



1995 SENATE BILL 241

June 1, 1995 - Introduced by Senators LEEAN, ELLIS and RUDE, by request of Governor Tommy G. Thompson. Referred to Committee on Health, Human Services and Aging.

1 **AN ACT to amend** 51.15 (2) (intro.), 51.15 (4) (b), 51.15 (8), 51.15 (10) and 51.15
2 (11); and **to create** 51.15 (11g) of the statutes; **relating to:** immunity for
3 certain mental health evaluations, diagnoses and determinations.

Analysis by the Legislative Reference Bureau

Under current law, a law enforcement officer or a juvenile court intake worker may take a person into custody, in a process known as emergency detention, if the officer or worker has cause to believe that the person is mentally ill, drug dependent or developmentally disabled and if the person evidences certain dangerousness. The law enforcement officer must transport the person to a mental health treatment facility, where the treatment director must, within 24 hours, determine if the person must be detained and, if the person consents, treated. If the person is detained, he or she must be released within 72 hours, excluding holidays and weekends, or a petition for commitment must be filed against the person. Individuals who act in accordance with the authorization provided by these laws are not liable in civil court for actions taken in good faith.

This bill authorizes a treatment director of a mental health treatment facility or his or her designee to evaluate and diagnose, as well as treat, an individual who so consents and who has been transported to the facility under emergency detention or who has voluntarily entered the facility. The immunity in civil court that is provided to individuals who act in accordance with the laws under emergency detention is, by this bill, extended to the evaluation and diagnosis of persons under emergency detention or who voluntarily enter mental health treatment facilities. The bill also specifically extends immunity to the making of a determination that an individual has or does not have mental illness or is or is not dangerous. Lastly, the bill specifically extends immunity to a director of a treatment facility, or his or her designee, who under a court order evaluates, diagnoses or treats an individual who is confined in a jail.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 51.15 (2) (intro.) of the statutes is amended to read:

2 51.15 (2) FACILITIES FOR DETENTION. (intro.) The law enforcement officer shall
3 transport the individual, or cause him or her to be transported for detention and for
4 evaluation, diagnosis and treatment if permitted under sub. (8) to any of the
5 following facilities:

6 **SECTION 2.** 51.15 (4) (b) of the statutes is amended to read:

7 51.15 (4) (b) Upon delivery of the individual, the treatment director of the
8 facility, or his or her designee, shall determine within 24 hours whether the
9 individual shall be detained, or shall be detained, evaluated, diagnosed and treated,
10 if evaluation, diagnosis and treatment is are permitted under sub. (8), and shall
11 either release the individual or detain him or her for a period not to exceed 72 hours
12 after delivery of the individual, exclusive of Saturdays, Sundays and legal holidays.
13 If the treatment director, or his or her designee, determines that the individual is not
14 eligible for commitment under s. 51.20 (1) (a), the treatment director shall release
15 the individual immediately, unless otherwise authorized by law. If the individual is
16 detained, the treatment director or his or her designee may supplement in writing
17 the statement filed by the law enforcement officer, and shall designate whether the
18 subject individual is believed to be mentally ill, developmentally disabled or drug
19 dependent, if no designation was made by the law enforcement officer. The director
20 or designee may also include other specific information concerning his or her belief
21 that the individual meets the standard for commitment. The treatment director or

1 designee shall then promptly file the original statement together with any
2 supplemental statement and notification of detention with the court having probate
3 jurisdiction in the county in which the individual was taken into custody. The filing
4 of the statement and notification has the same effect as a petition for commitment
5 under s. 51.20.

6 **SECTION 3.** 51.15 (8) of the statutes is amended to read:

7 51.15 (8) (title) ~~TREATMENT~~ EVALUATION, DIAGNOSIS AND TREATMENT. When an
8 individual is detained under this section, the director and staff of the treatment
9 facility may evaluate, diagnose and treat the individual during detention, if the
10 individual consents. The individual has a right to refuse medication and treatment
11 as provided in s. 51.61 (1) (g) and (h). The individual shall be advised of that right
12 by the director of the facility or his or her designee, and a report of any evaluation
13 and diagnosis and of all treatment provided shall be filed by that person with the
14 court.

15 **SECTION 4.** 51.15 (10) of the statutes is amended to read:

16 51.15 (10) **VOLUNTARY PATIENTS.** If an individual has been admitted to an
17 approved treatment facility under s. 51.10 or 51.13, or has been otherwise admitted
18 to such facility, the treatment director or his or her designee, if conditions exist for
19 taking the individual into custody under sub. (1), may sign a statement of emergency
20 detention and may detain, or detain, evaluate, diagnose and treat, ~~such the~~ the
21 individual as provided in this section. In such case, the treatment director shall
22 undertake all responsibilities ~~which~~ that are required of a law enforcement officer
23 under this section. The treatment director shall promptly file the statement with the
24 court having probate jurisdiction in the county of detention as provided in this
25 section.

