Assembly

Committee Report

The committee on **Children and Families**, reports and recommends:

Assembly Bill 480

Relating to: mental health treatment of minors.

By Representatives Skindrud, Jensen, Hundertmark, Ladwig, Pettis, Rhoades, Ainsworth, Albers, Goetsch, Gunderson, Hahn, Kedzie, M. Lehman, Musser, Staskunas, Stone, Vrakas and Nass; cosponsored by Senators Rosenzweig and Darling.

ADOPTION OF ASSEMBLY AMENDMENT 1 TO ASSEMBLY AMENDMENT 1, Ayes 7, Noes 1, Absent 2

Ayes: (7) Representatives Ladwig, Jeskewitz, Kreibich, Freese, Kestell, Miller and Sinicki.

Noes: (1) Representative Grothman.

Absent: (2) Representatives Coggs and Colon.

ADOPTION OF ASSEMBLY AMENDMENT 2, Ayes 8, Noes 0, Absent 2

Ayes: (8) Representatives Ladwig, Jeskewitz, Kreibich, Freese, Grothman, Kestell, Miller and Sinicki.

Noes: (0) None.

Absent: (2) Representatives Coggs and Colon.

INTRODUCTION OF ASSEMBLY AMENDMENT 1, Ayes 8, Noes 0, Absent 2

Ayes: (8) Representatives Ladwig, Jeskewitz, Kreibich, Freese, Grothman, Kestell, Miller and Sinicki.

Noes: (0) None.

Absent: (2) Representatives Coggs and Colon.

INTRODUCTION OF ASSEMBLY AMENDMENT 1 TO ASSEMBLY AMENDMENT 1, Ayes 8, Noes 0, Absent 2

Ayes: (8) Representatives Ladwig, Jeskewitz, Kreibich, Freese, Grothman, Kestell, Miller and Sinicki.

Noes: (0) None.

Absent: (2) Representatives Coggs and Colon.

INTRODUCTION OF ASSEMBLY AMENDMENT 2 TO ASSEMBLY AMENDMENT 1, Ayes 8, Noes 0, Absent 2

Ayes: (8) Representatives Ladwig, Jeskewitz, Kreibich, Freese, Grothman, Kestell, Miller and Sinicki.

Noes: (0) None.

Absent: (2) Representatives Coggs and Colon.

INTRODUCTION OF ASSEMBLY AMENDMENT 2, Ayes 8, Noes 0, Absent 2

Ayes: (8) Representatives Ladwig, Jeskewitz, Kreibich, Freese, Grothman, Kestell, Miller and Sinicki.

Noes: (0) None.

Absent: (2) Representatives Coggs and Colon.

ADOPTION AS AMENDED OF ASSEMBLY AMENDMENT 1 RECOMMENDED, Ayes 8, Noes 0, Absent 2

Ayes: (8) Representatives Ladwig, Jeskewitz, Kreibich, Freese, Grothman, Kestell, Miller and Sinicki.

Noes: (0) None.

Absent: (2) Representatives Coggs and Colon.

PASSAGE AS AMENDED RECOMMENDED, Ayes 7, Noes 1,
Absent 2

Ayes:	(7)	Representatives Ladwig, Jeskewitz, Kreibich, Freese, Kestell, Miller and Sinicki.
Noes:	(1)	Representative Grothman.
Absent:	(2)	Representatives Coggs and Colon.

Representative Bonnie Ladwig
Chair

Assembly

Record of Committee Proceedings

Committee on Children and Families

Assembly Bill 480

Relating to: mental health treatment of minors.

By Representatives Skindrud, Jensen, Hundertmark, Ladwig, Pettis, Rhoades, Ainsworth, Albers, Goetsch, Gunderson, Hahn, Kedzie, M. Lehman, Musser, Staskunas, Stone, Vrakas and Nass; cosponsored by Senators Rosenzweig and Darling.

September 20, 1999 Referred to committee on Children and Families.

September 20, 1999 **PUBLIC HEARING HELD**

Present: (9) Representatives Ladwig, Jeskewitz, Kreibich, Freese, Grothman, Kestell, Miller, Coggs and Colon.

Absent: (1) Representative Sinicki.

Appearances for

- State Representative Rick Skindrud, 79th Assembly District

Appearances against

- Bob Andersen, Wisconsin Council on Children and Families
- Dianne Greenley, Wisconsin Coalition for Advocacy

Appearances for Information Only

- None.

Registrations for

- State Senator Peggy Rosenzweig, 5th Senate District
- Jennifer Kammerud, School Administrators Alliance
- State Representative Lorraine Seratti, 36th Assembly District

Registrations against

- Joe Quick, Madison Metropolitan School District

October 21, 1999 **EXECUTIVE SESSION**

Present: (8) Representatives Ladwig, Jeskewitz, Kreibich, Freese, Grothman, Kestell, Miller and Sinicki.

Absent: (2) Representatives Coggs.

Excused (1) Representative Colon.

Moved by Representative Freese, seconded by Representative Jeskewitz, that **Assembly Amendment 1** be recommended for introduction.

Ayes:	(8)	Representatives Ladwig, Jeskewitz, Kreibich, Freese, Grothman, Kestell, Miller and Sinicki.
Noes:	(0)	None.
Absent:	(2)	Representatives Coggs and Colon.

INTRODUCTION RECOMMENDED, Ayes 8, Noes 0, Absent 2

Moved by Representative Freese, seconded by Representative Jeskewitz, that **Assembly Amendment 1 to Assembly Amendment 1** be recommended for introduction.

Ayes:	(8)	Representatives Ladwig, Jeskewitz, Kreibich, Freese, Grothman, Kestell, Miller and Sinicki.
Noes:	(0)	None.
Absent:	(2)	Representatives Coggs and Colon.

INTRODUCTION RECOMMENDED, Ayes 8, Noes 0, Absent 2

Moved by Representative Miller, seconded by Representative Freese, that **Assembly Amendment 1 to Assembly Amendment 1** be recommended for adoption.

Ayes:	(7)	Representatives Ladwig, Jeskewitz, Kreibich, Freese, Kestell, Miller and Sinicki.
Noes:	(1)	Representative Grothman.
Absent:	(2)	Representatives Coggs and Colon.

ADOPTION RECOMMENDED, Ayes 7, Noes 1, Absent 2

Moved by Representative Freese, seconded by Representative Jeskewitz, that **Assembly Amendment 2 to Assembly Amendment 1** be recommended for introduction.

Ayes:	(8)	Representatives Ladwig, Jeskewitz, Kreibich, Freese, Grothman, Kestell, Miller and Sinicki.
Noes:	(0)	None.

Absent: (2) Representatives Coggs and Colon.

INTRODUCTION RECOMMENDED, Ayes 8, Noes 0, Absent 2

Moved by Representative Freese, seconded by Representative Kestell, that **Assembly Amendment 1** be recommended for adoption as amended.

Ayes: (8) Representatives Ladwig, Jeskewitz, Kreibich, Freese, Grothman, Kestell, Miller and Sinicki.
Noes: (0) None.
Absent: (2) Representatives Coggs and Colon.

ADOPTION AS AMENDED RECOMMENDED, Ayes 8, Noes 0, Absent 2

Moved by Representative Freese, seconded by Representative Jeskewitz, that **Assembly Amendment 2** be recommended for introduction.

Ayes: (8) Representatives Ladwig, Jeskewitz, Kreibich, Freese, Grothman, Kestell, Miller and Sinicki.
Noes: (0) None.
Absent: (2) Representatives Coggs and Colon.

INTRODUCTION RECOMMENDED, Ayes 8, Noes 0, Absent 2

Moved by Representative Freese, seconded by Representative Miller, that **Assembly Amendment 2** be recommended for adoption.

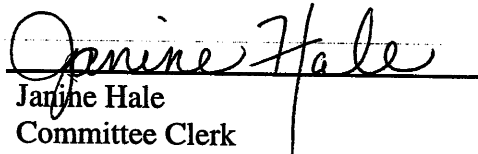
Ayes: (8) Representatives Ladwig, Jeskewitz, Kreibich, Freese, Grothman, Kestell, Miller and Sinicki.
Noes: (0) None.
Absent: (2) Representatives Coggs and Colon.

ADOPTION RECOMMENDED, Ayes 8, Noes 0, Absent 2

Moved by Representative Freese, seconded by Representative Jeskewitz, that **Assembly Bill 480** be recommended for passage as amended.

Ayes:	(7)	Representatives Ladwig, Jeskewitz, Kreibich, Freese, Kestell, Miller and Sinicki.
Noes:	(1)	Representative Grothman.
Absent:	(2)	Representatives Coggs and Colon.

PASSAGE AS AMENDED RECOMMENDED, Ayes 7, Noes 1, Absent 2



Janine Hale
Committee Clerk

RECEIVED
NOV 01 A.M.

WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701–2536
Telephone: (608) 266–1304
Fax: (608) 266–3830
Email: leg.council@legis.state.wi.us

DATE: November 1, 1999

TO: REPRESENTATIVE BONNIE LADWIG AND MEMBERS OF THE ASSEMBLY COMMITTEE ON CHILDREN AND FAMILIES

FROM: Anne Sappenfield, Staff Attorney

SUBJECT: 1999 Assembly Bill 480, Relating to Mental Health Treatment of Minors and Assembly Substitute Amendment 1 to the Bill

This memorandum describes 1999 Assembly Bill 480, relating to mental health treatment of minors and Assembly Substitute Amendment 1 to the bill. Assembly Bill 480 was introduced by Representative Skindrud; cosponsored by Senator Rosenzweig on September 20, 1999 and referred to the Assembly Committee on Children and Families. The committee held a public hearing on the bill on September 20, 1999 and recommended passage of the bill as amended on October 21, 1999. The committee introduced Assembly Substitute Amendment 1 on November 1, 1999. The substitute amendment contains the provisions of the bill as amended by Assembly Amendments 1 and 2.

A. CURRENT LAW

Under current law, the Mental Health Act [ch. 51, Stats.] distinguishes between minors under 14 years of age and minors 14 years of age or older with regard to giving informed consent for: (1) outpatient mental health treatment; (2) voluntary admission to and discharge from an inpatient facility (i.e., a hospital or unit of a hospital that has as its primary purpose the diagnosis, treatment and rehabilitation of mental illness, developmental disability, alcoholism or drug abuse); (3) re-examination under, or modification or cancellation of, an involuntary mental commitment order; and (4) transfer from a juvenile secured correctional facility to an inpatient facility. For these purposes, the minor's, as well as his or her parent's or guardian's, consent is required. In addition, minors who are 14 years of age or older have access to and may consent to the release of their court records and treatment records.

B. 1999 ASSEMBLY BILL 480

Assembly Bill 480 amends provisions of the Mental Health Act that distinguish between minors under 14 years of age and minors 14 years of age or older. Specifically, the bill provides as follows:

1. The bill eliminates the requirement that a minor 14 years of age or older provide his or her written, informed consent, in addition to that of his or her parent or guardian, before he or she may receive outpatient mental health treatment.

2. The bill eliminates the requirement that a minor 14 years of age or older execute the application for voluntary admission to an inpatient facility, along with the parent with legal custody of the minor or the minor's guardian, before the minor may be admitted to the facility.

3. The bill permits any minor, not only a minor 14 years of age or older, who wishes to be admitted to an inpatient facility to petition the juvenile court (i.e., the court assigned to exercise jurisdiction under the Children's Code) for approval of the admission if the parent who has legal custody of the minor or the minor's guardian refuses to execute the application for admission or cannot be found.

4. The bill eliminates the requirement that a minor 14 years of age or older who has been voluntarily admitted to an inpatient facility be discharged within 48 hours after making such a request and instead requires the juvenile court to hold a hearing on such a request to determine the continued appropriateness of the admission. This is identical to the provision under current law for minors under 14 years of age.

5. The bill eliminates the right of a minor 14 years of age or older who has been involuntarily committed for mental health treatment to petition the juvenile court for an order that his or her mental condition be re-examined or for an order modifying or canceling his or her commitment.

6. The bill eliminates the requirement that a minor 14 years of age or older must consent to being transferred from a juvenile correctional facility to an inpatient facility if the juvenile court finds that the transfer is appropriate and consistent with the needs of the minor. Under the bill, only the minor's parent or guardian need consent, as is the case for minors under 14 years of age under current law.

7. The bill permits a minor 14 years of age or older to have access to his or her court records only in the presence of his or her parent, guardian, counsel, guardian ad litem or a judge and to have access to his or her treatment records only in the presence of his or her parent, guardian, counsel, guardian ad litem or a staff member of the treatment facility. Under current law, a minor 14 years of age or older has access to these records on the same basis as an adult. The bill also eliminates the right under current law of a developmentally disabled minor 14 years of age or older to object to his or her parent or guardian or a person in the place of a parent having access to the minor's court and treatment records.

8. The bill eliminates the right of a minor 14 years of age or older to consent to the release of confidential information in his or her court records or treatment records without the consent of his or her parent or guardian or a person in place of a parent.

C. ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Substitute Amendment 1 modifies the bill so that it relates only to minors 14 years of age or older who are receiving treatment for alcoholism or drug abuse.

1. Application for Voluntary Admission to an Inpatient Facility

Under Assembly Substitute Amendment 1, an application for voluntary admission of a minor of any age to an inpatient treatment facility for the primary purpose of treatment of alcoholism or drug abuse must be executed by the parent who has legal custody of the minor or the minor's guardian. An application for voluntary admission of a minor 14 years of age or older to an inpatient facility for the primary purpose of treatment for mental illness or developmental disability must be executed by the minor ***and*** the minor's parent or guardian, as provided under current law.

The substitute amendment eliminates the right of a minor who is 14 years of age or older who is admitted to an inpatient treatment facility for the primary purpose of treatment of alcoholism or drug abuse to be discharged within 48 hours of making such a request. Instead, as provided under current law for minors who are under 14 years of age, a minor who is 14 years of age or older who is being treated for alcoholism or drug abuse may submit a written request to the juvenile court for a hearing to determine the continued appropriateness of the admission. Also, as provided under current law for minors under 14 years of age, if the director or staff of the facility to which such a minor is admitted observes conduct by the minor which demonstrates an unwillingness to remain at the facility, the director must file a written request with the juvenile court to determine the continued appropriateness of the admission. The court must hold a hearing within 14 days, if so requested.

The substitute amendment also provides that an application for a minor who is 14 years of age or older to be admitted to an inpatient facility for a short-term admission, not to exceed 12 days, must be executed by the minor's parent or guardian if the minor is being admitted for the primary purpose of diagnosis, evaluation or services for alcoholism or drug abuse. Under current law, the minor must execute the application.

2. Petition for Voluntary Admission if Parental Consent Unavailable

Under current law, a minor who is 14 years of age or older who wishes to be admitted to an inpatient facility may petition the juvenile court for approval of the admission if the parent who has legal custody of the minor or the minor's guardian refuses to execute the application for admission or cannot be found. If, after a hearing, the court determines that the consent of the parent or guardian is being unreasonably withheld, that the parent or guardian cannot be found or that there is no parent with legal custody and that the admission is proper, the court must approve the admission without the consent of the parent or guardian.

The substitute amendment removes the reference to age 14 or older from this provision. Therefore, under the substitute amendment, a minor of any age may petition the juvenile court for admission to an inpatient facility under the conditions described above.

3. Approval of Application for Admission to an Inpatient Facility

Under current law, a minor may be admitted to an inpatient facility immediately upon the approval of the application for admission by the facility's treatment director. Approval must 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 facility offers appropriate services and that inpatient care in the facility is the least restrictive therapy or treatment consistent with the minor's needs.

The substitute amendment provides that, in the case of a minor who is being admitted for the primary purpose of treatment for alcoholism or drug abuse, if the minor agrees to participate in an alcohol or other drug abuse assessment that conforms to the criteria specified in s. 938.547 (4), Stats. (i.e., uniform alcohol and other drug abuse assessment criteria developed by the Department of Health and Family Services), approval must also be based on the results of the assessment.

4. Transfer From a Juvenile Correctional Facility to a Treatment Facility

Under current law, the Department of Corrections may transfer any individual confined in a juvenile correctional facility or a secured child caring institution to a treatment facility if the individual is in need of services for developmental disability, alcoholism or drug dependency or in need of psychiatric services and if it has obtained voluntary consent for the transfer. Under current law, a minor 14 years of age or older ***and*** the minor's parent or guardian must consent to the transfer. Under the substitute amendment, in the case of a minor who is in need of services for alcoholism or drug abuse, only the minor's parent or guardian need consent.

Under current law, a minor who is 14 years of age or older may request in writing to return to the juvenile correctional facility or secured child caring institution. Generally, after such a request, the minor must be returned to the juvenile correctional facility or the secured child caring institution within 48 hours after submission of the request. The substitute amendment permits the parent or guardian of a minor who is 14 years of age or older who is transferred for the purpose of receiving services for alcoholism or drug dependency, and not the minor, to make such a request.

5. Alcohol and Other Drug Abuse Treatment for Minors Without Parental Consent

Under current law, subject to certain exceptions, any physician or any approved or certified health care facility may provide preventive, diagnostic, assessment, evaluation or treatment services for the abuse of alcohol or other drugs to a minor ***12 years of age or older*** without obtaining the consent of or notifying the minor's parent or guardian. The physician or health care facility must, however, notify the minor's parent or guardian of any services provided as soon as practicable.

The substitute amendment removes the reference to age 12 or older and, therefore, permits the provision of these services to a minor of any age without consent of the parent or guardian.

6. Parental Consent for Alcohol or Other Drug Abuse Treatment

The substitute amendment creates a new provision under which a parent of a minor may consent to have the minor assessed for abuse of alcohol or other drugs by an approved treatment facility. If, based on the assessment, the treatment facility determines that the minor is in need of treatment for abuse of alcohol or other drugs, the facility must recommend a plan of treatment that is appropriate for the minor's needs and that provides the least restrictive form of treatment consistent with the minor's needs. The treatment may consist of outpatient treatment, day treatment or inpatient treatment. The parent or guardian may consent to any treatment recommended under this provision. The consent of the minor to assessment or treatment, as described above, is not required. However, for inpatient treatment, the minor must be admitted in accordance with s. 51.13, Stats.

If you would like any further information on this subject, please feel free to contact me at the Legislative Council Staff offices.

AS:jal:wu:tlu;ksm;jal;rv

WISCONSIN COALITION FOR ADVOCACY

THE PROTECTION AND ADVOCACY SYSTEM FOR PEOPLE WITH DISABILITIES

Statement on LRB 3584/1 Relating to: Mental Health Treatment of Minors

before

Assembly Committee on Children and Families

September 20, 1999

by

Dianne Greenley
Supervising Attorney
Wisconsin Coalition for Advocacy

LRB 3584/1 substantially changes the law regarding consent for both inpatient and outpatient mental health and substance abuse treatment of minors aged 14 through 17. The Wisconsin Coalition for Advocacy is strongly opposed to these changes.

Since the mid 1970's the Wisconsin Statutes have required the consent of both the minor aged 14 and older and his/her parent or guardian for voluntary admission of the minor into an inpatient mental health or substance abuse treatment facility. This requirement was based upon case law in Wisconsin. There is also a provision for court approval of voluntary admissions when the minor wishes to be admitted but the parent or guardian cannot be found, there is no parent with legal custody, or consent is unreasonably withheld. For children admitted into public treatment facilities or when county funding is involved the juvenile court conducts a paper review of the appropriateness of the admission. This provision does not apply to admissions to private facilities where insurance or the family is paying for the cost.

The requirement of consent by both minor and parent or guardian has been a major contributing factor in avoiding the abusive psychiatric hospitalization of minors that has taken place in many other parts of the country. I also believe it was a factor in the reduction of for-profit psychiatric hospital beds in Wisconsin; if children could not be easily hospitalized a major market for their services was eliminated.

Madison office: 16 North Carroll Street, Suite 400, Madison, WI 53703 Voice & TDD 608 267 0214
Fax 608 267 0368 Toll Free 800 928 8778 (consumers & family members only)

Making inpatient hospitalization of minors easier goes against the grain of several other policy developments in Wisconsin. First, the state has put considerable effort into developing community based services for children and adolescents who need mental health or substance abuse treatment. Increased hospital use could cut into the funding available for these programs. Secondly, there is currently an effort to achieve parity in insurance coverage of mental health services. Opening the door to hospitalization of minors may hinder these efforts as insurance companies fear increased utilization of psychiatric benefits. Thirdly, eliminating a minor's decision making ability in this area sends quite mixed messages to adolescents. In the criminal justice arena they are being held increasingly responsible at younger ages while in the mental health area responsibility is being taken away and given solely to parents.

In making these arguments I do not want to imply bad will on the part of parents who seek inpatient treatment for their adolescents. Frequently a short term admission is needed in a crisis situation or to deal with medication and/or behavioral issues. However, it is a drastic step and should be used sparingly. Engaging the adolescent in making this decision means that the treatment is more likely to be successful. Hospitalization should not be used as a way of handling family conflicts or as a substitute for community treatment approaches.

If the Committee decides to support this change in the law, I urge your consideration of several modifications. As mentioned above the court review of voluntary admissions only applies to those in public facilities or where county funding is involved. This protection should be extended to all minors, including those in the private sector. The court review process also should be strengthened; to date it has been only a paper review. Requiring a guardian ad litem to visit a minor when the admission extends beyond a certain time period, for example fourteen days, to explain his/her rights and review the appropriateness of the admission may provide some greater protections. Finally, there should be some comparability with the juvenile justice code; minors aged 17 should be treated as adults in both systems.

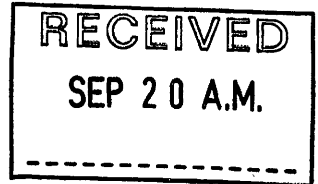
In the <u>outpatient treatment area</u> several other problems occur with the bill. Here the major concerns we hear about involve children who want and need to receive outpatient mental health treatment, but their parents are unavailable or refuse to consent. The bill would give total control over the receipt of outpatient treatment to parents. What are programs to do who serve abused and/or neglected children and parental consent is not forthcoming.

Under current law there is a provision in Section 51.14 allowing a minor to petition the court to obtain outpatient treatment without parental consent if that consent is unreasonably withheld. At the very least this section needs to be amended to allow an outpatient treatment provider to petition the court, as well as the minor. Also the standard needs to be revised to include situations when the parent or guardian is unavailable or there is no parent with legal custody. An additional proposal would be to allow minors of a certain age to consent to a limited number of outpatient visits so that a determination of need for treatment can be made. Parental notification and involvement can then be made unless there is a determination by the therapist that to do so would put the minor in imminent danger.

This is a complex area of law and relationships between parents, children, and treatment providers. I urge you to move slowly and thoughtfully.

September 17, 1999

Representative Bonnie Ladwig
STATE OF WISCONSIN
COMMITTEE for CHILDREN and FAMILIES
Madison, Wisconsin



Dear Madam:

Attached is a copy of a letter that I sent to Representative Neil Kedzie some time ago.

In response, he sent me a copy of the Mental Health bill that is currently before your committee.

I can not tell you how important passage of this bill, as it reads right now, is to so many families. It could mean the difference between getting treatment and staying out of the juvenile system or not…

As you can see in my letter to Representative Kedzie, my son would have benefited from this law. At fourteen, Jason was doing fine, a few rough spots but that is natural for teenage boys, right—really he was boarder line for treatment. In fact, he took himself off of the medication that he was on. At fifteen, his rough spots became more frequent but still nothing really serious. When we approached him about the idea of returning to treatment, not even a treatment facility, he told us under the law he didn't have to do it and we couldn't do anything about it.

All hell broke loose when Jason turned 16. He started skipping school every day. Smoking pot at his friend's houses…a lot of pot. He stole beer and scotch from my parent's houses. He struck me in October, 1998, right before his 16th birthday. The District Attorney refused to take action on it. In May, 1999, he hit is father. This time the DA did take action but the system doesn't want to waist funds on him since he will be 18 years old in less than two years. The Court would not order him to get treatment for his drug /drinking use. But they did order him into therapy and to comply with the recommendations of a psychiatrist.

Then in August, 1999, we found Jason sexually molesting our 11 year old daughter. Now my son sits in Rock County Juvenile waiting for his case worker and/or his attorney to call him so he can find out what is happening. He wants to check himself into Charter Hospital Sexual Offenders Ward but is not allowed to do this. His social worker just plays mind games with him. She doesn't see that my son's mind is seriously confused; that he has the emotional and educational base of a 13-14 year old. Yet, the system is probably going to try him as an adult for his crimes.

I thought, mistakenly, that if he got in the juvenile system that he would get the help he needed. I didn't realize that at the age of 16 the system would write Jason off as a waist of time, and, more importantly, funds.

This shouldn't have happened to my son. This shouldn't have happened to my family. This situation shouldn't happen to anyone else family, either.

With the passage of the revisions to the Mental Health Law that is in your committee now, parents will be able to sign their children into treatment or counseling without their children's permission. **Caring parents can help their needy children.**

THIS BILL MUST PASS AND BECOME A LAW!!!

There are, in our society, a significant number of children in need of help. They have separated themselves from us because they don't feel like they belong. They don't get what they need from us. These aren't just minority children or children from single parent families or divorced kids or kids with mental problems. It is this whole group put together plus others. They may have nothing in common with each other except their feeling of not belonging anywhere.

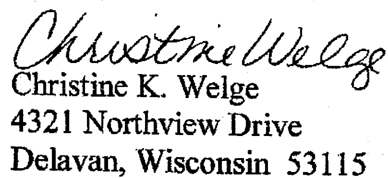
The way I see things, there are several possibilities that will happen with these kids: some will die; some will go to jail; some will stay in our society and be unproductive to the point of draining us—as so many have done before them.

This law isn't going to help everyone. This law isn't a cure for all of that. What this law is is simply a way for parents to get help for their troubled children. It is just a piece of equipment in an entire arsenal. However, it is the cannon for the arsenal.

No one should ever walk up their stairs to find their son's hand down their daughter's pants or hear on the news that their teenage boy went to school with his best friend and executed students before killing themselves. (One of those boy's parents did try to get him help. Same kind of law we have now. No help for them either. Now their son is dead and they are being sued.)

As a taxpayer and voter in the State of Wisconsin, I do want to see these revisions to the MENTAL HEALTH LAW passed.

Very truly yours,



Christine K. Welge
4321 Northview Drive
Delavan, Wisconsin 53115

July 13, 1999

Neil Kedzie
Representative
STATE OF WISCONSIN
P.O. Box 8952
Madison, Wisconsin 53708

RE: Mental Health Law

Dear Representative Kedzie:

My son, Jason Michael Welge, age 16 ¾, has many different types of problems that effect him physically, mentally, educationally and socially. As his parents, we have tried to see that Jason has had the best medical and psychological treatment available within the State of Wisconsin. That is until Jason turned 14 years old.

At that time, we as parents no longer could make medical decisions for our son. This state has a law, "the mental disabilities act" or something like that, which says that at the age of 14 years old a child can make decisions, legally, which affect his/her treatment by doctors and psychiatrists.

Why, at an age when you can't bind yourself to a contract, register for the draft, vote, smoke or drink, did our state decide that a child should be able to make rational decisions regarding their health. Under the best conditions, this is a time when children should be under very watchful supervision of their parents. At worst, it is when a child should have the kind of medical and psychological help that their parents see fit.

This is a bad law! This law should be changed!

In October, Jason hit me. He meant to hurt me and he did. I went to the hospital for bruised ribs and a sprained arm. In April, Jason hit my husband. Both times the police were called. The second time, Jason was taken into custody and brought to Charter Hospital in West Allis, Wisconsin. The doctor looked at him and wanted to keep him. But Jason would not sign himself in voluntarily.

Jason is now in the Juvenile Court system. He has pled guilty to battery of his father. This was our last option to get help for him.

However, we have been told by the social worker that there are very few resources available for Jason because of his age. The system wants to treat him like an adult even though he is a first time offender and, therefore, not give him the kind of break that could benefit him if he were younger.

He sent in his application to the Badger Challenge, which was recommended by his social worker. They just called today and told me they didn't want him. He had too many medical problems.

He is sending in an application to Job Core. But, we may make to much money for them to consider Jason for their program.

Quite frankly, sir, this state stinks in the handling of older juveniles and the law. Also, this state puts parents at a disadvantage by not allowing us to get the kind of treatment necessary for our children.

Why do we, as a state, encourage are troubled youth to commit more violent, serious crime then lock them up and say we have done what society has demanded.

We want help for our son!! He deserves it. He is a good looking, caring boy. He has a good mind. But his lack of memory gets in the way of him being the kind of person that he wants to be. He is excellent athletically. He is outstanding with his hands. He is a terrible book learner and has difficulty in grasping concepts that are presented to him too quickly.

This state should be encouraging parents to seek treatment for their troubled children. To be brave enough to see a problem in their youth and deal with it instead of looking, or running, away. OUR KIDS DESERVE IT!

Please help me to try to change this law. Give parents back the right to be parents of their challenged youth.

A change in the law won't be a benefit to my son; after all, he is 16 ¾. But there are other parents out there who need this law changed.

Thank you for your attention to this matter.

Sincerely,

Christine K. Welge
4321 Northview Drive
Delavan, WI 53115
(414) 728-5844

WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

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DATE: October 14, 1999

TO: REPRESENTATIVE BONNIE LADWIG AND MEMBERS OF THE ASSEMBLY COMMITTEE ON CHILDREN AND FAMILIES

FROM: Anne Sappenfield, Staff Attorney

SUBJECT: 1999 Assembly Bill 480, Relating to Mental Health Treatment of Minors and Assembly Amendment ___ (LRBa0719/1) to the Bill

This memorandum describes 1999 Assembly Bill 480, relating to mental health treatment, and Assembly Amendment ___ (LRBa0719/1) to the bill. Assembly Bill 480 was introduced by Representative Skindrud; cosponsored by Senator Rosenzweig on September 20, 1999 and referred to the Assembly Committee on Children and Families. The committee held a public hearing on the bill on September 20, 1999 and is scheduled to take executive action on the bill on October 21, 1999.

A. CURRENT LAW

Under current law, the Mental Health Act [ch. 51, Stats.] distinguishes between minors under 14 years of age and minors 14 years of age or older with regard to giving informed consent for: (1) outpatient mental health treatment; (2) voluntary admission to and discharge from an inpatient facility (i.e., a hospital or unit of a hospital that has as its primary purpose the diagnosis, treatment and rehabilitation of mental illness, developmental disability, alcoholism or drug abuse); (3) re-examination under, or modification or cancellation of, an involuntary mental commitment order; and (4) transfer from a juvenile secured correctional facility to an inpatient facility. In addition, minors who are 14 years of age or older have access to and may consent to the release of their court records and treatment records.

B. 1999 ASSEMBLY BILL 480

Assembly Bill 480 amends provisions of the Mental Health Act that distinguish between minors under 14 years of age and minors 14 years of age or older. Specifically, the bill provides as follows:

1. The bill eliminates the requirement that a minor 14 years of age or older provide his or her written, informed consent, in addition to that of his or her parent or guardian, before he or she may receive outpatient mental health treatment.

2. The bill eliminates the requirement that a minor 14 years of age or older execute the application for voluntary admission to an inpatient facility, along with the parent with legal custody of the minor or the minor's guardian, before the minor may be admitted to the facility.

3. The bill permits any minor, not only a minor 14 years of age or older, who wishes to be admitted to an inpatient facility to petition the juvenile court (i.e., the court assigned to exercise jurisdiction under the Children's Code) for approval of the admission if the parent who has legal custody of the minor or the minor's guardian refuses to execute the application for admission or cannot be found.

4. The bill eliminates the requirement that a minor 14 years of age or older who has been voluntarily admitted to an inpatient facility be discharged within 48 hours after making such a request and instead requires the juvenile court to hold a hearing on such a request to determine the continued appropriateness of the admission. This is identical to the provision under current law for minors under 14 years of age.

5. The bill eliminates the right of a minor 14 years of age or older who has been involuntarily committed for mental health treatment to petition the juvenile court for an order that his or her mental condition be re-examined or for an order modifying or canceling his or her commitment.

6. The bill eliminates the requirement that a minor 14 years of age or older must consent to being transferred from a juvenile correctional facility to an inpatient facility if the juvenile court finds that the transfer is appropriate and consistent with the needs of the minor. Under the bill, only the minor's parent or guardian need consent, as is the case for minors under 14 years of age under current law.

7. The bill permits a minor 14 years of age or older to have access to his or her court records only in the presence of his or her parent, guardian, counsel, guardian ad litem or a judge and to have access to his or her treatment records only in the presence of his or her parent, guardian, counsel, guardian ad litem or a staff member of the treatment facility. Under current law, a minor 14 years of age or older has access to these records on the same basis as an adult. The bill also eliminates the right under current law of a developmentally disabled minor 14 years of age or older to object to his or her parent or guardian or a person in the place of a parent having access to the minor's court and treatment records.

8. The bill eliminates the right of a minor 14 years of age or older to consent to the release of confidential information in his or her court records or treatment records without the consent of his or her parent or guardian or a person in place of a parent.

C. ASSEMBLY AMENDMENT — TO THE BILL

Assembly Amendment __ modifies the bill so that it relates only to minors 14 years of age or older who are receiving treatment for alcoholism or drug abuse.

1. Voluntary Admission to an Inpatient Facility

Under the amendment, an application for voluntary admission of a minor of any age to an inpatient treatment facility for the primary purpose of treatment of alcoholism or drug abuse must be executed by the parent who has legal custody of the minor or the minor's guardian. An application for voluntary admission of a minor 14 years of age or older to an inpatient facility for the primary purpose of treatment for mental illness or developmental disability must be executed by the minor ***and*** the minor's parent or guardian, as provided under current law.

The amendment eliminates the right of a minor who is 14 years of age or older who is admitted to an inpatient treatment facility for the primary purpose of treatment of alcoholism or drug abuse to be discharged within 48 hours of making such a request. Instead, as provided under current law for minors who are under 14 years of age, a minor who is 14 years of age or older who is being treated for alcoholism or drug abuse may submit a written request to the juvenile court for a hearing to determine the continued appropriateness of the admission. Also, as provided under current law for minors under 14 years of age, if the director or staff of the facility to which such a minor is admitted observes conduct by the minor which demonstrates an unwillingness to remain at the facility, the director must file a written request with the juvenile court to determine the continued appropriateness of the admission. The court must hold a hearing within 14 days, if so requested.

The amendment also provides that an application for a minor who is 14 years of age or older to be admitted to an inpatient facility for a short-term admission, not to exceed 12 days, must be executed by the minor's parent or guardian if the minor is being admitted for the primary purpose of diagnosis, evaluation or services for alcoholism or drug abuse. Under current law, the minor must execute the application.

2. Transfer From a Juvenile Correctional Facility to a Treatment Facility

Under current law, the Department of Corrections may transfer any individual confined in a juvenile correctional facility or a secured child caring institution to a treatment facility if the individual is in need of services for developmental disability, alcoholism or drug dependency or in need of psychiatric services and if it has obtained voluntary consent for the transfer. Under current law, a minor 14 years of age or older ***and*** the minor's parent or guardian must consent to the transfer. Under the amendment, in the case of a minor who is in need of services for alcoholism or drug abuse, only the minor's parent or guardian need consent.

Under current law, a minor who is 14 years of age or older may request in writing a return to the juvenile correctional facility or secured child caring institution. Generally, after such a request, the minor must be returned to the juvenile correctional facility or the secured child caring institution within 48 hours after submission of the request. The amendment permits the parent or guardian of a minor who is 14 years of age or older who is transferred for the

purpose of receiving services for alcoholism or drug dependency, and not the minor, to make such a request.

If you would like any further information on this subject, please feel free to contact me at the Legislative Council Staff offices.

AS:jal;ksm

RECEIVED
OCT 25 P.M.

WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536
Telephone: (608) 266-1304
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Email: leg.council@legis.state.wi.us

DATE: October 25, 1999

TO: REPRESENTATIVE BONNIE LADWIG AND MEMBERS OF THE ASSEMBLY COMMITTEE ON CHILDREN AND FAMILIES

FROM: Anne Sappenfield, Staff Attorney

SUBJECT: 1999 Assembly Bill 480, Relating to Mental Health Treatment of Minors and Assembly Amendments 1 and 2 to the Bill

This memorandum describes 1999 Assembly Bill 480, relating to mental health treatment, and Assembly Amendments 1 and 2 to the bill. Assembly Bill 480 was introduced by Representative Skindrud; cosponsored by Senator Rosenzweig on September 20, 1999 and referred to the Assembly Committee on Children and Families. The committee held a public hearing on the bill on September 20, 1999 and recommended passage of the bill as amended on October 21, 1999.

A. CURRENT LAW

Under current law, the Mental Health Act [ch. 51, Stats.] distinguishes between minors under 14 years of age and minors 14 years of age or older with regard to giving informed consent for: (1) outpatient mental health treatment; (2) voluntary admission to and discharge from an inpatient facility (i.e., a hospital or unit of a hospital that has as its primary purpose the diagnosis, treatment and rehabilitation of mental illness, developmental disability, alcoholism or drug abuse); (3) re-examination under, or modification or cancellation of, an involuntary mental commitment order; and (4) transfer from a juvenile secured correctional facility to an inpatient facility. In addition, minors who are 14 years of age or older have access to and may consent to the release of their court records and treatment records.

B. 1999 ASSEMBLY BILL 480

Assembly Bill 480 amends provisions of the Mental Health Act that distinguish between minors under 14 years of age and minors 14 years of age or older. Specifically, the bill provides as follows:

1. The bill eliminates the requirement that a minor 14 years of age or older provide his or her written, informed consent, in addition to that of his or her parent or guardian, before he or she may receive outpatient mental health treatment.

2. The bill eliminates the requirement that a minor 14 years of age or older execute the application for voluntary admission to an inpatient facility, along with the parent with legal custody of the minor or the minor's guardian, before the minor may be admitted to the facility.

3. The bill permits any minor, not only a minor 14 years of age or older, who wishes to be admitted to an inpatient facility to petition the juvenile court (i.e., the court assigned to exercise jurisdiction under the Children's Code) for approval of the admission if the parent who has legal custody of the minor or the minor's guardian refuses to execute the application for admission or cannot be found.

4. The bill eliminates the requirement that a minor 14 years of age or older who has been voluntarily admitted to an inpatient facility be discharged within 48 hours after making such a request and instead requires the juvenile court to hold a hearing on such a request to determine the continued appropriateness of the admission. This is identical to the provision under current law for minors under 14 years of age.

5. The bill eliminates the right of a minor 14 years of age or older who has been involuntarily committed for mental health treatment to petition the juvenile court for an order that his or her mental condition be re-examined or for an order modifying or canceling his or her commitment.

6. The bill eliminates the requirement that a minor 14 years of age or older must consent to being transferred from a juvenile correctional facility to an inpatient facility if the juvenile court finds that the transfer is appropriate and consistent with the needs of the minor. Under the bill, only the minor's parent or guardian need consent, as is the case for minors under 14 years of age under current law.

7. The bill permits a minor 14 years of age or older to have access to his or her court records only in the presence of his or her parent, guardian, counsel, guardian ad litem or a judge and to have access to his or her treatment records only in the presence of his or her parent, guardian, counsel, guardian ad litem or a staff member of the treatment facility. Under current law, a minor 14 years of age or older has access to these records on the same basis as an adult. The bill also eliminates the right under current law of a developmentally disabled minor 14 years of age or older to object to his or her parent or guardian or a person in the place of a parent having access to the minor's court and treatment records.

8. The bill eliminates the right of a minor 14 years of age or older to consent to the release of confidential information in his or her court records or treatment records without the consent of his or her parent or guardian or a person in place of a parent.

C. ASSEMBLY AMENDMENT 1 TO THE BILL

Assembly Amendment 1 modifies the bill so that it relates only to minors 14 years of age or older who are receiving treatment for alcoholism or drug abuse. This section of the memorandum describes Assembly Amendment 1 and Assembly Amendment 1 to Assembly Amendment 1.

1. Voluntary Admission to an Inpatient Facility

Under Assembly Amendment 1, an application for voluntary admission of a minor of any age to an inpatient treatment facility for the primary purpose of treatment of alcoholism or drug abuse must be executed by the parent who has legal custody of the minor or the minor's guardian. An application for voluntary admission of a minor 14 years of age or older to an inpatient facility for the primary purpose of treatment for mental illness or developmental disability must be executed by the minor ***and*** the minor's parent or guardian, as provided under current law.

The amendment eliminates the right of a minor who is 14 years of age or older who is admitted to an inpatient treatment facility for the primary purpose of treatment of alcoholism or drug abuse to be discharged within 48 hours of making such a request. Instead, as provided under current law for minors who are under 14 years of age, a minor who is 14 years of age or older who is being treated for alcoholism or drug abuse may submit a written request to the juvenile court for a hearing to determine the continued appropriateness of the admission. Also, as provided under current law for minors under 14 years of age, if the director or staff of the facility to which such a minor is admitted observes conduct by the minor which demonstrates an unwillingness to remain at the facility, the director must file a written request with the juvenile court to determine the continued appropriateness of the admission. The court must hold a hearing within 14 days, if so requested.

The amendment also provides that an application for a minor who is 14 years of age or older to be admitted to an inpatient facility for a short-term admission, not to exceed 12 days, must be executed by the minor's parent or guardian if the minor is being admitted for the primary purpose of diagnosis, evaluation or services for alcoholism or drug abuse. Under current law, the minor must execute the application.

2. Transfer From a Juvenile Correctional Facility to a Treatment Facility

Under current law, the Department of Corrections may transfer any individual confined in a juvenile correctional facility or a secured child caring institution to a treatment facility if the individual is in need of services for developmental disability, alcoholism or drug dependency or in need of psychiatric services and if it has obtained voluntary consent for the transfer. Under current law, a minor 14 years of age or older ***and*** the minor's parent or guardian must consent to the transfer. Under Assembly Amendment 1, in the case of a minor who is in need of services for alcoholism or drug abuse, only the minor's parent or guardian need consent.

Under current law, a minor who is 14 years of age or older may request in writing a return to the juvenile correctional facility or secured child caring institution. Generally, after

such a request, the minor must be returned to the juvenile correctional facility or the secured child caring institution within 48 hours after submission of the request. The amendment permits the parent or guardian of a minor who is 14 years of age or older who is transferred for the purpose of receiving services for alcoholism or drug dependency, and not the minor, to make such a request.

3. Petition for Voluntary Admission if Parental Consent Unavailable

Under current law, a minor who is 14 years of age or older who wishes to be admitted to an inpatient facility may petition the juvenile court for approval of the admission if the parent who has legal custody of the minor or the minor's guardian refuses to execute the application for admission or cannot be found. If, after a hearing, the court determines that the consent of the parent or guardian is being unreasonably withheld, that the parent or guardian cannot be found or that there is no parent with legal custody and that the admission is proper, the court must approve the admission without the consent of the parent or guardian.

Assembly Amendment 1 to Assembly Amendment 1 removes the reference to age 14 or older from this provision. Therefore, under the amendment, a minor of any age may petition the juvenile court for admission to an inpatient facility under the conditions described above.

4. Alcohol and Other Drug Abuse Treatment for Minors Without Parental Consent

Under current law, subject to certain exceptions, any physician or any approved or certified health care facility may provide preventive, diagnostic, assessment, evaluation or treatment services for the abuse of alcohol or other drugs to a minor ***12 years of age or older*** without obtaining the consent of or notifying the minor's parent or guardian. The physician or health care facility must, however, notify the minor's parent or guardian of any services provided as soon as practicable.

Assembly Amendment 1 to Assembly Amendment 1 removes the reference to age 12 or older and, therefore, permits the provision of these services to a minor of any age without consent of the parent or guardian.

5. Parental Consent for Alcohol or Other Drug Abuse Treatment

Assembly Amendment 1 to Assembly Amendment 1 creates a new provision under which a parent of a minor may consent to have the minor assessed for abuse of alcohol or other drugs by an approved treatment facility. If, based on the assessment, the treatment facility determines that the minor is in need of treatment for abuse of alcohol or other drugs, the facility must recommend a plan of treatment that is appropriate for the minor's needs and that provides the least restrictive form of treatment consistent with the minor's needs. The treatment may consist of outpatient treatment, day treatment or inpatient treatment. The parent or guardian may consent to any treatment recommended under this provision. The consent of the minor to assessment or treatment, as described above, is not required. However, for inpatient treatment, the minor must be admitted in accordance with s. 51.13, Stats.

D. ASSEMBLY AMENDMENT 2

Under current law, a minor may be admitted to an inpatient facility immediately upon the approval of the application for admission by the facility's treatment director. Approval must 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 facility offers appropriate services and that inpatient care in the facility is the least restrictive therapy or treatment consistent with the minor's needs.

Assembly Amendment 2 provides that, in the case of a minor who is being admitted for the primary purpose of treatment for alcoholism or drug abuse, if the minor agrees to participate in an alcohol or other drug abuse assessment that conforms to the criteria specified in s. 938.547 (4), Stats. (i.e., uniform alcohol and other drug abuse assessment criteria developed by the Department of Health and Family Services), approval must also be based on the results of the assessment.

If you would like any further information on this subject, please feel free to contact me at the Legislative Council Staff offices.

AS:jal:wu;ksm;jal

State of Wisconsin
Department of Health and Family Services

Tommy G. Thompson, Governor
Joe Leean, Secretary

November 3, 1999

TO: Wisconsin State Representatives

FROM: Joe Leean
Secretary

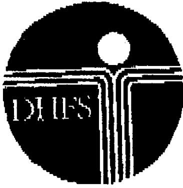
RE: In Support of ASA 1 to Assembly Bill 480

I am writing in support of ASA 1 to AB 480. This legislation is good for Wisconsin because it seeks to provide earlier, and in some cases life saving, intervention for minors who are alcohol or drug addicted. Research has found that empowering parents with earlier intervention strategies than in-patient service is often far more successful in the long run. This bill gives parents—and the AODA counselors with whom they are working—the option of mandating an in-depth assessment followed by AODA treatment in the least restrictive and most appropriate setting.

ASA 1 to AB 480:

- Is significantly narrowed in focus to just those minors who, in the judgment of their parents or guardians, are in need of alcohol and other drug abuse treatment.
- Eliminates the 48-hour discharge provision for someone admitted to an inpatient treatment facility for the primary purpose of alcoholism or drug abuse. When inpatient services are warranted, the worst outcome can come from a minor who upon detoxification once again views himself indestructible and seeks to return to the old habits which landed him there in the beginning.
- Is no longer limited to in-patient services and thereby allows for parental involvement across the continuum of services.
- Allows parents to have an in-depth assessment of the minor, conducted by a certified AODA counselor, which will result in a recommendation for treatment in the most appropriate setting.
- Allows parents to have AODA treatment provided to the minor based on the assessment in the most appropriate setting: outpatient, day treatment, residential, or inpatient.

In short, the substitute amendment before you improves Assembly Bill 480, and, in turn, improves the delivery system for families in need of AODA intervention services. Please join in support of ASA 1 to AB 480. Thank you.



State of Wisconsin
Department of Health and Family Services

Tommy G. Thompson, Governor
Joe Leean, Secretary

October 18, 1999

TO: Representative Rick Skindrud

FROM: Joe Leean
Secretary

RE: 1999 Assembly Bill 480 as Amended

Thank you for the opportunity to review AB 480 as amended by LRB 0719/1. Your legislation is significantly narrowed in focus to just those minors who, in the judgment of their parents or guardians, are in need of alcohol and other drug abuse treatment.

The concept of this legislation is good for Wisconsin because it seeks to provide earlier, and in some cases life-saving, intervention for minors who are alcohol or drug addicted. I support a number of aspects of the bill, including the elimination of the 48-hour discharge provision for someone admitted to an inpatient treatment facility for the primary purpose of alcoholism or drug abuse. When inpatient services are warranted, the worst outcome can come from a minor who upon detoxification once again views himself indestructible and seeks to return to the old habits which landed him there in the beginning.

However, there are some areas of the bill that should be strengthened. AB 480 is limited to in-patient services and thereby assumes forced parental involvement only at the deepest end of the continuum of services. Research has found that empowering parents with earlier intervention strategies is often far more successful in the long run. This bill should give parents—and the AODA counselors with whom they are working—the option of mandating an in-depth assessment followed by AODA treatment in the least restrictive and most appropriate setting. AB 480 could do this if amended:

(1) To allow the parent to have an in-depth assessment of the minor, conducted by a certified AODA counselor, which would result in a recommendation for treatment in the most appropriate setting.

(2) To allow the parent to have AODA treatment provided to the minor based on the assessment in the most appropriate setting. These settings should include outpatient, day treatment, and residential treatment, in addition to inpatient services.

Finally, I agree with a provision of your original bill that was removed by the amendment and should be placed back into the bill, and in a broader context. This is the change to the language under s. 51.13(1)(c). AB 480 originally rid this paragraph of the distinction that only a minor 14 years of age or older could be admitted for inpatient treatment without parental or guardian consent. AB 480 as amended ought to reflect that a minor of any age could seek treatment without parental consent through a petition to the juvenile court if a parent is either absent ("cannot be found") or unreasonably withholds consent.

These recommended changes would help improve Assembly Bill 480 and in turn improve the delivery system for families in need of AODA intervention services. Thank you.