

1985 Assembly Bill 76

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1985 Wisconsin Act 139

AN ACT to amend 51.10 (6), 51.20 (1) (am), 51.20 (10) (a) and 51.45 (13) (b) 4; and to create 51.20 (7) (dm) and 51.45 (13) (dg) of the statutes, relating to mental health.

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

SECTION 1. 51.10 (6) of the statutes is amended to read:

51.10 (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 30 days of such the admission, and the judge shall then dismiss the proceedings under s. 51.20 within 14 days of such admission. The court shall dismiss the proceedings under s. 51.20 30

days after the person's admission if the person is still a voluntary patient or resident or upon the discharge of the person by the treatment director of the facility or his or her designee, if that occurs first. For any person who is a voluntary patient or resident under this subsection, actions required under s. 51.35 (5) shall be initiated within 14 days of admission.

SECTION 2. 51.20 (1) (am) of the statutes is amended to read:

51.20 (1) (am) If the individual has been the subject of inpatient treatment for mental illness, developmental disability or drug dependency ~~immediately prior to commencement of the proceedings~~ as a result of a voluntary admission or a commitment or placement ordered by a court under this section or s. 55.06 or 971.17 or ch. 975 ~~immediately prior to commencement of the proceedings,~~ or if the individual has been the

subject of outpatient treatment for mental illness, developmental disability or drug dependency immediately prior to commencement of the proceedings as a result of a commitment ordered by a court under this section or s. 971.17 or ch. 975, the requirements of a recent overt act, attempt or threat to act under par. (a) 2. a or b, a pattern of recent acts or omissions under par. (a) 2. c or recent behavior under par. (a) 2. d 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. If the individual has been admitted voluntarily to an inpatient treatment facility for not more than 30 days prior to the commencement of the proceedings and remains under voluntary admission at the time of commencement, the requirements of a specific recent overt act, attempt or threat to act or pattern of recent acts or omissions may be satisfied by a showing of an act, attempt or threat to act or a pattern of acts or omissions which took place immediately previous to the voluntary admission. If the individual is committed under s. 971.14 (2) or (5) at the time proceedings are commenced, or has been discharged from the commitment immediately prior to the commencement of proceedings, acts, attempts, threats, omissions or behavior of the subject individual during or subsequent to the time of the offense shall be deemed recent for purposes of par. (a) 2.

SECTION 3. 51.20 (7) (dm) of the statutes is created to read:

51.20 (7) (dm) The court shall proceed as if a petition were filed under s. 51.45 (13) if all of the following conditions are met:

1. The petitioner's counsel notifies all other parties and the court, within a reasonable time prior to the hearing, of his or her intent to request that the court proceed as if a petition were filed under s. 51.45 (13).

2. The court determines at the hearing that there is probable cause to believe that the subject individual is a fit subject for treatment under s. 51.45 (13).

SECTION 4. 51.20 (10) (a) of the statutes is amended to read:

51.20 (10) (a) Within a reasonable time 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 counsel~~ 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. Within a reasonable time prior to the final hearing, each party shall notify all other parties of all witnesses he or she intends to call at the hearing and of the substance of their proposed testimony. The provision of notice of potential witnesses shall not bar either party from presenting a witness at the final hearing whose name was not in the notice unless the presentation of the witness without notice is prejudicial to the opposing party.

SECTION 5. 51.45 (13) (b) 4 of the statutes is amended to read:

51.45 (13) (b) 4. Set a time for a preliminary hearing under par. (d). If the person is taken into protective custody, such hearing shall be held not later than ~~48~~ 72 hours after ~~receipt of a petition under par. (a) the person arrives at the approved public treatment facility,~~ exclusive of Saturdays, Sundays and legal holidays. If at ~~such that~~ time the person is unable to assist in the defense because he or she is incapacitated by alcohol, an extension of not more than 48 hours, exclusive of Saturdays, Sundays and legal holidays, may be had upon motion of the person or the person's attorney.

SECTION 6. 51.45 (13) (dg) of the statutes is created to read:

51.45 (13) (dg) The court shall proceed as if a petition were filed under s. 51.20 (1) if all of the following conditions are met:

1. The petitioner's counsel notifies all other parties and the court, within a reasonable time prior to the hearing, of his or her intent to request that the court proceed as if a petition were filed under s. 51.20 (1).

2. The court determines at the hearing that there is probable cause to believe that the subject individual is a fit subject for treatment under s. 51.20 (1).

SECTION 7. **Initial applicability.** This act applies to proceedings in which a petition for involuntary commitment is filed under section 51.20 (1) or 51.45 (13) of the statutes on or after the effective date of this act.

SECTION 8. **Effective date.** This act takes effect on the first day of the 6th month commencing after publication.