

**1999 DRAFTING REQUEST**

**Bill**

Received: **09/9/98**

Received By: **olsenje**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Jablonsky**

This file may be shown to any legislator: **NO**

Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Correctional System - prisons  
Mental Health - detent/commit**

Extra Copies: **DAK**

**Topic:**

DOA:.....Jablonsky - Inmate commitments

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	olsenje 10/3/98	gilfokm 10/5/98	lpaasch 10/5/98	_____	lrb_docadmin 10/5/98		State
/2	olsenje 01/29/99	gilfokm 01/29/99	hhagen 01/29/99	_____	gretskl 01/30/99		State

FE Sent For:

<END>

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/1	olsenje 10/3/98	gilfokm 10/5/98	lpaasch 10/5/98	_____	lrb_docadmin 10/5/98		State

12-1-29-99  
king

11/29

11/29

<END>

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1?	olsenje	1-10-5 King	10-5 2.7	<del>10-5 LP</del> <del>JS</del>			

FE Sent For:

<END>

## Inmate Commitments

### Current Language

s. 51.20(13)(g) 1. and 2g.

### Proposed Change

Amend s. 51.20(13)(g) 1. to provide that inmates be subject to the same commitment time restrictions as regular involuntary civil commitments. (See attached.)

Amend s. 51.20(13)(g) 2g., which restricts involuntary civil commitments for inmates to 6 months in any one-year period, to make prison inmates, but not jail inmates, subject to the same commitment time limits as civil commitments in general. (See attached.)

### Effect of the Change

This change will allow longer periods of involuntary civil commitments for inmates beyond the current 6-month limit.

### Rationale for the Change

Prison inmates in need of mental health services may be transferred from Department of Corrections institutions to the Wisconsin Resource Center for treatment. These inmates are transferred administratively under a civil involuntary commitment for treatment statute that does not require that the inmate meet the criterion of being dangerous to himself or others. Currently state law provides that initial civil involuntary commitments may be made for 6 months and subsequent commitments may not exceed one year. Inmates, however, may be committed only for 6 months in any 365-day period. This 6-month limitation does not provide the Department adequate time to provide uninterrupted and continuous treatment for the more seriously mentally ill inmates. The effect of this provision has been to create a treatment and transfer cycle for inmates that works against the inmate's well-being. The cycle impedes long-term stability and progress in treatment since inmates continually have to be taken off involuntary treatment and medication, re-committed and then started again on treatment. This is not cost effective or medically effective.

---

**Desired Effective Date:** Upon Passage of Bill  
**Agency:** DHFS  
**Agency Contact:** Ellen Hadidian  
**Phone:** 266-8155

slincom

Add  
Zg.

Amend s.51.20(13)(g)1. as follows:

Except as provided in subds. 2. and 2j., 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 orders of commitment of the individual may be for a period not to exceed one year.

Amend s.51.20(13)(g)2g. as follows:

The total period a person may be committed pursuant to commitments ordered under par. (a) 4. or 4m., following proof of the allegations under sub. (1) ~~(ar)~~ or (av), may not exceed 180 days in any 365-day period.

Create s. 51.20(13)(g)2j. as follows:

Any order of commitment of a subject individual under par. (a) 4., following proof of the allegations under sub. (1) 9ar), may be for a period not to exceed 365 days per commitment order.

Also: subd 2m. refers only  
to 302. (Other places,  
too.) fix? or okay?  
(check refs to 302.11  
& 302.113)

Per E. Hadidim (voice mail  
memo 9/25)  
Follow this  
not memo:  
1 yr. commit.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0112/1

JEO: King

Soon Date editing 10/3

DOA:.....Jablonsky – Inmate commitments

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT <sup>Don't</sup> ...; relating to: the involuntary commitment of prisoners for mental  
2 health treatment.

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES**

Current law provides a procedure for involuntarily committing persons to a mental health facility for mental health treatment. This procedure usually is begun by the filing of a petition alleging that the person is mentally ill, drug dependent or developmentally disabled, that the person is a proper subject for treatment and that, based on certain specified standards, the person is dangerous because he or she may harm himself, herself or others. If these allegations are found to be true, the person may initially be committed for treatment for a period not to exceed 6 months. In addition, a commitment order may be extended after an evaluation of the person. Each consecutive commitment order may be for a period not to exceed 12 months.

An inmate of a jail, house of correction or prison may be subject to an involuntary commitment proceeding based on a petition described above. However, there is an alternative petition that may be used to begin an involuntary commitment proceeding against an inmate. This alternative petition must allege all of the following: 1) that the inmate is mentally ill, is a proper subject for treatment and is in need of treatment; 2) that the inmate has been fully informed about, and has had the opportunity to discuss, his or her treatment needs and the mental health

services available to him or her; and 3) that appropriate less restrictive forms of treatment have been attempted and have been unsuccessful. If an inmate is committed based on an alternative petition, the total period that the inmate may be committed may not exceed 180 days in any 365-day period.

This bill extends the time period for which an inmate of a state prison may be committed based on an alternative petition. Under the bill, any order of commitment of a state prison inmate that is based on an alternative petition may be for a period not to exceed one year. The bill does not change the current time limits on the commitment of an inmate of a jail or house of correction based on an alternative petition.

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.** 51.20 (13) (g) 1. of the statutes is amended to read:

2           51.20 (13) (g) 1. Except as provided in ~~subd.~~ subds. 2., 2f. and 2g., the first order  
3 of commitment of a subject individual under this section may be for a period not to  
4 exceed 6 months, and all subsequent consecutive orders of commitment of the  
5 individual may be for a period not to exceed one year.

History: 1975 c. 430; 1977 c. 26, 29; 1977 c. 187 ss. 42, 43, 134, 135; 1977 c. 428 ss. 29 to 65, 115; 1977 c. 447, 449; Sup. Ct. Order, 83 W (2d) xiii; 1979 c. 32, 89; Sup. Ct. Order, eff. 1-1-80; 1979 c. 110 s. 60 (1); 1979 c. 175 s. 53; 1979 c. 300, 336, 356; 1981 c. 20, 367; 1981 c. 390 s. 252; 1983 a. 27, 219; 1983 a. 474 ss. 2 to 9m, 14; 1985 a. 29 ss. 1067 to 1071, 3200 (56), 3202 (56); 1985 a. 139, 176, 321, 332; 1987 a. 27; Sup. Ct. Order, 141 W (2d) xiii (1987); 1987 a. 366, 394, 403; 1989 a. 31, 334; 1993 a. 98, 196, 227, 316, 451, 474; 1995 a. 77, 201, 268, 292, 440; Sup. Ct. Order No. 96-08, 207 W (2d) xv (1997); 1997 a. 35, 130, 237, 283.

6           **SECTION 2.** 51.20 (13) (g) 2f. of the statutes is created to read:

7           51.20 (13) (g) 2f. Any order of commitment of a subject individual under par.  
8 (a) 4., following proof of the allegations under sub. (1) (ar), may be for a period not  
9 to exceed one year.

10           **SECTION 3.** 51.20 (13) (g) 2g. of the statutes is amended to read:

11           51.20 (13) (g) 2g. The total period a person may be committed pursuant to  
12 commitments <sup>wpo: strike aspace</sup> ordered under par. (a) 4. ~~or~~ 4m., following proof of the allegations  
13 under sub. (1) (ar) <sup>✓</sup> or (av), may not exceed 180 days in any 365-day period.

History: 1975 c. 430; 1977 c. 26, 29; 1977 c. 187 ss. 42, 43, 134, 135; 1977 c. 428 ss. 29 to 65, 115; 1977 c. 447, 449; Sup. Ct. Order, 83 W (2d) xiii; 1979 c. 32, 89; Sup. Ct. Order, eff. 1-1-80; 1979 c. 110 s. 60 (1); 1979 c. 175 s. 53; 1979 c. 300, 336, 356; 1981 c. 20, 367; 1981 c. 390 s. 252; 1983 a. 27, 219; 1983 a. 474 ss. 2 to 9m, 14; 1985 a. 29 ss. 1067 to 1071, 3200 (56), 3202 (56); 1985 a. 139, 176, 321, 332; 1987 a. 27; Sup. Ct. Order, 141 W (2d) xiii (1987); 1987 a. 366, 394, 403; 1989 a. 31, 334; 1993 a. 98, 196, 227, 316, 451, 474; 1995 a. 77, 201, 268, 292, 440; Sup. Ct. Order No. 96-08, 207 W (2d) xv (1997); 1997 a. 35, 130, 237, 283.



\*\*\*\*NOTE: Though this is not strictly relevant to the request from DHFS, it appears that no person could have been committed under s. 51.20 (1) (av), stats., since 1990 or 1991 because under s. 51.20 (1) (av) 2., stats., the provisions of the statute could not be used for petitions filed on or after July 1, 1990. Thus, should s. 51.20 (1) (av), stats., be repealed? (If so, all references to it will also have to be repealed, and this subdivision can be amended to do what new subdivision 2f. does.)

1           **SECTION 4.** 51.20 (13) (g) 2m. of the statutes is amended to read:

2           51.20 (13) (g) 2m. In addition to the provisions under subs. 1., 2., 2f. and 2g.,  
3           no commitment ordered under par. (a) 4. or 4m. may continue beyond the inmate's  
4           date of release on parole or extended supervision, as determined under s. 302.11 or  
5           302.113, whichever is applicable.

History: 1975 c. 430; 1977 c. 26, 29; 1977 c. 187 ss. 42, 43, 134, 135; 1977 c. 428 ss. 29 to 65, 115; 1977 c. 447, 449; Sup. Ct. Order, 83 W (2d) xiii; 1979 c. 32, 89; Sup. Ct. Order, eff. 1-1-80; 1979 c. 110 s. 60 (1); 1979 c. 175 s. 53; 1979 c. 300, 336, 356; 1981 c. 20, 367; 1981 c. 390 s. 252; 1983 a. 27, 219; 1983 a. 474 ss. 2 to 9m, 14; 1985 a. 29 ss. 1067 to 1071, 3200 (56), 3202 (56); 1985 a. 139, 176, 321, 332; 1987 a. 27; Sup. Ct. Order, 141 W (2d) xiii (1987); 1987 a. 366, 394, 403; 1989 a. 31, 334; 1993 a. 98, 196, 227, 316, 451, 474; 1995 a. 77, 201, 268, 292, 440; Sup. Ct. Order No. 96-08, 207 W (2d) xv (1997); 1997 a. 35, 130, 237, 283.

\*\*\*\*NOTE: Though this also is not strictly relevant to the request from DHFS, ss. 302.11 and 302.113, stats., which are referred to in this subdivision, apply only to prison inmates and not to jail inmates. At the same time, commitments under s. 51.20 (13) (a) 4m., stats., which are also referred to in this subdivision, would involve only jail or house of correction inmates. Presumably no commitment order under s. 51.20 (13) (a) 4m., stats., goes beyond the jail or house of correction inmate's release date, even though the language in this subdivision currently refers only to release on parole and extended supervision. (The Legislative Council notes from 1987 Wisconsin Act 394, which created 51.20 (1) (av) and (13) (a) 4m., stats., state that "in no case may a commitment continue beyond the [jail or house of correction] inmate's date of release under the criminal sentence.")

Do you know what is happening under this subdivision now? Is it being read to mean that a jail inmate must be released from the commitment when he or she reaches two-thirds of the jail sentence? Or are they released from the commitment when they reach the "good time" date under s. 302.43 or 303.19 (3), stats.? (Compare s. 51.20 (1) (av) 1. (intro.), stats.) If it is the latter, a new subdivision should be added that parallels this subdivision and that explicitly states that no commitment order under s. 51.20 (13) (a) 4m., stats., may continue beyond the inmate's date of release under s. 302.43 or 303.19 (3), stats. If it is the former, the subdivision should probably be amended to make that clear because the new reference to s. 302.113, stats., may confuse things.

6           **SECTION 5.** 51.20 (13) (g) 2r. of the statutes is amended to read:

7           51.20 (13) (g) 2r. Twenty-one days prior to expiration of the period of  
8           commitment under subd. 1., 2., 2f., 2g. or 2m., the department, if the individual is  
9           committed to the department, or the county department to which an individual is  
10          committed shall file an evaluation of the individual and the recommendation of the  
11          department or county department regarding the individual's recommitment with the

1 committing court and provide a copy of the evaluation and recommendation to the  
2 individual's counsel and the counsel designated under sub. (4). If the date for filing  
3 an evaluation and recommendation under this subdivision falls on a Saturday,  
4 Sunday or legal holiday, the date which is not a Saturday, Sunday or legal holiday  
5 and which most closely precedes the evaluation and recommendation filing date  
6 shall be the filing date. A failure of the department or the county department to  
7 which an individual is committed to file an evaluation and recommendation under  
8 this subdivision does not affect the jurisdiction of the court over a petition for  
9 recommitment.

History: 1975 c. 430; 1977 c. 26, 29; 1977 c. 187 ss. 42, 43, 134, 135; 1977 c. 428 ss. 29 to 65, 115; 1977 c. 447, 449; Sup. Ct. Order, 83 W (2d) xiii; 1979 c. 32, 89; Sup. Ct. Order, eff. 1-1-80; 1979 c. 110 s. 60 (1); 1979 c. 175 s. 53; 1979 c. 300, 336, 356; 1981 c. 20, 367; 1981 c. 390 s. 252; 1983 a. 27, 219; 1983 a. 474 ss. 2 to 9m, 14; 1985 a. 29 ss. 1067 to 1071, 3200 (56), 3202 (56); 1985 a. 139, 176, 321, 332; 1987 a. 27; Sup. Ct. Order, 141 W (2d) xiii (1987); 1987 a. 366, 394, 403; 1989 a. 31, 334; 1993 a. 98, 196, 227, 316, 451, 474; 1995 a. 77, 201, 268, 292, 440; Sup. Ct. Order No. 96-08, 207 W (2d) xv (1997); 1997 a. 35, 130, 237, 283.

10 **SECTION 9323. Initial applicability; health and family services.**

11 (1) DURATION OF CERTAIN ORDERS OF COMMITMENT OF PRISON INMATES. The  
12 treatment of section 51.20 (13) <sup>(g)</sup> 2f. and 2g. of the statutes first applies to commitment  
13 orders issued on the effective date of this subsection.

\*\*\*\*NOTE: Does this initial applicability effect your intent, or do you want the new time limit to apply instead to proceedings in which a petition is filed on or after the effective date?

14

(END)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0112/1dn

JEO:.....  
*kmey*

In accordance with clarifying instructions from Ellen Hadidian at DHFS, this draft allows for a one-year period for all commitment orders of prison inmates based on a petition filed under s. 51.20 (1) (ar), stats. Thus the draft does not follow the memorandum provided with the drafting request, which says that prisoners committed based on a s. 51.20 (1) (ar), stats., petition should be subject to the same commitment periods that apply to regular civil commitments under s. 51.20 (13) (g) 1., stats.

As requested, this draft does not cover jail and house of correction inmates. However, you will notice in the draft a few 4-star notes (\*\*\*\*NOTE:) in which I ask questions about the current statutory language dealing with jail and house of correction inmates. While it is not necessary to deal with my questions for this draft to do what it is intended to do, this may be an opportune time to repeal an apparently obsolete statute and to clarify some apparently confusing (at least to me) statutory language.

Please let me know if you have any questions or changes.

Jefren E. Olsen  
Legislative Attorney  
266-8906

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0112/1dn  
JEO:kmg:lp

October 5, 1998

In accordance with clarifying instructions from Ellen Hadidian at DHFS, this draft allows for a one-year period for all commitment orders of prison inmates based on a petition filed under s. 51.20 (1) (ar), stats. Thus the draft does not follow the memorandum provided with the drafting request, which says that prisoners committed based on a s. 51.20 (1) (ar), stats., petition should be subject to the same commitment periods that apply to regular civil commitments under s. 51.20 (13) (g) 1., stats.

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Please let me know if you have any questions or changes.

Jefren E. Olsen  
Legislative Attorney  
266-8906

## Olsen, Jefren

---

**From:** Jablonsky, Sue  
**Sent:** Friday, January 29, 1999 1:40 PM  
**To:** Olsen, Jefren  
**Subject:** RE: LRB 0112

Jefren-it's your call. If you can accomodate their idea of a different applicability date-fine. If it's a big, horrible job for you, then leave as is. I'm just trying to save you work.

-----Original Message-----

**From:** Olsen, Jefren  
**Sent:** Friday, January 29, 1999 12:15 PM  
**To:** Jablonsky, Sue  
**Subject:** RE: LRB 0112

Sue,

I have to redraft LRB-0112 to remove the 4-star notes. I will do that later this afternoon. If you want a change to initial applicability that can be easily done in the redraft. If I haven't heard otherwise by 4:00 pm today I will go ahead and redraft to remove the 4-star notes *only* and will make no other changes to the draft.

Jefren Olsen

-----Original Message-----

**From:** Jablonsky, Sue  
**Sent:** Friday, January 29, 1999 11:57 AM  
**To:** Olsen, Jefren  
**Subject:** RE: LRB 0112

In the interest of time, I'd leave as is. Sounds as if they can live with it

-----Original Message-----

**From:** Olsen, Jefren  
**Sent:** Friday, January 29, 1999 11:19 AM  
**To:** Jablonsky, Sue  
**Subject:** RE: LRB 0112

Sue:

What, if anything, do you want to me to do in response to Ellen Hadidian's comments?

Jefren Olsen

-----Original Message-----

**From:** Jablonsky, Sue  
**Sent:** Friday, January 29, 1999 11:07 AM  
**To:** Olsen, Jefren  
**Subject:** FW: LRB 0112

-----Original Message-----

**From:** Hadidan, Ellen  
**Sent:** Friday, January 29, 1999 9:57 AM  
**To:** Jablonsky, Sue  
**Subject:** LRB 0112

Program staff have reviewed this draft and have no changes. It is ok from our point of view. The drafter asked a number of questions that did not need to be specifically answered for this draft, but that he wanted to raise. Program staff respond that the questions need to be asked of a corp counsel for a county with a county jail or HOC and/or of DOC jail/detention inspection unit. DCTF is not the agency with knowledge as to how county jails are interpreting and applying these sections.

---

The last question was a direct question related to initial applicability. Our response is that the section as drafted is ok, but would be even better if the effective date were tied to the filing of petition rather than the issuance of the court order.

Could you forward these remarks to the drafter? Thanks. Please call me if you have any questions.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0112/1

JEO:kmg:lp

redraft  
make  
run

2

D-Note

Soon

DOA:.....Jablonsky - Inmate commitments

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

- 1 AN ACT <sup>Don't</sup> <sub>open. Cal.</sub>; relating to: the involuntary commitment of prisoners for mental
- 2 health treatment.

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES**

Current law provides a procedure for involuntarily committing persons to a mental health facility for mental health treatment. This procedure usually is begun by the filing of a petition alleging that the person is mentally ill, drug dependent or developmentally disabled, that the person is a proper subject for treatment and that, based on certain specified standards, the person is dangerous because he or she may harm himself, herself or others. If these allegations are found to be true, the person may initially be committed for treatment for a period not to exceed 6 months. In addition, a commitment order may be extended after an evaluation of the person. Each consecutive commitment order may be for a period not to exceed 12 months.

An inmate of a jail, house of correction or prison may be subject to an involuntary commitment proceeding based on a petition described above. However, there is an alternative petition that may be used to begin an involuntary commitment proceeding against an inmate. This alternative petition must allege all of the following: 1) that the inmate is mentally ill, is a proper subject for treatment and is in need of treatment; 2) that the inmate has been fully informed about, and has had the opportunity to discuss, his or her treatment needs and the mental health

services available to him or her; and 3) that appropriate less restrictive forms of treatment have been attempted and have been unsuccessful. If an inmate is committed based on an alternative petition, the total period that the inmate may be committed may not exceed 180 days in any 365-day period.

This bill extends the time period for which an inmate of a state prison may be committed based on an alternative petition. Under the bill, any order of commitment of a state prison inmate that is based on an alternative petition may be for a period not to exceed one year. The bill does not change the current time limits on the commitment of an inmate of a jail or house of correction based on an alternative petition.

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.** 51.20 (13) (g) 1. of the statutes is amended to read:

2           51.20 (13) (g) 1. Except as provided in subd. subs. 2., 2f. and 2g., the first order  
3 of commitment of a subject individual under this section may be for a period not to  
4 exceed 6 months, and all subsequent consecutive orders of commitment of the  
5 individual may be for a period not to exceed one year.

6           **SECTION 2.** 51.20 (13) (g) 2f. of the statutes is created to read:

7           51.20 (13) (g) 2f. Any order of commitment of a subject individual under par.  
8 (a) 4., following proof of the allegations under sub. (1) (ar), may be for a period not  
9 to exceed one year.

10          **SECTION 3.** 51.20 (13) (g) 2g. of the statutes is amended to read:

11          51.20 (13) (g) 2g. The total period a person may be committed pursuant to  
12 commitments ordered under par. (a) ~~4. or~~ 4m., following proof of the allegations  
13 under sub. (1) ~~(ar) or~~ (av), may not exceed 180 days in any 365-day period.

\*\*\*NOTE: Though this is not strictly relevant to the request from DHFS, it appears that no person could have been committed under s. 51.20 (1) (av), stats., since 1990 or 1991 because under s. 51.20 (1) (av) 2., stats., the provisions of the statute could not be used for petitions filed on or after July 1, 1990. Thus, should s. 51.20 (1) (av), stats., be



repealed? (If so, all references to it will also have to be repealed, and this subdivision can be amended to do what new subd. 2f. does.) ✓

1           **SECTION 4.** 51.20 (13) (g) 2m. of the statutes is amended to read:

2           51.20 (13) (g) 2m. In addition to the provisions under subds. 1., 2., 2f. and 2g.,  
3           no commitment ordered under par. (a) 4. or 4m. may continue beyond the inmate's  
4           date of release on parole or extended supervision, as determined under s. 302.11 or  
5           302.113, whichever is applicable.

~~\*\*\*\*Note. Though this also is not strictly relevant to the request from DHFS, ss. 302.11 and 302.113, stats., which are referred to in this subdivision, apply only to prison inmates and not to jail inmates. At the same time, commitments under s. 51.20 (13) (a) 4m., stats., which are also referred to in this subdivision, would involve only jail or house of correction inmates. Presumably no commitment order under s. 51.20 (13) (a) 4m., stats., goes beyond the jail or house of correction inmate's release date, even though the language in this subdivision currently refers only to release on parole and extended supervision. (The Legislative Council notes from 1987 Wisconsin Act 394, which created s. 51.20 (1) (av) and (13) (a) 4m., stats., state that "in no case may a commitment continue beyond the [jail or house of correction] inmate's date of release under the criminal sentence.")~~

Do you know what is happening under this subdivision now? Is it being read to mean that a jail inmate must be released from the commitment when he or she reaches two-thirds of the jail sentence? Or are they released from the commitment when they reach the "good time" date under s. 302.43 or 303.19 (3), stats.? (Compare s. 51.20 (1) (av) 1. (intro.), stats.) If it is the latter, a new subdivision should be added that parallels this subdivision and that explicitly states that no commitment order under s. 51.20 (13) (a) 4m., stats., may continue beyond the inmate's date of release under s. 302.43 or 303.19 (3), stats. If it is the former, the subdivision should probably be amended to make that clear because the new reference to s. 302.113, stats., may confuse things. ✓

6           **SECTION 5.** 51.20 (13) (g) 2r. of the statutes is amended to read:

7           51.20 (13) (g) 2r. Twenty-one days prior to expiration of the period of  
8           commitment under subd. 1., 2., 2f., 2g. or 2m., the department, if the individual is  
9           committed to the department, or the county department to which an individual is  
10          committed shall file an evaluation of the individual and the recommendation of the  
11          department or county department regarding the individual's recommitment with the  
12          committing court and provide a copy of the evaluation and recommendation to the  
13          individual's counsel and the counsel designated under sub. (4). If the date for filing  
14          an evaluation and recommendation under this subdivision falls on a Saturday,

1 Sunday or legal holiday, the date which is not a Saturday, Sunday or legal holiday  
 2 and which most closely precedes the evaluation and recommendation filing date  
 3 shall be the filing date. A failure of the department or the county department to  
 4 which an individual is committed to file an evaluation and recommendation under  
 5 this subdivision does not affect the jurisdiction of the court over a petition for  
 6 recommitment.

7 **SECTION 9323. Initial applicability; health and family services.**

8 (1) DURATION OF CERTAIN ORDERS OF COMMITMENT OF PRISON INMATES. The  
 9 treatment of section 51.20 (13) (g) 2f. and 2g. of the statutes first applies to  
 10 ~~commitment orders issued~~ on the effective date of this subsection.

→ **NOTE:** Does this initial applicability effect your intent, or do you want the new  
 time limit to apply instead to proceedings in which a petition is filed on or after the  
 effective date?

(END)

proceedings in which a petition is  
 filed under section 51.20 (1) of  
 the statutes

LRB-0112/2 In  
JEO : :

D-Note

Note the change to the initial  
applicability provision.

JEO

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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0112/2dn  
JEO:kmg:hmh

Friday, January 29, 1999

Note the change to the initial applicability provision.

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State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0112/2  
JEO:kmg:hmh

DOA:.....Jablonsky - Inmate commitments

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

- 1 AN ACT ...; relating to: the involuntary commitment of prisoners for mental  
2 health treatment.

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*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES**

Current law provides a procedure for involuntarily committing persons to a mental health facility for mental health treatment. This procedure usually is begun by the filing of a petition alleging that the person is mentally ill, drug dependent or developmentally disabled, that the person is a proper subject for treatment and that, based on certain specified standards, the person is dangerous because he or she may harm himself, herself or others. If these allegations are found to be true, the person may initially be committed for treatment for a period not to exceed 6 months. In addition, a commitment order may be extended after an evaluation of the person. Each consecutive commitment order may be for a period not to exceed 12 months.

An inmate of a jail, house of correction or prison may be subject to an involuntary commitment proceeding based on a petition described above. However, there is an alternative petition that may be used to begin an involuntary commitment proceeding against an inmate. This alternative petition must allege all of the following: 1) that the inmate is mentally ill, is a proper subject for treatment and is in need of treatment; 2) that the inmate has been fully informed about, and has had the opportunity to discuss, his or her treatment needs and the mental health

services available to him or her; and 3) that appropriate less restrictive forms of treatment have been attempted and have been unsuccessful. If an inmate is committed based on an alternative petition, the total period that the inmate may be committed may not exceed 180 days in any 365-day period.

This bill extends the time period for which an inmate of a state prison may be committed based on an alternative petition. Under the bill, any order of commitment of a state prison inmate that is based on an alternative petition may be for a period not to exceed one year. The bill does not change the current time limits on the commitment of an inmate of a jail or house of correction based on an alternative petition.

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

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

1           **SECTION 1.** 51.20 (13) (g) 1. of the statutes is amended to read:

2           51.20 (13) (g) 1. Except as provided in ~~subd.~~ subds. 2., 2f. and 2g., the first order  
3 of commitment of a subject individual under this section may be for a period not to  
4 exceed 6 months, and all subsequent consecutive orders of commitment of the  
5 individual may be for a period not to exceed one year.

6           **SECTION 2.** 51.20 (13) (g) 2f. of the statutes is created to read:

7           51.20 (13) (g) 2f. Any order of commitment of a subject individual under par.  
8 (a) 4., following proof of the allegations under sub. (1) (ar), may be for a period not  
9 to exceed one year.

10          **SECTION 3.** 51.20 (13) (g) 2g. of the statutes is amended to read:

11          51.20 (13) (g) 2g. The total period a person may be committed pursuant to  
12 commitments ordered under par. (a) ~~4.~~ ~~or~~ 4m., following proof of the allegations  
13 under sub. (1) ~~(ar)~~ ~~or~~ (av), may not exceed 180 days in any 365-day period.

14          **SECTION 4.** 51.20 (13) (g) 2m. of the statutes is amended to read:

1           51.20 (13) (g) 2m. In addition to the provisions under subds. 1., 2., 2f. and 2g.,  
2 no commitment ordered under par. (a) 4. or 4m. may continue beyond the inmate's  
3 date of release on parole or extended supervision, as determined under s. 302.11 or  
4 302.113, whichever is applicable.

5           **SECTION 5.** 51.20 (13) (g) 2r. of the statutes is amended to read:

6           51.20 (13) (g) 2r. Twenty-one days prior to expiration of the period of  
7 commitment under subd. 1., 2., 2f. 2g. or 2m., the department, if the individual is  
8 committed to the department, or the county department to which an individual is  
9 committed shall file an evaluation of the individual and the recommendation of the  
10 department or county department regarding the individual's recommitment with the  
11 committing court and provide a copy of the evaluation and recommendation to the  
12 individual's counsel and the counsel designated under sub. (4). If the date for filing  
13 an evaluation and recommendation under this subdivision falls on a Saturday,  
14 Sunday or legal holiday, the date which is not a Saturday, Sunday or legal holiday  
15 and which most closely precedes the evaluation and recommendation filing date  
16 shall be the filing date. A failure of the department or the county department to  
17 which an individual is committed to file an evaluation and recommendation under  
18 this subdivision does not affect the jurisdiction of the court over a petition for  
19 recommitment.

20           **SECTION 9323. Initial applicability; health and family services.**

21           (1) DURATION OF CERTAIN ORDERS OF COMMITMENT OF PRISON INMATES. The  
22 treatment of section 51.20 (13) (g) 2f. and 2g. of the statutes first applies to  
23 proceedings in which a petition is filed under section 51.20 (1) of the statutes on the  
24 effective date of this subsection.

25

(END)