. A report of all treatment which is provided, along with any written consent, shall be filed with the court by the director of the treatment facility in which the subject individual is detained, or his or her designee.

SECTION 39. 51.20 (10) (a) of the statutes is renumbered 51.20 (9) (a) and amended to read:

51.20 (9) (a) If the court finds after the hearing that there is probable cause to believe the allegations under sub. (1), it shall appoint 2 licensed physicians specializing in psychiatry, or one licensed physician and one licensed psychologist, or 2 licensed physicians one of whom shall have specialized training in psychiatry, if available, or 2 physicians, to personally examine the subject individual. Such examiners shall have the specialized knowledge determined by the court to be appropriate to the needs of the subject individual. One of the examiners may be selected by the subject individual if such person makes his or her selection known to the court within 24 hours after completion of the hearing to determine probable cause for commitment. The court may deny the subject individual's selection if the examiner does not meet the requirements of this paragraph or such person is not available. If requested by the subject individual, the individual's attorney or any other interested party with court permission, the individual has a right at his or her own expense or if indigent with approval of the court hearing the petition, at the reasonable expense of the individual's county of legal residence, to secure an additional medical or psychological examination, and to offer the evaluator's personal testimony, as evidence at the hearing. The examiners may not be related to the subject individual by blood or marriage, and may have no interest in his or her property. Prior to the examination the subject individual shall be informed that his or her statements can be used as a basis for commitment and that he or she has the right to remain silent, and that the examiner is required to make a report to the court even if the subject individual remains silent. A written report shall be made of all such examinations and filed with the court. The issuance of such a warning to the subject individual prior to each examination establishes a presumption that the individual understands that he or she need not speak to the examiner. The examiners shall personally observe and examine the subject individual at any suitable place and satisfy themselves, if reasonably possible, as to the individual's mental condition, and shall make independent reports to the court. The subject individual's treatment records shall be available to the examiners. If the subject individual is not detained pending the hearing, the court ~~may~~ shall designate the time and place where the examination is to be held and ~~may~~ shall require the individual's appearance. The report and testimony, if any, by the examiners shall be based on beliefs to a reasonable degree of medical certainty, or professional certainty if an examiner is a psychologist, in regard to the existence of the conditions described in sub. (1) (a), and the appropriateness of various treatment modalities or facilities. If the examiners are unable to make conclusions to a reasonable degree of medical or professional certainty, the examiners shall so state in their report and testimony, if any.

SECTION 40. 51.20 (10) (b) and (c) of the statutes are renumbered 51.20 (9) (b) and (c), respectively.

SECTION 41. 51.20 (10) (d) of the statutes is created to read:

51.20 (10) (d) In the event that the subject individual is not detained and fails to appear for the final hearing the court may issue an order for the subject individual's detention and shall hold the final commitment hearing within 7 days from the time of detention.

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SECTION 42. 51.20 (11) (a) of the statutes is renumbered 51.20 (10) (a) and amended to read:

51.20 (10) (a) Within a reasonable time ~~after the hearing to determine probable cause for commitment under sub. (8)~~ prior to the final hearing, the petitioner's counsel shall notify the subject individual and his or her attorney of persons who may testify in favor of his or her commitment, and of the time and place of final hearing. The court may designate additional persons to receive notice of the time and place of the final hearing.

SECTION 43. 51.20 (11) (b) and (c) of the statutes are renumbered 51.20 (10) (b) and (c), respectively.

SECTION 44. 51.20 (11) (c) of the statutes is created to read:

51.20 (11) (c) Motions after verdict may be made without further notice upon receipt of the verdict.

SECTION 45. 51.20 (12) (a) of the statutes is renumbered 51.20 (11) (a) and amended to read:

51.20 (11) (a) If before involuntary commitment a jury is demanded by the individual against whom a petition has been filed under sub. (1) or by the individual's counsel if the individual does not object, the court shall direct that a jury of 6 people be drawn to determine if ~~beyond a reasonable doubt~~ the allegations specified in sub. (1) (a) are true. A jury trial is deemed waived unless demanded at least 48 hours in advance of the time set for final hearing, if notice of that time has been previously provided to the subject individual or his or her counsel. If a jury trial demand is filed within 5 days of detention, the final hearing shall be held within 14 days of detention. If a jury trial demand is filed later than 5 days after detention, the final hearing shall be held within 14 days of the date of demand.

SECTION 45m. 51.20 (12) (b) of the statutes is renumbered 51.20 (11) (b).

SECTION 46. 51.20 (13) of the statutes is renumbered 51.20 (12) and amended to read:

51.20 (12) OPEN HEARINGS; EXCEPTION. Every hearing which is held under this section shall be open, unless the subject individual or the individual's attorney, acting with the individual's consent, moves that it be closed. If the hearing is closed, only persons in interest, including representatives of providers of service and their attorneys and witnesses may be present.

SECTION 47. 51.20 (13) (e) and (h) of the statutes are created to read:

51.20 (13) (e) The burden of proof shall be upon the petitioner to prove all required facts beyond a reasonable doubt, except that probability of physical harm, impairment or injury shall be proven to a reasonable certainty by evidence which is clear, satisfying and convincing.

(h) Any disposition of a minor under this subsection may extend beyond the age of majority of the individual, if the disposition is otherwise made in accordance with this section.

SECTION 48. 51.20 (14) (a) 1 of the statutes is renumbered 51.20 (13) (a) 1.

SECTION 49. 51.20 (14) (a) 2 of the statutes is renumbered 51.20 (13) (a) 2 and amended to read:

51.20 (13) (a) 2. If the subject individual is an adult, or is a minor aged 14 years or more who is developmentally disabled, ~~appoint a temporary guardian and proceed under s. 51.67~~ to determine whether the subject individual should receive protective placement; or

SECTION 50. 51.20 (14) (a) 3 of the statutes is renumbered 51.20 (13) (a) 3.

SECTION 51. 51.20 (14) (a) 4 of the statutes is renumbered 51.20 (13) (a) 4 and amended to read:

51.20 (13) (a) 4. If the allegations specified in sub. (1) (a) are proven, order commitment to the department if the person was or is to be transferred from a ~~prison~~ state correctional facility or jail under s. 51.37; or

SECTION 52. 51.20 (14) (a) 5 and (b) to (d) of the statutes are renumbered 51.20 (13) (a) 5 and (b) to (d), respectively.

SECTION 53. 51.20 (14) (e) of the statutes is repealed.

SECTION 54. 51.20 (14) (f) of the statutes is renumbered 51.20 (13) (f).

SECTION 54g. 51.20 (14) (g) of the statutes is renumbered 51.20 (13) (g) and amended to read:

51.20 (13) (g) The first order of commitment of a subject individual under this section may be for a period not to exceed 6 months, and all subsequent consecutive order of commitment of such individual may be for a period not to exceed one year. The board under s. 51.42 or 51.437 to whom the individual is committed may discharge the individual at any time, and shall place a committed individual in accordance with par. (f). Upon application for extension of a commitment by the department or the board having custody of the subject, the court shall proceed under subs. ~~(11) to (14)~~ (10) to (13). If the court determines that the individual is a proper subject for commitment as prescribed in sub. (1) (a) and (am), ~~or there is a substantial likelihood, based on the individual's treatment record, that the individual would be a proper subject for commitment under sub. (1) (a) if treatment were withdrawn,~~ it shall order judgment to that effect and continue the commitment. The burden of proof is upon the board or other person seeking commitment to establish evidence that the subject individual is in need of continued commitment.

SECTION 54r. 51.20 (15) of the statutes is renumbered 51.20 (14).

SECTION 55. 51.20 (16) (a) of the statutes, as affected by chapters 26 and 187, laws of 1977, is renumbered 51.20 (15) (a) and amended to read:

51.20 (15) (a) *To the court of appeals.* Within ~~40~~ 30 days after disposition entry of any final order or judgment under sub. ~~(14)~~ (13), an appeal may be taken ~~from any final order or judgment~~ to the court of appeals by the subject of the petition or the individual's guardian, by any petitioner or by the representative of the public. The appeal is taken by filing with the clerk of the court rendering the order or judgment a notice of appeal, signed by the appellant or the appellant's attorney, a copy of which shall be served by appellant upon each person to whom notice of the proceeding was required to be given, upon the appropriate community board under s. 51.42 or 51.437, and upon the director of the treatment facility, if any. Failure to serve such notice of appeal upon any of the necessary parties does not deprive the court of appeals of jurisdiction over the appeal.

SECTION 56. 51.20 (16) (b) of the statutes is renumbered 51.20 (15) (b).

SECTION 57. 51.20 (16) (c) of the statutes is renumbered 51.20 (15) (c) and amended to read:

51.20 (15) (c) *Transcript and return.* As soon as possible, but in no event later than 30 days after final hearing, the appellant shall file with the clerk of court a transcript of the reporter's notes. The appellant shall pay the costs of preparing the transcript, except that the county shall pay the costs of preparing the transcript in any case where ~~the U.S. or Wisconsin constitution so requires~~ if the appellant is financially unable to pay the costs if counsel has been appointed at public expense under sub. (3) or s. 967.06. Within 5 days after the transcript is filed, the clerk shall return the case file and transcript to the ~~circuit~~ court of appeals and shall notify the parties of such filing.

SECTION 58. 51.20 (16) (L) of the statutes is created to read:

51.20 (16) (L) The pendency of an appeal in either the court of appeals or the supreme court does not deprive the county court of jurisdiction to conduct reexamination proceedings under this section with respect to the individual who is the subject of the appeal.

SECTION 59. 51.20 (17) (a) and (b) of the statutes are renumbered 51.20 (16) (a) and (b), respectively.

SECTION 60. 51.20 (17) (c) of the statutes is renumbered 51.20 (16) (c) and amended to read:

51.20 (16) (c) If a hearing has been held with respect to the subject individual's commitment within 30 days of the filing of a petition under this subsection, no hearing shall be held. If such a hearing has not been held within 30 days of the filing of a petition, but has been held within 120 days of the filing, the court shall within 24 hours of the filing order an examination to be completed within ~~96 hours, exclusive of Saturdays, Sundays and holidays,~~ 7 days by the appropriate board under s. 51.42 or 51.437. A hearing may then be held in the court's discretion. If such a hearing has not been held within 120 days of the filing, a hearing shall be held on the petition within 30 days of receipt.

SECTION 61. 51.20 (17) (d) and (e) of the statutes are renumbered 51.20 (16) (d) and (e), respectively.

SECTION 62. 51.20 (17) (f) and (g) of the statutes are renumbered 51.20 (16) (f) and (g) and amended to read:

51.20 (16) (f) If a patient is involuntarily committed and placed in a hospital, a notice of the appointment of the examining physicians and ~~a copy~~ copies of their ~~report~~ reports shall be furnished to such hospital by the court.

(g) Upon the filing of ~~a report~~ the examiners' reports the court shall fix a time and place of hearing and cause reasonable notice to be given to the petitioner, the treatment facility, the patient's legal counsel and the guardian of the patient, if any, and may notify any known relative of the patient. Subsections ~~(11) to (14)~~ (10) to (13) shall govern the procedure to be used in the conduct of ~~such~~ the hearing, insofar as applicable. The privileges provided in ss. 905.03 and 905.04 shall apply to reexamination hearings.

SECTION 63. 51.20 (17) (h) to (k), (18) and (19) (a) and (b) of the statutes are renumbered 51.20 (16) (h) to (k), (17) and (18) (a) and (b), respectively.

SECTION 64. 51.20 (19) (c) of the statutes, as affected by chapter 29, laws of 1977, is renumbered 51.20 (18) (c) and amended to read:

51.20 (18) (c) Expenses of the proceedings from the presentation of the application statement of emergency detention or petition for commitment to the conclusion of the proceeding shall be allowed by the court and paid by the county from which the subject individual is detained, committed or released, in the manner that the expenses of a criminal prosecution are paid, as provided in s. 59.77. Payment of ~~attorney's~~ attorney fees for appointed attorneys in the case of indigents shall be in accordance with ch. 977.

SECTION 65. 51.20 (19) (d) of the statutes is renumbered 51.20 (18) (d) and amended to read:

51.20 (18) (d) If the subject individual has a legal residence in a county other than the county from which he or she is detained, committed or discharged, that county shall reimburse the county from which the individual was detained, committed or discharged for all expenses under pars. (a) to (c). The county clerk on each July 1 shall submit evidences of payments to the department, which shall certify such expenses for reimbursement in the form of giving credits to the detaining, committing or discharging county and assessing such costs against the county of legal residence or against the state at the time of the next apportionment of charges and credits under s. 70.60.

SECTION 66. 51.22 (2) and (3) of the statutes are amended to read:

51.22 (2) Voluntary admissions under ss. 51.10, 51.13 and 51.45 (10) shall be through the board established under s. 51.42 or 51.437 serving the person's county of residence, or through the department if ~~such~~ the person to be admitted is a nonresident of this state. Admissions through a community board shall be made in accordance with

s. 51.42 (9) (a) or 51.437 (12) (a). Admissions through the department shall be made in accordance with sub. (3).

(3) ~~For any~~ Whenever an admission ~~to be~~ is made through the department, ~~the need for inpatient care shall be determined by the department prior to the admission of the patient to a facility shall determine the need for inpatient care of the individual to be admitted.~~ Unless a state-operated facility is used, the department ~~for the purpose intended by this section~~ may only authorize care in an inpatient facility which is operated by or under a purchase of service contract with a board established under s. 51.42 or 51.437 or an inpatient facility which is under a contractual agreement with the department. Except in the case of state treatment facilities, the department shall reimburse the facility for the actual cost of all authorized care and services from the appropriation under s. 20.435 (2) (d). For collections made under the authority of s. 46.10 (16), moneys shall be credited or remitted to the department no later than 60 days after the month in which collections are made. Such collections are also subject to s. 46.036 or special agreement. Collections made by the department under ss. 46.03 (18) and 46.10 shall be deposited in the general fund.

SECTION 67. 51.30 of the statutes, as affected by chapters 26 and 61, laws of 1977, is repealed and recreated to read:

51.30 Records. (1) DEFINITIONS. In this section:

(a) "Registration records" include all the records of the department, boards established under s. 51.42 or 51.437, treatment facilities, and other persons providing services to the department, boards or facilities which identify individuals who are receiving or who at any time have received services for mental illness, developmental disabilities, alcoholism or drug dependence.

(b) "Treatment records" include the registration and all other records concerning individuals who are receiving or who at any time have received services for mental illness, developmental disabilities, alcoholism, or drug dependence which are maintained by the department, by boards established under s. 51.42 or 51.437 and their staffs, and by treatment facilities. Such records do not include notes or records maintained for personal use by an individual providing treatment services for the department, a community board established under s. 51.42 or 51.437, or a treatment facility if such notes or records are not available to others.

(2) INFORMED CONSENT. An informed consent for disclosure of information from court or treatment records to an individual, agency, or organization must be in writing and must contain the following: the name of the individual, agency, or organization to which the disclosure is to be made; the name of the subject individual whose treatment record is being disclosed; the purpose or need for the disclosure; the specific type of information to be disclosed; the time period during which the consent is effective; the date on which the consent is signed; and the signature of the individual or person legally authorized to give consent for the individual.

(3) ACCESS TO COURT RECORDS. The files and records of the court proceedings under this chapter shall be closed but shall be accessible to any individual who is the subject of a petition filed under this chapter. An individual's attorney or guardian ad litem shall have access to such records without the individual's consent and without modification of the records in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission or commitment under this chapter or ch. 971 or 975. In other situations, such records may be released to other persons only pursuant to the informed written consent of the individual or pursuant to lawful order of the court which maintains the records.

(4) ACCESS TO REGISTRATION AND TREATMENT RECORDS. (a) *Confidentiality of records.* Except as otherwise provided in this chapter and ss. 905.03 and 905.04, all treatment records shall remain confidential and are privileged to the subject individual. Such records may be released only to the persons designated in this chapter or s. 905.03 and 905.04, or to other designated persons with the informed written consent of the subject individual as provided in this section. This restriction applies to elected officials and to members of boards established under s. 51.42 or 51.437.

(b) *Access without informed written consent.* Notwithstanding par. (a), treatment records of an individual may be released without informed written consent in the following circumstances, except as restricted under par. (c):

1. To an individual, organization or agency designated by the department or as required by law for the purposes of management audits, financial audits, or program monitoring and evaluation. Information obtained under this paragraph shall remain confidential and shall not be used in any way that discloses the names or other identifying information about the individual whose records are being released. The department shall promulgate rules to assure the confidentiality of such information.

2. To the department, the program director of a board established under s. 51.42 or 51.437, or a qualified staff member designated by the program director as is necessary for, and only to be used for, billing or collection purposes. Such information shall remain confidential. The department and community boards shall develop procedures to assure the confidentiality of such information.

3. For purposes of research as permitted in s. 51.61 (1) (j) and (4) if the research project has been approved by the department and the researcher has provided assurances that the information will be used only for the purposes for which it was provided to the researcher, the information will not be released to a person not connected with the study under consideration, and the final product of the research will not reveal information that may serve to identify the individual whose treatment records are being released under this subsection without the informed written consent of the individual. Such information shall remain confidential. In approving research projects under this subsection, the department shall impose any additional safeguards needed to prevent unwarranted disclosure of information.

4. Pursuant to lawful order of a court of record.

5. To qualified staff members of the department, to the program director of the board established under s. 51.42 or 51.437 which is responsible for serving a subject individual or to qualified staff members designated by the program director as is necessary to determine progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility. Such information shall remain confidential. The department and boards established under s. 51.42 or 51.437 shall develop procedures to assure the confidentiality of such information.

6. Within the treatment facility where the subject individual is receiving treatment confidential information may be disclosed to individuals employed, individuals serving in bona fide training programs or individuals participating in supervised volunteer programs, at the facility when and to the extent that performance of their duties requires that they have access to such information.

7. Within the department to the extent necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism or drug abuse of individuals who have been committed to or who are under the supervision of the department. The department shall promulgate rules to assure the confidentiality of such information.

8. To a licensed physician who has determined that the life or health of the individual is in danger and that treatment without the information contained in the treatment records could be injurious to the patient's health. Such disclosure shall be limited to that part of the records necessary to meet the medical emergency.

9. To a facility which is to receive an individual who is involuntarily committed under this chapter, ch. 971 or 975 upon transfer of the individual from one treatment facility to another. Release of records under this subdivision shall be limited to such treatment records as are required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but it may not include the patient's complete treatment record. The department shall promulgate rules to implement this subdivision.

10. To a correctional facility or to a probation and parole agent who is responsible for the supervision of an individual who is receiving inpatient or outpatient evaluation or treatment under this chapter in a program that is operated by, or is under contract with, the department or a board established under s. 51.42 or 51.437, or in a treatment facility, as a condition of the probation and parole supervision plan, or whenever such an individual is transferred from a state or local correctional facility to such a treatment program and is then transferred back to the correctional facility. Every probationer or parolee who receives evaluation or treatment under this chapter shall be notified of the provisions of this subdivision by the individual's probation and parole agent. Release of records under this subdivision is limited to:

a. The report of an evaluation which is provided pursuant to the written probation and parole supervision plan.

b. The discharge summary, including a record or summary of all somatic treatments, at the termination of any treatment which is provided as part of the probation and parole supervision plan.

c. When an individual is transferred from a treatment facility back to a correctional facility, the information provided under subd. 9.

d. Such other information as may be necessary to implement changes in the individual's treatment plan or in the level and kind of supervision on probation or parole, as determined by the director of the facility or the treatment director. Disclosure under subd. 10. d shall be made to a probation and parole agent only. The department shall promulgate rules governing the release of records under this subdivision.

11. To the subject individual's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals or other actions relating to detention, admission, commitment or patients' rights under this chapter or ch. 971 or 975.

12. To a correctional officer of the department who has custody of or is responsible for the supervision of an individual who is transferred, discharged or on unauthorized absence from a treatment facility. Records released under this subdivision are limited to notice of the subject individual's change in status.

13. To the parents, children or spouse of an individual who is or was a patient at an inpatient facility, to a law enforcement officer who is seeking to determine whether an individual is on unauthorized absence from the facility, and to mental health professionals who are providing treatment to the individual at the time that the information is released to others. Information released under this subdivision is limited to notice as to whether or not an individual is a patient at the inpatient facility.

14. To the counsel for the interests of the public in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals or other actions relating to detention, admission or commitment under this chapter or ch. 971 or 975. Records released under this subdivision are limited to information concerning the admission, detention or commitment of an individual who is presently admitted, detained or committed.

15. To personnel employed by the county department of social services or public welfare and the board or boards established under ss. 51.42 and 51.437 in any county where such agencies have established and submitted to the department a written agreement to coordinate services to individuals receiving services under this chapter. This information shall be released upon request of such agency personnel, and may be utilized only for the purposes of coordinating human services delivery and case management. This information shall remain confidential, and shall continue to be governed by this section. Information may be released under this subdivision only if the subject individual has received services through a board established under s. 51.42 or 51.437 within 6 months preceding the request for information, and the information is limited to:

a. The subject individual's name, address, age, birthdate, sex, client-identifying number and primary disability.

b. The type of service rendered or requested to be provided to the subject individual, and the dates of such service or request.

c. Funding sources, and other funding or payment information.

(c) *Limitation on release of alcohol and drug treatment records.* Notwithstanding par. (b), whenever federal law or applicable federal regulations restrict, or as a condition to receipt of federal aids require that this state restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency in a program or facility to a greater extent than permitted under this section, the department may by rule restrict the release of such information as may be necessary to comply with federal law and regulations. Rules adopted under this paragraph shall supersede this section with respect to alcoholism and drug dependency treatment records in those situations in which they apply.

(d) *Individual access.* 1. Access to treatment records by a subject individual during his or her treatment may be restricted by the director of the treatment facility. However, access may not be denied at any time to records of all medications and somatic treatments received by the individual.

2. The subject individual shall have a right, following discharge under s. 51.35 (4), to a complete record of all medications and somatic treatments prescribed during admission or commitment and to a copy of the discharge summary which was prepared at the time of his or her discharge. A reasonable and uniform charge for reproduction may be assessed.

3. In addition to the information provided under subd. 2, the subject individual shall, following discharge, if the individual so requests, have access to and have the right to receive from the facility a photostatic copy of any or all of his or her treatment records. A reasonable and uniform charge for reproduction may be assessed. The director of the treatment facility or such person's designee and the treating physician have a right to be present during inspection of any treatment records. Notice of inspection of treatment records shall be provided to the director of the treatment facility and the treating physician at least one full day, excluding Saturdays, Sundays and legal holidays, before inspection of the records is made. Treatment records may be modified prior to inspection to protect the confidentiality of other patients or the names of any other persons referred to in the record who gave information subject to the condition that his or her identity remain confidential. Entire documents may not be withheld in order to protect such confidentiality.

4. At the time of discharge all individuals shall be informed by the director of the treatment facility or such person's designee of their rights as provided in this subsection.

(e) *Notation of release of information.* Each time written information is released from a treatment record, a notation shall be made in the record by the custodian thereof that includes the following: the name of the person to whom the information was released; the identification of the information released; the purpose of the release; and the date of the release. The subject individual shall have access to such release data as provided in par. (d).

(f) *Correction of information.* A subject individual, or the parent, guardian or person in loco parentis of a minor, or the guardian of an incompetent may, after having gained access to treatment records, challenge the accuracy, completeness, timeliness, or relevance of factual information in his or her treatment records and request in writing that the facility maintaining the record correct the challenged information. Such request shall be granted or denied within 30 days by the director of the treatment facility, the program director of the board established under s. 51.42 or 51.437, or the secretary depending upon which person has custody of the record. Reasons for denial of the requested changes shall be given by the responsible officer and the individual shall be informed of any applicable grievance procedure or court

review procedure. If the request is denied, the individual, parent, guardian or person in loco parentis shall be allowed to insert into the record a statement correcting or amending the information at issue. The statement shall become a part of the record and shall be released whenever the information at issue is released.

(5) **MINORS AND INCOMPETENTS.** (a) *Consent for release of information.* The parent, guardian, or person in loco parentis of a minor or the guardian of an adult adjudged incompetent under ch. 880 may consent to the release of confidential information in court or treatment records. A minor who is aged 14 or more may consent to the release of confidential information in court or treatment records without the consent of the minor's parent, guardian or person in loco parentis. Consent under this paragraph must conform to the requirements of sub. (2).

(b) *Access to information.* 1. The guardian of an individual who is adjudged incompetent under ch. 880 shall have access to the individual's court and treatment records at all times. The parent, guardian or person in loco parentis of a developmentally disabled minor shall have access to the minor's court and treatment records at all times except in the case of a minor aged 14 or older who files a written objection to such access with the custodian of the records. The parent, guardian or person in loco parentis of other minors shall have the same rights of access as provided to subject individuals under this section.

2. A minor upon reaching the age of 14 shall have access to his or her own court and treatment records, as provided in this section. A minor under the age of 14 shall have access to court records but only in the presence of parent, guardian, counsel, guardian ad litem or judge and shall have access to treatment records as provided in this section but only in the presence of parent, guardian, counsel, guardian ad litem or staff member of the treatment facility.

(c) *Juvenile court records.* The court records of juveniles admitted or committed under this chapter shall be kept separately from all other juvenile court records.

(d) *Other juvenile records.* Section 48.78 does not apply to records covered by this section.

(e) *Temporary guardian for adult incompetent.* If an adult is believed to be incompetent to consent to the release of records under this section, but no guardian has been appointed for such individual, consent for the release of records may be given by a temporary guardian who is appointed for the purpose of deciding upon the release of records.

(6) **PRIVILEGES.** Sections 905.03 and 905.04 supersede this section with respect to communications between physicians and patients and between attorneys and clients.

(7) **CRIMINAL COMMITMENTS.** Except as otherwise specifically provided, this section applies to the treatment records of persons who are committed under chs. 971 and 975.

(8) **GRIEVANCES.** Failure to comply with any provisions of this section may be processed as a grievance under s. 51.61 (5). However, use of the grievance procedure is not required before bringing any civil action or filing a criminal complaint under this section.

(9) **ACTIONS FOR VIOLATIONS; DAMAGES; INJUNCTION.** (a) Any person, including the state or any political subdivision of the state, violating this section shall be liable to any person damaged as a result of the violation for such damages as may be proved, together with exemplary damages of not less than \$100 for each violation and such costs and reasonable actual attorney fees as may be incurred by the person damaged. A custodian of records incurs no liability under this paragraph for the release of records in accordance with this section while acting in good faith.

(b) In any action brought under par. (a) in which the court determines that the violator acted in a manner that was knowing and wilful, the violator shall be liable for such damages as may be proved together with exemplary damages of not less than \$500 nor more than \$1,000 for each violation, together with costs and reasonable actual attorney fees as may be incurred. It is not a prerequisite to an action under this subsection that the plaintiff suffer or be threatened with actual damages.

(c) An individual may bring an action to enjoin any violation of this section or to compel compliance with this section, and may in the same action seek damages as provided in this subsection. The individual may recover costs and reasonable actual attorney fees as may be incurred in the action, if he or she prevails.

(10) PENALTY. Any person who requests or obtains confidential information under this section under false pretenses may be fined not more than \$500 or imprisoned not more than one year in the county jail or both.

(11) DISCIPLINE OF EMPLOYEES. Any employe of the department, a board established under s. 51.42 or 51.437, or public treatment facility who violates this section or any rule adopted pursuant to this section may be subject to discharge or suspension without pay.

(12) RULE-MAKING. The department shall promulgate rules to implement this section.

SECTION 68. 51.35 (1) (e) of the statutes, as affected by chapter 29, laws of 1977, is amended to read:

51.35 (1) (e) Whenever any transfer between different treatment facilities results in a greater restriction of personal freedom for the patient and whenever the patient is transferred from outpatient to inpatient status, such patient shall be informed both orally and in writing of his or her right to contact an attorney and a member of his or her immediate family, the right to have an attorney provided at public expense, as provided under s. 967.06 and ch. 977, if the patient is indigent and the right to petition a court where the patient is located or the committing court for a review of the transfer. This paragraph does not apply to a return to a more restrictive facility if such return occurs within 7 days of a temporary transfer from such facility and the return was part of a previously established plan of which the patient was notified at the time of the temporary transfer.

SECTION 69. 51.35 (1) (f) of the statutes is created to read:

51.35 (1) (f) The transfer of a patient or resident to a medical facility for nonpsychiatric medical services does not constitute a transfer within the meaning of this chapter and does not require the procedural protections for return to the original facility which are required by this section for other transfers.

SECTION 70. 51.35 (2) of the statutes is amended to read:

51.35 (2) TRANSFER OF CERTAIN DEVELOPMENTALLY DISABLED PATIENTS. The department may authorize a transfer of a patient from a center for the developmentally disabled to a state treatment facility if such patient is mentally ill and exhibits conduct which constitutes a danger as defined in s. 51.20 (1) (a) 2 to himself or herself or to others in the treatment facility where he or she is present. The department shall file ~~an affidavit~~ a statement of emergency detention with the committing court within 24 hours after receiving such person for emergency detention. ~~Such affidavit~~ The statement shall conform to the requirements specified in s. 51.15 ~~(2) (4).~~

SECTION 71. 51.35 (3) (a) of the statutes, as affected by chapter 29, laws of 1977, is repealed and recreated to read:

51.35 (3) (a) A licensed physician or licensed psychologist of a juvenile correctional facility under s. 48.52 or a licensed physician or licensed psychologist of the department, who has reason to believe that any individual confined in the facility is, in his or her opinion, in need of services for developmental disability, alcoholism or drug dependency or in need of psychiatric services, and who has obtained voluntary consent to make a transfer for treatment, shall make a report, in writing, to the superintendent of the facility, stating the nature and basis of the belief and verifying the consent. In the case of a minor age 14 and over, the minor and the minor's parent or guardian shall consent unless the minor is admitted under s. 51.13 (1) (c); and in the case of a minor under the age of 14, only the minor's parent or guardian need consent. The superintendent shall inform, orally and in writing, the minor and the

minor's parent or guardian, that transfer is being considered and shall inform them of the basis for the request and their rights as provided in s. 51.13 (3). If the department, upon review of a request for transfer, determines that transfer is appropriate, the department may immediately transfer the individual and shall file a petition under s. 51.13 (4) (a) in the juvenile court of the county where the treatment facility is located.

SECTION 72. 51.35 (3) (b) of the statutes, as affected by chapter 29, laws of 1977, is renumbered 51.35 (3) (d) and amended to read:

51.35 (3) (d) Within a reasonable time before the expiration of ~~such individual's~~ the confinement of an individual who is transferred under par. (a), if he or she is still in the treatment facility, the director shall make an application under s. 51.20 or 51.45 (13) to the court of the county in which the hospital is located for an inquiry into the individual's mental and physical condition, and thereafter the proceedings shall be as in other applications ~~under that section such provisions~~. Notwithstanding ~~s. ss.~~ 51.20 (1) (b) and 51.45 (13) (a), the application of the director of the ~~state~~ treatment facility alone is sufficient.

SECTION 73. 51.35 (3) (b) of the statutes is created to read:

51.35 (3) (b) The juvenile court shall determine, based on the allegations of the petition and accompanying documents, whether the transfer is voluntary on the part of the minor if he or she is aged 14 or over, and whether the transfer of the minor to an inpatient facility is appropriate and consistent with the needs of the minor. In the event that the court is unable to make such determinations based on the petition and accompanying documents, it shall order additional information to be produced as it deems necessary to make such review, and make such determinations within 14 days of admission, or it may hold a hearing within 14 days of admission. If a notation of the minor's unwillingness appears on the face of the petition, or that a hearing has been requested by the minor, the minor's counsel, guardian ad litem, parent or guardian, the court shall hold a hearing and appoint counsel or a guardian ad litem for the minor as provided in s. 51.13 (5) (d). At the conclusion of the hearing, the court shall approve or disapprove the request for transfer. If the minor is under the continuing jurisdiction of the court of another county, the court may order the case transferred together with all appropriate records to that court.

SECTION 74. 51.35 (3) (c) of the statutes, as affected by chapter 29, laws of 1977, is renumbered 51.35 (3) (e) and amended to read:

51.35 (3) (e) The department may authorize emergency transfer of an individual from a juvenile correctional facility to a state treatment facility if there is cause to believe that such individual is mentally ill, drug dependent, ~~alcoholic or a minor who is~~ developmentally disabled and exhibits conduct which constitutes a danger as defined in s. 51.20 (1) (a) 2 to the individual or to others, ~~or is an alcoholic and is dangerous as provided in s. 51.45 (13) (a) 1 and 2.~~ The correctional custodian of the sending institution shall execute a statement of emergency detention or petition for emergency commitment for such individual and deliver it to the receiving state treatment facility. The department shall file an affidavit of emergency detention under s. 51.15 (2) the statement or petition with the court within 24 hours after such person the subject individual is received for detention or commitment. Such statement or petition shall conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After an emergency transfer is made, the director of the receiving facility may file a petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return the individual to the institution from which the transfer was made. As an alternative to this procedure, the procedure provided in s. 51.15 or 51.45 (12) may be used, except that no prisoner may be released without the approval of the court which directed confinement in the correctional facility.

SECTION 75. 51.35 (3) (c), (f) and (g) of the statutes are created to read:

51.35 (3) (c) A licensed physician or licensed psychologist of a juvenile correctional facility or of the department, who has reason to believe that any individual

confined in the facility is, in his or her opinion, mentally ill, drug dependent or developmentally disabled, and is dangerous as defined in s. 51.20 (1) (a) 2, or is an alcoholic and is dangerous as defined in s. 51.45 (13) (a), shall file a written report with the superintendent of the facility, stating the nature and basis of the belief. If the superintendent, upon review of the allegations in the report, determines that transfer is appropriate, he or she shall file a petition according to s. 51.20 or 51.45 in the juvenile court of the county where the correctional facility is located. The court shall hold a hearing according to procedures provided in s. 51.20 or 51.45 (13).

(f) A copy of the patient's rights established in s. 51.61 shall be given and explained to the minor and his or her parent or guardian at the time of admission by the director of the facility or such person's designee.

(g) A minor 14 years of age or older who is transferred to a treatment facility under par. (a) may request in writing a return to the juvenile correctional facility. In the case of a minor under 14 years of age, the parent or guardian may make the request. Upon receipt of a request for return from a minor 14 years of age or over, the director shall immediately notify the minor's parent or guardian. The minor shall be returned to the juvenile correctional facility within 48 hours after submission of the request unless a petition or statement is filed for emergency detention, emergency commitment, involuntary commitment or protective placement.

SECTION 76. 51.35 (4) (a) of the statutes is amended to read:

51.35 (4) (a) The board established under s. 51.42 or 51.437 shall grant a ~~conditional transfer or discharge from an order of commitment or protective placement~~ when it determines that the patient no longer meets the standard for recommitment under s. 51.20 ~~(14)~~ (13) (g) ~~or placement under s. 55.06 (2)~~. The board shall grant a discharge to a patient who is voluntarily admitted to a ~~treatment~~ an inpatient facility if the treatment director determines that treatment is no longer necessary or if the individual requests such discharge. Discharge or retention of a patient who is voluntarily admitted is subject to the procedures prescribed in s. ~~ss. 51.10 (1) (e) (5)~~ and 51.13 (7).

SECTION 77. 51.35 (4) (b) of the statutes, as affected by chapter 26, laws of 1977, is amended to read:

51.35 (4) (b) The department shall grant a discharge from commitment, ~~protective placement~~ or from voluntary admission for patients committed, ~~placed~~ or voluntarily admitted to a facility under control of the department. The procedure standards applied by the department in granting a discharge shall be the same as those provided in par. (a). The department may not discharge from a commitment an individual who has been committed to a board established under s. 51.42 or 51.437 without first obtaining approval of that board. The department may discharge a voluntarily admitted patient if the appropriate board is notified. Transfers of patients may be made by the department in accordance with sub. (1).

SECTION 78. 51.35 (4) (c), (d) and (f) and (6) (a) of the statutes are amended to read:

51.35 (4) (c) The director of an ~~approved treatment inpatient~~ facility may grant a discharge or may terminate services to any patient who is voluntarily admitted under s. 51.10 or 51.13 when, on the advice of the treatment staff, such discharge or termination is in the best interests of the patient.

(d) The director of an ~~approved treatment inpatient~~ facility may grant a discharge or may terminate services to any patient voluntarily admitted under s. 51.10 or 51.13 when such patient requests a discharge. Such discharge shall conform to the requirements of s. 51.10 (1) (e) 3 (5) (c) or 51.13 (7).

(f) Notice of discharge shall be filed with the committing court ~~or the court which ordered protective placement, if any~~, by the department or the board which granted the discharge. After such discharge, if it becomes necessary for the individual who is discharged to have further care and treatment, and such individual cannot be voluntarily admitted, a new commitment ~~or placement~~ must be obtained, following the procedure for the original commitment ~~or placement~~.

(6) (a) When the department has notice that any person other than a prisoner is entitled to receive care and treatment in a veterans' administration facility, the person may petition the department for a transfer to such facility, and the department ~~shall~~ may in cooperation with the department of veterans affairs procure his or her admission to such facility in accordance with s. 45.30.

SECTION 79. 51.35 (8) of the statutes is created to read:

51.35 (8) HOME VISITS AND LEAVES AUTHORIZED. (a) The department or the board established under s. 51.42 or 51.437 may grant to a patient or resident who is committed to it under this chapter, or who is admitted or transferred under this chapter to a facility under its supervision or operating under a contractual agreement with it, a home visit for up to 15 days, or a leave for employment or education purposes in which the patient or resident is not absent from the facility for more than 15 days.

(b) If a patient or resident who is detained under s. 51.15, committed under s. 51.20 or transferred under sub. (3) does not return to the treatment facility by the time designated in the granting of the home visit or leave, the director of the treatment facility may request the sheriff of the county in which the individual is found to return the individual to the facility. The sheriff shall act in accordance with s. 51.39.

(c) This subsection does not apply to persons transferred from a prison or jail under s. 51.37 (5).

(d) A home visit or leave does not constitute a transfer under this chapter, and does not require a hearing under this section or s. 51.61.

SECTION 80. 51.37 (5) and (9) of the statutes are amended to read:

51.37 (5) (a) When a licensed physician or licensed psychologist of a state prison, of a county jail or of the department reports in writing to the officer in charge of a jail or institution that any prisoner is, in his or her opinion, mentally ill, drug dependent, or developmentally disabled and is dangerous as defined in s. 51.20 (1), or is an alcoholic and is dangerous as ~~specified~~ provided in s. 51.45 (13) (a) 1 and 2; or that the prisoner is mentally ill, drug dependent, developmentally disabled or is an alcoholic and is in need of psychiatric or psychological treatment, and that the prisoner voluntarily consents to a transfer for treatment, the officer shall make a written report to the department which may transfer the ~~petitioner~~ prisoner if a voluntary application is made, and if not file a petition for involuntary commitment under s. 51.20 (1) or 51.45 (13). Any time spent by a prisoner in an institution designated under sub. (2) or (3) shall be included as part of such individual's sentence.

(b) The department may authorize an emergency transfer of an individual from a prison, jail or other criminal detention facility to a state treatment facility if there is cause to believe that such individual is mentally ill, drug dependent or developmentally disabled and exhibits conduct which constitutes a danger as defined in s. 51.20 (1) (a) 2 of physical harm to himself or herself or to others, or is an alcoholic and is dangerous as provided in s. 51.45 (13) (a) 1 and 2. The correctional custodian of the sending institution shall execute a statement of emergency detention or petition for emergency commitment for such individual and deliver it to the receiving state treatment facility. The department shall file an affidavit of emergency detention the statement or petition with the court within 24 hours after receiving such the subject individual for detention. Such affidavit statement or petition shall conform to s. 51.15 (2) (4) or (5) or 51.45 (12) (b). After an emergency transfer is made, the director of the receiving facility may file a petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return the individual to the institution from which the transfer was made. As an alternative this procedure, the emergency detention procedure in s. 51.15 or 51.45 (12) may be used, except that no prisoner may be released without the approval of the court which directed confinement in the institution.

(9) If in the judgment of the director of central state hospital, Mendota mental health institute, Winnebago mental health institute or the Milwaukee county mental

health center, any person who is committed under s. 971.14 or 971.17 is not in such condition as warrants his or her return to the court but is in a condition to receive a conditional transfer or discharge under supervision, the director shall report to the department ~~and, the committing court and the district attorney of the county in which the court is located~~ his or her reasons for such judgment. If the court does not file objection to the conditional transfer or discharge within 60 days of the date of the report, the director may, with the approval of the department, conditionally transfer any person to a legal guardian or other person, subject to the rules of the department.

SECTION 81. 51.37 (10) and (11) of the statutes are created to read:

51.37 (10) (a) The director of a state treatment facility may grant to any patient admitted to the facility as a result of a commitment under ch. 971 or 975, a home visit for up to 15 days, or a leave for employment or education purposes in which the patient is not absent from the facility for more than 15 days.

(b) Such a home visit or leave may be granted by the department at its discretion when it is believed to be in the best therapeutic interests of the patient and it is reasonably believed not to present a substantial risk of harm to the community.

(c) Any patient who is granted a home visit or leave under this subsection shall be restricted to the confines of this state unless otherwise specifically permitted. The patient may, in addition, be restricted to a particular geographic area. Other conditions appropriate to the person's treatment may also be imposed upon the home visit or leave.

(d) If such a patient does not return to the treatment facility by the time designated in the granting of the home visit or leave, or if the patient is believed to have violated other conditions of the home visit or leave, the director of the treatment facility may request the sheriff of the county in which the patient is found to return the patient to the facility. The sheriff shall act in accordance with s. 51.39.

(e) The director of the facility in which the patient under par. (a) is detained or committed shall notify the committing court and the appropriate correctional officers of the department of the intention to grant a home visit or leave under this subsection at least 20 days prior to the departure of the patient from the facility.

(f) This section does not apply to persons transferred from a prison or jail under sub. (5).

(g) A home visit or leave does not constitute a transfer under this chapter and return to the facility does not necessitate a hearing under s. 51.35 or 51.61.

(11) When an individual who is in the custody of or under the supervision of a correctional officer of the department is transferred, discharged or is on unauthorized absence from a treatment facility, the probation or parole agent or other individual within the department who is responsible for that individual's supervision shall be notified as soon as possible by the director of the treatment facility.

SECTION 82. 51.38 of the statutes is amended to read:

51.38 Nonresident patients on unauthorized absence. The county court may order the detention of any nonresident individual who is on unauthorized absence from a ~~mental~~ any institution of another state for the treatment of mental illness, developmental disabilities, alcoholism or drug abuse. Detention shall be for the period necessary to complete the deportation of that individual.

SECTION 83. 51.39 of the statutes is amended to read:

51.39 Resident patients on unauthorized absence. If any patient who is admitted under s. ~~51.13, 51.15 or, 51.20 or 51.45~~ (12) or (13) or ch. 971 or 975 or transferred under s. 51.35 (3) or 51.37 is on unauthorized absence from a treatment facility, the sheriff of the county in which the patient is found, upon the request of the director, shall take charge of and return the patient to the facility. The costs incident to the return shall be paid out of the facility's operating funds and be charged back to the patient's county of residence.

SECTION 84. 51.42 (1) (b) and (9) (a) of the statutes are amended to read:

51.42 (1) (b) *Responsibility of county government.* The county boards of supervisors have the primary responsibility for the well-being, treatment and care of the mentally ill, developmentally disabled, alcoholic and other drug dependent citizens residing within their respective counties and for ensuring that those individuals in need of such emergency services found within their respective counties receive immediate emergency services. County liability for care and services purchased through or provided by a board established under this section shall be based upon the client's county of residence except for emergency services for which liability shall be placed with the county in which the individual is found. For the purpose of establishing county liability, "emergency" services ~~means~~ includes those services provided under the authority of s. 51.15 ~~(1)~~, 51.45 (1) (b) and (12), 55.05 (4) ~~or~~, 55.06 (11) (a); ~~and s. or~~ 51.45 (1) (a) for not more than ~~24~~ 72 hours. Nothing in this paragraph prevents recovery of liability under s. 46.10 or any other statute creating liability upon the individual receiving a service or any other designated responsible party.

(9) (a) Authorization for all care of any patient in a state, local or private facility shall be provided under a contractual agreement between the board and the facility, unless the board governs such facility. The need for inpatient care shall be determined by the clinical director of the program ~~prior to the admission of a patient to the facility except in the case of emergency services.~~ In cases of emergency, a facility under contract with any board shall charge the board having jurisdiction in the county where the patient is found. The board shall reimburse the facility for the actual cost of all authorized care and services less applicable collections according to s. 46.036, unless the department determines that a charge is administratively infeasible, or unless the department, after individual review, determines that the charge is not attributable to the cost of basic care and services. However, boards shall not reimburse any state institution nor receive credit for collections for care received therein by nonresidents of this state, interstate compact clients, transfers under s. 51.35 ~~(2)~~ ~~(a)~~ (3), commitments under s. 971.14, 971.17, 975.01, 975.02, 975.06 or admissions under s. 975.17, or children placed in the guardianship or legal custody of the department under s. 48.34, 48.35 or 48.43. The exclusionary provisions of s. 46.03 (18) do not apply to direct and indirect costs which are attributable to care and treatment of the client.

SECTION 85. 51.437 (8) of the statutes is amended to read:

51.437 (8) MILWAUKEE COUNTY. In counties having a population of 500,000 or more, the county board of supervisors may designate the board of public welfare established under s. 46.21 ~~shall constitute as~~ the governing and policy-making board of directors under this section. ~~Such counties shall not combine with other counties.~~ The ~~In such case, the~~ appointment, composition and term of the members of the board of such counties shall be governed by s. 46.21. Such counties may not combine boards with other counties as provided in sub. (3) (a).

SECTION 86. 51.437 (16) of the statutes is created to read:

51.437 (16) ADMINISTRATIVE STRUCTURE. Rules adopted by the secretary under s. 51.42 (12) shall apply to services provided through boards which are created under this section.

SECTION 87. 51.45 (10) (a) of the statutes is amended to read:

51.45 (10) (a) An adult alcoholic may apply for voluntary treatment directly to an approved public treatment facility. If the proposed patient is an incompetent person who has not been deprived of the right to contract under subch. I of ch. 880, the person or a legal guardian or other legal representative may make the application. If the proposed patient is an incompetent person who has been deprived of the right to contract under subch. I of ch. 880, a legal guardian or other legal representative may make the application.

SECTION 88. 51.45 (10) (e) and (13)(dm) of the statutes are created to read:

51.45 (10) (e) This subsection applies only to admissions of alcoholics whose care and treatment is to be paid for by the department or a community board.

(13) (dm) For the purposes of this section, duties to be performed by a court shall be carried out by the judge of such court or a court commissioner of such court who is an attorney and is designated by the judge to so act, in all matters prior to a final hearing under this subsection.

SECTION 89. 51.45 (14) (a) of the statutes is amended to read:

51.45 (14) (a) Except as otherwise provided in ~~this subsection s. 51.30~~, the registration and ~~other treatment~~ records of ~~treatment alcoholism treatment programs~~ and facilities shall remain confidential and are privileged to the ~~person patient~~. The application of s. 51.30 is limited by any rule adopted under s. 51.30 (4) (c) for the purpose of protecting the confidentiality of alcoholism treatment records in conformity with federal requirements.

SECTION 90. 51.45 (14) (b) to (d) of the statutes are repealed.

SECTION 91. 51.45 (14) (e) of the statutes is renumbered 51.45 (14) (b).

SECTION 92. 51.45 (15) (a) of the statutes is amended to read:

51.45 (15) (a) ~~A~~ Except as provided in s. 51.61 (2), a person being treated under this section does not thereby lose any legal rights.

SECTION 93. 51.45 (15) (b) and (c) of the statutes are repealed.

SECTION 94. 51.45 (15) (d) and (e) of the statutes are renumbered 51.45 (15) (b) and (c), respectively.

SECTION 95. 51.59 of the statutes is created to read:

51.59 Incompetency not implied. (1) No person is deemed incompetent to manage his or her affairs, to contract, to hold professional, occupational or motor vehicle operator's licenses, to marry or to obtain a divorce, to vote, to make a will or to exercise any other civil right solely by reason of his or her admission to a facility in accordance with this chapter or detention or commitment under this chapter.

(2) This section does not authorize an individual who has been involuntarily committed or detained under this chapter to refuse treatment during such commitment or detention.

SECTION 96. 51.61 (1) (intro.) of the statutes is amended to read:

51.61 (1) (intro.) In this section, "patient" means any individual who is receiving services for mental illness, developmental disabilities, alcoholism or drug dependency, including any individual who is admitted to a treatment facility in accordance with this chapter or ch. 55 or who is detained, committed or placed under this chapter or ch. 55, 971 or 975, or who is transferred to a treatment facility under s. 51.35 (3) or 51.37 or who is receiving care or treatment for such conditions through the department or a board established under s. 51.42 or 51.437 or in a private treatment facility. In private hospitals and in public general hospitals, "patient" includes any individual who is admitted for the primary purpose of treatment of mental illness, developmental disability, alcoholism or drug abuse but does not include an individual who receives treatment in a hospital emergency room nor an individual who receives treatment on an outpatient basis at such hospitals, unless the individual is otherwise covered under this subsection. Except as provided in ~~subs. sub. (2) and (3)~~, each patient ~~admitted or committed under this chapter~~ shall:

SECTION 97. 51.61 (1) (b) of the statutes is repealed and recreated to read:

51.61 (1) (b) Have the right to refuse to perform labor which is of financial benefit to the facility in which the patient is receiving treatment or service. Privileges or release from the facility may not be conditioned upon the performance of any labor which is regulated by this paragraph. Patients may voluntarily engage in therapeutic labor which is of financial benefit to the facility if such labor is compensated in accordance with federal minimum wage and hour laws and regulations of the U.S. department of labor, for that type of labor whether or not such laws or rules are specifically applicable to the facility, and provided that: 1) the specific labor is an integrated part of the patient's treatment plan approved as a therapeutic activity by

the professional staff member responsible for supervising the patient's treatment; 2) the labor is supervised by a staff member who is qualified to oversee the therapeutic aspects of the activity; 3) the patient has given his or her written informed consent to engage in such labor and has been informed that such consent may be withdrawn at any time; and 4) the labor involved is evaluated for its appropriateness by the staff of the facility at least once every 120 days. Patients may also voluntarily engage in noncompensated therapeutic labor which is of financial benefit to the facility, if the conditions for engaging in compensated labor under this paragraph are met and provided that: 1) the facility has attempted to provide compensated labor as a first alternative and all resources for providing compensated labor have been exhausted; 2) uncompensated therapeutic labor does not cause layoffs of staff hired by the facility to otherwise perform such labor; and 3) the patient is not required in any way to perform such labor. Tasks of a personal housekeeping nature are not to be considered compensable labor. Payment to a patient performing labor under this section shall not be applied to costs of treatment without the informed, written consent of such patient.

SECTION 98. 51.61 (1) (c), (e), (g), (h), (i) and (j) of the statutes are amended to read:

51.61 (1) (c) Have an unrestricted right to send sealed mail and receive sealed mail to or from legal counsel, the courts, governmental officials, private physicians and licensed psychologists, and have reasonable access to letter writing materials including postage stamps. A patient shall also have a right to send sealed mail and receive sealed mail to or from other persons, subject to physical examination in the patient's presence if there is reason to believe that such communication contains contraband materials or objects which threaten the security of patients, prisoners or staff. Such reasons shall be written in the individual's treatment record. The officers and staff of a facility may not read any mail covered by this paragraph.

(e) Have the right to the least restrictive conditions necessary to achieve the purposes of admission or, commitment or placement, except in the case of a patient who is admitted or transferred under s. 51.35 (3) or 51.37 or under ch. 971 or 975.

(g) Prior to the final commitment hearing and court commitment orders, have the right to refuse all medication and treatment except in a life-threatening situation as ordered by the court under this paragraph, or in a situation where such medication or treatment is necessary to prevent serious physical injury harm to the patient or to others. Medications and treatment during such period may be refused on religious grounds only as provided in par. (h). At or after the hearing to determine probable cause for commitment but prior to the final commitment order, the court may issue an order permitting medication to be administered to the individual regardless of his or her consent if it finds that such medication will have therapeutic value and will not unreasonably impair the ability of the individual to prepare for or participate in subsequent legal proceedings, and that there is probable cause to believe that the individual is not competent to refuse medication. Before issuing such an order, the court shall hold a hearing on the matter which meets the requirements of s. 51.20 (5), except for the right to a jury trial. An individual is not competent to refuse medication if because of mental illness, developmental disability, alcoholism or drug dependence, the individual is incapable of expressing an understanding of the advantages and disadvantages of accepting treatment, and the alternatives to accepting the particular treatment offered, after the advantages, disadvantages and alternatives have been explained to the individual. Following a final commitment order, the subject individual does not have the right to refuse medication and treatment except as provided by this section.

(h) Have a right to be free from unnecessary or excessive medication at any time. No medication may be administered to a patient except at the written order of a physician. The attending physician is responsible for all medication which is administered to a patient. A record of the medication which is administered to each patient shall be kept in his or her medical records. Medication may not be used as punishment, for the convenience of staff, as a substitute for a treatment program, or in quantities that interfere with a patient's treatment program. A Except when

medication or medical treatment has been ordered by the court under par. (g) or is necessary to prevent serious physical harm to others as evidenced by a recent overt act, attempt or threat to do such harm, a patient may refuse medications and medical treatment if the patient is a member of a recognized religious organization and the religious tenets of such organization prohibit such medications and treatment. The individual shall be informed of this right prior to administration of medications or treatment whenever the patient's condition so permits.

(i) Have a right to be free from physical restraint and isolation except for emergency situations or when isolation or restraint is a part of a treatment program. Isolation or restraint may be used only when less restrictive measures are ineffective or not feasible and shall be used for the shortest time possible. When a patient is placed in isolation or restraint, his or her status shall be reviewed once every 30 minutes. Each facility shall have a written policy covering the use of restraint or isolation which ensures that the dignity of the individual is protected, that the safety of the individual is ensured and that there is regular, frequent monitoring by trained staff to care for bodily needs as may be required. Isolation or restraint may be used for emergency situations only when it is likely that the patient may physically harm himself or herself or others. The treatment director shall specifically designate physicians who are authorized to order isolation or restraint, and shall specifically designate licensed psychologists who are authorized to order isolation. In the instance where the treatment director is not a physician, the medical director shall make the designation. In the case of a center for the developmentally disabled, use shall be authorized by the director of the center. The authorization for emergency use of isolation or restraint shall be in writing, except that isolation or restraint may be authorized in emergencies for not more than an hour, after which time an appropriate order in writing shall be obtained from the physician or licensed psychologist designated by the director, in the case of isolation, or the physician so designated in the case of restraint. Emergency isolation or restraint may not be continued for more than 24 hours without a new written order. Isolation may be used as part of a treatment program if it is part of a written treatment plan and the rights specified in this subsection are provided to the patient. The use of isolation as a part of a treatment plan shall be explained to the patient and to his or her guardian, if any, by the person who undertakes such treatment. Such treatment plan shall be evaluated at least once every 2 weeks.

(j) Have a right not to be subjected to experimental research without the express and informed consent of the patient and of the patient's guardian ~~or next of kin~~ after consultation with independent specialists and the patient's legal counsel. Such proposed research shall first be reviewed and approved by the institution's research and human rights committee created under sub. (4) and by the department before such consent may be sought. Prior to such approval, the committee and the department shall determine that research complies with the principles of the statement on the use of human subjects for research adopted by the American Association on Mental Deficiency, and with the regulations for research involving human subjects required by the U.S. department of health, education and welfare for projects supported by that agency.

SECTION 99. 51.61 (1) (n) of the statutes is renumbered 51.61 (1) (p).

SECTION 100. 51.61 (1) (n) of the statutes is created to read:

51.61 (1) (n) Have the right to confidentiality of all treatment records, have the right to inspect and copy such records, and have the right to challenge the accuracy, completeness, timeliness or relevance of information relating to the individual in such records, as provided in s. 51.30.

SECTION 101. 51.61 (1) (o) of the statutes is renumbered 51.61 (1) (q).

SECTION 102. 51.61 (1) (o) of the statutes is created to read:

51.61 (1) (o) Have a right not to be filmed or taped, unless the patient signs an informed and voluntary consent which specifically authorizes a named individual or group to film or tape the patient for a particular purpose or project during a specified

time period. The patient may specify in such consent periods during which, or situations in which, the patient may not be filmed or taped. If a patient is legally incompetent, such consent shall be granted on behalf of the patient by the patient's guardian.

SECTION 103. 51.61 (1) (p) to (r) of the statutes are renumbered 51.61 (1) (r) to (t), respectively.

SECTION 104. 51.61 (2) of the statutes is amended to read:

51.61 (2) ~~Except in the case of a person receiving treatment for alcoholism a~~ A patient's rights guaranteed under sub. (1) ~~(n) (p) to (r) (t)~~ (t) may be denied for cause after review by the director of the facility, and may be denied when medically or therapeutically contraindicated as documented by the patient's physician or licensed psychologist in the patient's treatment record. The individual shall be informed in writing of the grounds for withdrawal of the right and shall have the opportunity ~~to refute the grounds for a review of the withdrawal of the right in an informal hearing before the director of the facility or his or her designee.~~ There shall be documentation of the grounds for withdrawal of rights in the patient's hospital treatment record. After an informal hearing is held, a patient or his or her representative may petition for review of the denial of any right under this subsection through the use of the grievance procedure provided in sub. (5) or, alternatively or in addition to the use of such procedure, may bring an action under sub. (7).

SECTION 105. 51.61 (3) of the statutes is repealed and recreated to read:

51.61 (3) The rights accorded to patients under this section apply to patients receiving services in outpatient and day-service facilities, insofar as applicable.

SECTION 106. 51.61 (5) of the statutes is repealed.

SECTION 107. 51.61 (5) (b) of the statutes is created to read:

51.61 (5) (b) Each private hospital or public general hospital receiving patients who are subject to this section shall establish a grievance procedure to assure the protection of patients' rights under this section.

SECTION 108. 51.61 (6) and (7) of the statutes are renumbered 51.61 (5) (a) and (6), respectively, and amended to read:

51.61 (5) (a) The department shall establish procedures to assure protection of ~~parental patients'~~ patients' rights guaranteed under this chapter, and ~~to shall~~ implement a grievance procedure to assure that rights of patients under this chapter are protected and enforced by the department, by service providers and by boards established under ss. 51.42 and 51.437. The procedures established by the department under this subsection do not apply to patients in private hospitals or public general hospitals except for patients who are admitted through the department or a board established under s. 51.42 or 51.437, or who are admitted in accordance with a written agreement between the hospital and the department or such a board.

(6) Subject to the rights of patients provided under this ~~section~~ chapter, the department or ~~community~~ boards established under s. 51.42 or 51.437, or any agency providing services under an agreement with the department or such boards has the right to use customary and usual treatment techniques and procedures in a reasonable and appropriate manner in the treatment of patients who are receiving services under the mental health system, for the purpose of ameliorating the conditions for which the patients were admitted to the system. The permission written, informed consent of any patient who was voluntarily admitted shall first be obtained. In the case of a minor, the permission written, informed consent of the parent or guardian is required, and if the minor is aged 14 or over, the written, informed consent of the minor and the minor's parent or guardian is required.

SECTION 109. 51.61 (7) to (9) of the statutes are created to read:

51.61 (7) (a) Any patient whose rights are protected under this section who suffers damage as the result of the unlawful denial or violation of any of these rights may bring an action against the person, including the state or any political subdivision

thereof, which unlawfully denies or violates the right in question. The individual may recover any damages as may be proved, together with exemplary damages of not less than \$100 for each violation and such costs and reasonable actual attorney fees as may be incurred.

(b) Any patient whose rights are protected under this section may bring an action against any person, including the state or any political subdivision thereof, which wilfully, knowingly and unlawfully denies or violates any of his or her rights protected under this section. The patient may recover such damages as may be proved together with exemplary damages of not less than \$500 nor more than \$1,000 for each violation, together with costs and reasonable actual attorney fees. It is not a prerequisite to an action under this paragraph that the plaintiff suffer or be threatened with actual damages.

(c) Any patient whose rights are protected under this section may bring an action to enjoin the unlawful violation or denial of rights under this section and may in the same action seek damages as provided in this section. The individual may also recover costs and reasonable actual attorney fees if he or she prevails.

(d) Use of the grievance procedure established under sub. (5) is not a prerequisite to bringing an action under this subsection.

(8) Any informed consent which is required under sub. (1) (a) to (i) may be exercised by the patient's legal guardian if the patient has been adjudicated incompetent and the guardian is so empowered, or by the parent of the patient if the patient is a minor.

(9) The department shall promulgate rules to implement this section.

SECTION 110. 51.67 of the statutes, as affected by chapter 187, laws of 1977, is amended to read:

51.67 Alternate procedure; protective services act. If, after hearing under s. 51.13 (4) or 51.20 ~~(11) or (12)~~, the court finds that commitment under this chapter is not warranted and that the subject individual is a fit subject for guardianship and protective placement or services, the court may, without further notice, appoint a temporary guardian for the subject individual and order temporary protective placement or services under ch. 55 for a period not to exceed 30 days. If, during the period, a guardian of the subject individual is appointed, the court may, without further petition or hearing, order protective placement or services under ch. 55. Within 10 days of the order, an appeal may be taken to the court of appeals as further provided in s. 51.20 (16). Any interested party may then file a petition for permanent guardianship or protective placement or services under ch. 55.

SECTION 110e. 55.06 (11) (a) of the statutes is amended to read:

55.06 (11) (a) When from personal observation of a sheriff, police officer, fireman, guardian, if any, or authorized representative of a board designated under s. 55.02 or an agency designated by it it appears probable that an individual will suffer irreparable injury or death as a result of developmental disabilities, infirmities of aging or other like incapacities if not immediately placed, the person making such observation may take into custody and transport ~~an~~ the individual to an appropriate medical or protective placement facility. The person making placement shall prepare a statement at the time of detention providing specific factual information concerning the person's observations and the basis for emergency placement. Such statement shall be filed with the director of the facility and shall also be filed with any petition under sub. (2). At the time of such placement the individual shall be informed by the director of the facility or such person's designee, both orally and in writing, of his or her right to contact an attorney and a member of his or her immediate family and the right to have an attorney provided at public expense, as provided under s. 967.06 and ch. 977, if the individual is indigent. The director or designee shall also provide the individual with a copy of the statement by the person making emergency placement.

SECTION 110m. 55.06 (11) (am) of the statutes is created to read:

55.06 (11) (am) Whoever signs a statement under par. (a) knowing the information contained therein to be false may be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

SECTION 110s. 55.06 (11) (b) of the statutes is amended to read:

55.06 (11) (b) Upon detention, a petition shall be filed under sub. (2) by the person making such emergency placement and a preliminary hearing shall be held within 72 hours to establish probable cause to believe the grounds for protective placement under sub. (2). The sheriff or other person making placement under par. (a) shall provide the individual with written notice and orally inform him or her of the time and place of the preliminary hearing. If the detainee is not under guardianship, a petition for guardianship shall accompany the placement petition, except in the case of a minor who is alleged to be developmentally disabled. In the event that protective placement is not appropriate, the court may elect to treat a petition for placement as a petition for commitment under s. 51.20 or 51.45 (13).

SECTION 111. 55.07 of the statutes is created to read:

55.07 Patients' rights. The rights and limitations upon rights, procedures for enforcement of rights and penalties prescribed in s. 51.61 apply to persons who receive services under this chapter, whether on a voluntary or involuntary basis.

SECTION 112. 706.03 (4) of the statutes is amended to read:

706.03 (4) A conveyance by a minor or incompetent is effective only if executed by an authorized guardian on behalf of such minor or incompetent. ~~In this subsection, "incompetent" applies only to the case of a limited incompetency, such restriction does not apply if~~ an individual who has been determined ~~incompetent~~ competent to make contracts under s. 880.33 (3).

SECTION 113. **Special information for certain minors; review procedure.** Every individual who is a patient in an approved treatment facility under chapter 51 of the statutes on the effective date of this act, and who was such a patient on September 4, 1976, and who was admitted to such facility as a minor prior to September 4, 1976, shall be informed by the director of the facility within 30 days after the effective date of this act of the person's right to apply for voluntary admission or to be discharged in accordance with section 51.13 (7) of the statutes, as created by this act. Such applications shall be referred to the appropriate juvenile court for review in accordance with section 51.13 (4) of the statutes, as created by this act. This section does not apply to any such individual whose status has been reviewed under section 51.10 of the statutes (1975) since September 4, 1976.

SECTION 114. **Notice of rights to certain individuals subject to involuntary commitment.** All individuals who are alleged to be mentally ill, drug dependent or developmentally disabled and who are subject to an order of involuntary civil commitment which was issued prior to September 4, 1976, shall be given written and oral notice of their right to request a reexamination by the court or to request the court to modify or cancel the order of commitment, in accordance with section 51.20 (16) of the statutes, as affected by this act. The board established under section 51.42 or 51.437 of the statutes which is responsible for the treatment of the individual shall provide this notice, except in the case of individuals who are committed to the department of health and social services. In such cases, the responsibility for providing the notice required by this section rests with that department. In all cases, the notice shall be provided prior to the first day of the 7th month commencing after the effective date of this act. In addition to the notice which is provided to the subject individual, notice shall also be given to the individual's guardian, if any, and to the parent or custodian of the individual if he or she is a minor. Notice may also be given to other family members of subject individuals.

SECTION 115. **Cross reference changes.** In the sections of the statutes listed in Column A, the cross references shown in Column B are changed to the cross references shown in Column C:

A	B	C
Statute Sections	Old Cross References	New Cross References
20.435 (9)(c)	51.20 (19)	51.20 (18)

49.174	51.20 (19)	51.20 (18)
51.20 (7)(c), as re- numbered	51.20 (12)(a)	51.20 (11)(a)
51.20 (8)(a), as re- numbered	51.20 (8)(c)	51.20 (7)(c)
51.20 (13)(f), as re- numbered	51.20 (18)	51.20 (17)
51.20 (15)(b), as re- numbered	51.20 (10)(a)	51.20 (9)(a)
51.20 (16)(e), as re- numbered	51.15 (3)	51.15 (2)
51.20 (16)(h), as re- numbered	51.20 (10)(a)	51.20 (9)(a)
	51.20 (19)	51.20 (18)
51.37 (7)	51.20 (19)	51.20 (18)
51.37 (8)(a)	51.20 (14)(f) and (17)	51.20 (13)(f) and (16)
51.42 (13)(p)	51.20 (19)	51.20 (18)
51.437 (4)(intro.)	51.15 (1)	51.15
51.61 (1)(d)	51.20 (17)	51.20 (16)
971.17 (2)	51.20 (17)	51.20 (16)
975.15 (3)	51.20 (17)	51.20 (16)

SECTION 116. **Effective date.** (1) This act shall take effect on the 31st day commencing after publication, except as provided in subsection (2).

(2) The treatment of section 51.20 (15) (a) and (c) of the statutes, as renumbered, and section 51.67 of the statutes by this act, and the creation by this act of section 51.20 (16) (L) of the statutes shall take effect on August 1, 1978.
