

2001 DRAFTING REQUEST

Bill

Received: 12/08/2000

Received By: malaigm

Wanted: As time permits

Identical to LRB:

For: Rick Skindrud (608) 266-3520

By/Representing: Aide

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Alt. Drafters:

Subject: Mental Health - AODA

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Alcohol and other drug abuse treatment of minors; parental consent requirement

Instructions:

Redraft AA1 to 1999 AB 480

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>
/?	malaigm 12/12/2000	wjackson 01/06/2001					S&L
/1			pgreensl 01/11/2001		lrb docadmin 01/11/2001		S&L
/2	malaigm 01/24/2001	wjackson 01/25/2001	martykr 01/28/2001		lrb docadmin 01/28/2001	lrb docadmin 01/29/2001	

FE Sent For:

<END>

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/1		1/2 Wlj 1/25	pgreensl 01/11/2001		lrb_docadmin 01/11/2001		

FE Sent For:

Ch #
 1/28
 1/2
 Cm #
 Km
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For: **Rick Skindrud (608) 266-3520**

By/Representing: **Aide**

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Drafter: **malaigm**

May Contact:

Alt. Drafters:

Subject: **Mental Health - AODA**

Extra Copies: **DAK**

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1?	malaigm	1 WJ 1/6	1/10 DB	1/10 PJR/RS			

FE Sent For:

<END>

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1414/1dn
CMM.../.....

WJ

Representative Skindrud:

This draft, in addition to AA1 to 1999 AB 480, also includes AA1 to AA1 to AB 480 and AA2 to AB 480, all three of which were folded into ASA 1 to AB 480, which, together with AA1 to ASA 1 to AB 480, was passed by the Assembly 95 to 2 last session.

To refresh your ^{Memory} recollection:

1. AA1, which was your amendment, narrowed the scope of AB 480 to treatment for alcohol or other drug abuse.
2. AA1 to AA1 to AB 480, which was requested by DHFS and approved by the Committee on Children and Families, permits a parent to consent to have a minor assessed for alcohol or other drug abuse.
3. AA2 to AB 480, which was offered by Representative Miller and approved by the Committee on Children and Families, requires an assessment for alcohol or other drug abuse to conform to the multidisciplinary screen criteria specified in s. 938.547 (4), stats.
4. AA1 to ASA 1 to AB 480, which was offered by Representative Grothman, clarifies that a minor under 14 years of age may receive inpatient treatment, and a minor under 12 years of age may receive outpatient treatment, without the consent of the parent only if the parent cannot be found and not if the parent refuses to consent.

If you do not want any of these amendments included in the draft, please advise and I will take them out.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us

D-Note

-1414/1

LRBs07004

GMM:wlijf

Stays

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 480**

SOON

LPG: Inserts
are out of order.

~~November 1, 1999 - Offered by COMMITTEE ON CHILDREN AND FAMILIES.~~

REGEN

alcohol or other

Regenerate

1 AN ACT to amend 51.13 (1) (a), 51.13 (1) (b), 51.13 (1) (c), 51.13 (1) (d), 51.13 (1)
2 (e), 51.13 (2) (a), 51.13 (2) (b), 51.13 (2) (d), 51.13 (3) (b), 51.13 (3) (c), 51.13 (4)
3 (a) (intro.), 51.13 (4) (c), 51.13 (4) (d), 51.13 (4) (g) (intro.), 51.13 (4) (g) 1., 51.13
4 (6) (a), 51.13 (7) (a), 51.13 (7) (b), 51.13 (7) (c), 51.22 (2), 51.35 (3) (a), 51.35 (3)
5 (b), 51.35 (3) (g), 51.47 (title), 51.47 (1) and 51.61 (6); and to create 51.48 of the
6 statutes; relating to: treatment of minors for alcoholism or drug abuse.

Insert
A ↓

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

7 SECTION 1. 51.13 (1) (a) of the statutes is amended to read:
8 * 51.13 (1) (a) Except as provided in s. 51.45 (2m), the application for voluntary
9 admission of a minor (no plain) who is under 14 years of age to an approved inpatient treatment
10 facility for the primary purpose of treatment for alcoholism or drug abuse and the
11 application for voluntary admission of a minor who is under 14 years of age to an
12 approved inpatient treatment facility for the primary purpose of treatment for

par. (c) and

or older than

alcoholism, or drug abuse

except as provided in par. (c) 1. or 2.

1 mental illness ⁽¹⁾ or developmental disability shall be executed by a parent who has
2 legal custody of the minor or the minor's guardian. Any statement or conduct by a
3 minor under the age of 14 who is the subject of an application for voluntary admission
4 under this paragraph indicating that the minor does not agree to admission to the
5 facility shall be noted on the face of the application and shall be noted in the petition
6 required by sub. (4).

7 SECTION 2. 51.13 (1) (b) ¹ of the statutes is amended to read:

8 51.13 (1) (b) The application for voluntary admission of a minor who is 14 years
9 of age or ~~over~~ ^{older} to an approved inpatient treatment facility for the primary purpose of
10 treatment for mental illness ^(51.13) or developmental disability ^{alcoholism or drug abuse} shall be executed by the
11 minor and a parent who has legal custody of the minor or the minor's guardian,
12 except as provided in par. (c) ⁽¹⁾ ✓

13 SECTION 3. 51.13 (1) (c) of the statutes is amended to read:

14 51.13 (1) (c) If a minor 14 years of age or older wishes to be admitted to an
15 approved inpatient treatment facility but a parent with legal custody or the guardian
16 refuses to execute the application for admission or cannot be found, or if there is no
17 parent with legal custody, the minor or a person acting on the minor's behalf may
18 petition the court assigned to exercise jurisdiction under chs. 48 and 938 in the
19 county of residence of the parent or guardian for approval of the admission. A copy
20 of the petition and a notice of hearing shall be served upon the parent or guardian
21 at his or her last known address. If, after a hearing, the court determines that the
22 parent or guardian's consent is of the parent or guardian is being unreasonably
23 withheld ~~or~~, that the parent or guardian cannot be found or that there is no parent
24 with legal custody, and that the admission is proper under the standards prescribed
25 in sub. (4) (d), it the court shall approve the minor's admission without the parent

Insert
3-3

1 or guardian's consent of the parent or guardian. The court may, at the minor's
2 request, temporarily approve the admission pending a hearing on the petition. If a
3 hearing is held under this subsection, no review or hearing under sub. (4) is required.

4 SECTION 4. 51.13 (1) (d) of the statutes is amended to read:

5 51.13 (1) (d) A minor against whom a petition or statement has been filed under
6 s. 51.15, 51.20 or 51.45 (12) or (13) may be admitted under this section. The court
7 may permit the minor to become a voluntary patient pursuant to under this section
8 upon approval by the court of an application executed pursuant to under par. (a), (b),
9 or (c), and the judge. The court shall then dismiss the proceedings under s. 51.15,
10 51.20 or 51.45 (12) or (13). If a hearing is held under this subsection, no hearing
11 under sub. (4) is required.

12 SECTION 5. 51.13 (1) (e) of the statutes is amended to read:

13 51.13 (1) (e) A minor may be admitted immediately upon the approval of the
14 application executed under par. (a) or (b) by the treatment director of the facility or
15 his or her designee or, in the case of a center for the developmentally disabled, the
16 director of the center or his or her designee, and the director of the appropriate county
17 department under s. 51.42 or 51.437 if such the county department is to be
18 responsible for the cost of the minor's therapy and treatment. Approval shall be
19 based upon an informed professional opinion that the minor is in need of psychiatric
20 services or services for developmental disability, alcoholism or drug abuse, that the
21 treatment facility offers inpatient therapy or treatment which is appropriate for the
22 minor's needs and that inpatient care in the facility is the least restrictive therapy
23 or treatment consistent with the minor's needs. In the case of a minor who is being
24 admitted for the primary purpose of treatment for alcoholism or drug abuse, if the
25 minor agrees to participate in an alcohol or other drug abuse assessment that

approval shall also be based on the results of

Handwritten box containing '250A' and '4-2' with arrows pointing to lines 1 and 2.

conforms to the criteria specified in s. 938.547 (4) approval shall also be based on the results of the assessment.

SECTION 6. 51.13 (2) (a) of the statutes is amended to read:

Handwritten note: who is 14 years of age or older

51.13 (2) (a) A minor may be admitted to an inpatient treatment facility without complying with the requirements of this section if the admission does not involve the department or a county department under s. 51.42 or 51.437, or a contract between a treatment facility and the department or between a treatment facility and

a county department. The application for voluntary admission of a minor to an inpatient treatment facility for the primary purpose of treatment for alcoholism or drug abuse and the application for voluntary admission of a minor who is under 14

Handwritten note: alcoholism or drug abuse

years of age to an inpatient treatment facility for the primary purpose of treatment for mental illness or developmental disability, shall be executed by a parent who has

legal custody of the minor or the minor's guardian. The application for voluntary admission of a minor who is 14 years of age or older to an inpatient treatment facility

Handwritten note: by STEVE

for the primary purpose of treatment for mental illness or developmental disability shall be executed by the minor and a parent who has legal custody of the minor or the minor's guardian.

SECTION 7. 51.13 (2) (b) of the statutes is amended to read:

51.13 (2) (b) Notwithstanding par. (a), any minor who is 14 years of age or older who is admitted to an inpatient treatment facility for the primary purpose of treatment of mental illness, or developmental disability, alcoholism or drug abuse has the right to be discharged within 48 hours of after his or her request, as provided in sub. (7) (b). At the time of admission, any minor who is 14 years of age or older and who is admitted for the primary purpose of treatment for mental illness or developmental disability shall be informed of this right orally and in writing by the

Handwritten note: and

Handwritten note: to an inpatient treatment facility

1 director of the hospital or such person's designee. This paragraph does not apply to
2 individuals who receive services in hospital emergency rooms.

3 SECTION 8. 51.13 (2) (d) of the statutes is amended to read:

4 51.13 (2) (d) Writing materials for use in requesting a discharge shall be made
5 available at all times to all minors who are 14 years of age or older and who are
6 admitted under this subsection for the primary purpose of treatment for mental
7 illness or developmental disability. The staff of the facility shall assist such minors
8 in preparing or submitting requests for discharge.

9 SECTION 9. 51.13 (3) (b) of the statutes is amended to read:

10 51.13 (3) (b) A minor 14 years of age or older who has been admitted to an
11 inpatient treatment facility for the primary purpose of treatment for mental illness
12 or developmental disability and his or her parent or guardian shall also be informed
13 by the director or his or her designee, both orally and in writing, in easily
14 understandable language, of the minor's right to request discharge and to be
15 discharged within 48 hours of the request if no petition or statement is filed for
16 emergency detention, emergency commitment, involuntary commitment, or
17 protective placement, and the minor's right to consent to or refuse treatment as
18 provided in s. 51.61 (6).

19 SECTION 10. 51.13 (3) (c) of the statutes is amended to read:

20 51.13 (3) (c) A minor who has been admitted to an inpatient facility for the
21 primary purpose of treatment for alcoholism or drug abuse, a minor under 14 years
22 of age who has been admitted to an inpatient treatment facility for the primary
23 purpose of treatment for mental illness or developmental disability, and his or her the
24 parent or guardian of such a minor shall also be informed by the director or his or
25 her designee, both orally and in writing, in easily understandable language, of the

14 years of age or older

alcoholism, or drug abuse

minor's

1 minor's right to a hearing to determine continued appropriateness of the admission
2 as provided in sub. (7).

3 SECTION 11. 51.13 (4) (a) (intro.)[↓] of the statutes is amended to read:

4 51.13 (4) (a) (intro.) Within 3 days of after the admission of a minor under sub.
5 (1), or within 3 days of after application for admission of the minor, whichever occurs
6 first, the treatment director of the facility to which the minor is admitted or, in the
7 case of a center for the developmentally disabled, the director of the center, shall file
8 a verified petition for review of the admission in the court assigned to exercise
9 jurisdiction under chs. 48 and 938 in the county in which the facility is located. A
10 copy of the application for admission and of any relevant professional evaluations
11 shall be attached to the petition. The petition shall contain all of the following:

12 SECTION 12. 51.13 (4) (c)[↓] of the statutes is amended to read:

13 51.13 (4) (c) A copy of the petition shall be provided by the petitioner to the
14 minor and his or her parents or guardian within 5 days of after admission.

15 SECTION 13. 51.13 (4) (d)[↓] of the statutes is amended to read:

16 51.13 (4) (d) Within 5 days of after the filing of the petition, the court assigned
17 to exercise jurisdiction under chs. 48 and 938 shall determine, based on the
18 allegations of the petition and accompanying documents, ~~whether the admission is~~
19 ~~voluntary on the part of the minor if the minor is 14 years of age or older and whether~~
20 there is a prima facie showing that the minor is in need of psychiatric services, or

21 services for developmental disability, alcoholism, or drug abuse, that the treatment
22 facility offers inpatient therapy or treatment ^{that} ~~which~~ is appropriate to the minor's
23 ~~needs, and that inpatient care in the treatment facility is the least restrictive therapy~~
24 or treatment consistent with the needs of the minor, ~~and, if the minor is 14 years of~~
25 age or older and has been admitted to the treatment facility for the primary purpose

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5

Strike comma
Plain

1 of treatment for mental illness or developmental disability, whether the admission
 2 is voluntary on the part of the minor. If such a showing is made, the court shall
 3 permit voluntary admission. If the court is unable to make such those
 4 determinations based on the petition and accompanying documents, ~~it shall~~ the
 5 court may dismiss the petition as provided in par. (h); or order additional information
 6 to be produced as it deems necessary for the court to make such review, and make
 7 such those determinations within 14 days of after admission or application for
 8 admission, whichever is sooner; or ~~it may~~ hold a hearing within 14 days of after
 9 admission or application for admission, whichever is sooner. If a notation of the
 10 minor's unwillingness appears on the face of the petition, or if a hearing has been
 11 requested by the minor, ^{or by} the minor's counsel, parent, or guardian, the court shall hold
 12 a hearing to review the admission within 14 days of after admission or application
 13 for admission, whichever is sooner, and shall appoint counsel to represent the minor
 14 if the minor is unrepresented. If the court ~~deems~~ considers it necessary, ~~it~~ the court
 15 shall also appoint a guardian ad litem to represent the minor.

16 **SECTION 14.** 51.13 (4) (g) (intro.)[↓] of the statutes is amended to read:

17 51.13 (4) (g) (intro.) If the court finds that the minor is in need of psychiatric ⁵
 18 services or services for developmental disability, alcoholism, or drug abuse in an
 19 inpatient facility, ~~and~~ that the inpatient facility to which the minor is admitted offers ⁵
 20 therapy or treatment that is appropriate for the minor's needs and that is the least
 21 restrictive therapy or treatment consistent with the minor's needs, ⁵ and, in the case
 22 of a minor aged 14 or older who is being admitted for the primary purpose of ^{that}
 23 treatment for mental illness or developmental disability, the application is voluntary
 24 on the part of the minor, the court shall permit voluntary admission. If the court finds
 25 that the therapy or treatment in the inpatient facility to which the minor is admitted

1 is not appropriate or is not the least restrictive therapy or treatment consistent with
 2 the minor's needs, the court may order placement in or transfer to another more
 3 appropriate or less restrictive inpatient facility, except that the court may not permit
 4 or order placement in or transfer to the northern or southern centers for the
 5 developmentally disabled of a minor unless the department gives approval for the
 6 placement or transfer, and if the order of the court is approved by all of the following
 7 if applicable:

8 SECTION 15. 51.13 (4) (g) 1. of the statutes is amended to read:

9 51.13 (4) (g) 1. The minor if he or she is aged 14 or older and is being admitted
 10 for the primary purpose of treatment for mental illness or developmental disability.

← plain period

11 SECTION 16. 51.13 (6) (a) of the statutes is amended to read:

12 51.13 (6) (a) A minor may be admitted to an inpatient treatment facility
 13 without review of the application under sub. (4) for diagnosis and evaluation or for
 14 dental, medical, or psychiatric services for a period not to exceed 12 days. The
 15 application for short-term admission of a minor shall be executed by the minor's
 16 parent or guardian, and by ~~the minor if he or she,~~ if the minor is 14 years of age or
 17 older and is being admitted for the primary purpose of diagnosis, evaluation, or
 18 services for mental illness or developmental disability, by the minor. A minor may
 19 not be readmitted to an inpatient treatment facility for psychiatric services under
 20 this paragraph within 120 days of a previous admission under this paragraph.

21 SECTION 17. 51.13 (7) (a) of the statutes is amended to read:

22 51.13 (7) (a) If a minor is admitted to an inpatient treatment facility while
 23 under 14 years of age, and if upon reaching age 14 is in need of further inpatient care
 24 and treatment primarily for mental illness or developmental disability, the director
 25 of the facility shall request the minor and the minor's parent or guardian to execute

1 an application for voluntary admission. Such an application may be executed within
 2 30 days prior to a minor's 14th birthday. If the application is executed, a petition for
 3 review shall be filed in the manner prescribed in sub. (4), unless such a review has
 4 been held within the last 120 days. If the application is not executed by the time of
 5 the minor's 14th birthday, the minor shall be discharged unless a petition or
 6 statement is filed for emergency detention, emergency commitment, involuntary
 7 commitment or protective placement by the end of the next day in which the court
 8 transacts business.

9 SECTION 18. 51.13 (7) (b) of the statutes is amended to read:

10 51.13 (7) (b) Any minor 14 years of age or ^{older} over voluntarily admitted under this
 11 section for the primary purpose of treatment for mental illness or developmental
 12 disability may request discharge in writing. Upon receipt of any form of written
 13 request for discharge, the director of the facility in which the minor is admitted shall
 14 immediately notify the minor's parent or guardian. The minor shall be discharged
 15 within 48 hours after submission of the request, exclusive of Saturdays, Sundays and
 16 legal holidays, unless a petition or statement is filed for emergency detention,
 17 emergency commitment, involuntary commitment or protective placement.

18 SECTION 19. 51.13 (7) (c) of the statutes is amended to read: ^{14 years of age or older}

19 51.13 (7) (c) Any minor who is voluntarily admitted under this section for the
 20 primary purpose of treatment for alcoholism or drug abuse and any minor under 14
 21 years of age who is voluntarily admitted under this section for the primary purpose
 22 of treatment for mental illness or developmental disability may submit a written
 23 request to the court for a hearing to determine the continued appropriateness of the
 24 admission. If the director or staff of the inpatient treatment facility to which a minor
 25 who is voluntarily admitted under this section for the primary purpose of treatment

alcoholism or drug abuse

described in this paragraph

no strike (plain)

1 ~~for alcoholism or drug abuse or a minor under the age of 14 is admitted who is~~
 2 ~~voluntarily admitted under this section for the primary purpose of treatment for~~
 3 ~~mental illness or developmental disability~~ observes conduct by the minor which
 4 demonstrates an unwillingness to remain at the facility, including but not limited to
 5 a written expression of opinion or unauthorized absence, the director shall file a
 6 written request with the court to determine the continued appropriateness of the
 7 admission. A request ~~which~~ ^{that} is made personally by a minor under this paragraph ^{the minor}
 8 shall be signed by the minor but need not be written or composed by ~~him or her~~. A
 9 request for a hearing under this paragraph ~~which~~ ^{that} is received by staff or the director
 10 of the facility in which the child is admitted shall be filed with the court by the
 11 director. The court shall order a hearing upon request if no hearing concerning the
 12 minor's admission has been held within 120 days ^{after} of receipt of the request. The court
 13 shall appoint counsel and, if the court ^{considers} ~~deems~~ it necessary, a guardian ad litem to
 14 represent the minor and if a hearing is held shall hold the hearing within 14 days
 15 ^{after} ~~of~~ the request, unless the parties agree to a longer period. After the hearing, the court
 16 shall make disposition of the matter in the manner provided in sub. (4).

SECTION 20. 51.22 (2) of the statutes is amended to read:

18 51.22 (2) ⁵ ~~Voluntary~~ Except as provided in s. 51.13 (2), voluntary admissions
 19 under ss. 51.10, 51.13 and 51.45 (10) shall be through the county department under
 20 s. 51.42 or 51.437 serving the person's county of residence, or through the
 21 department if the person to be admitted is a nonresident of this state. Admissions
 22 through a county department under s. 51.42 or 51.437 shall be made in accordance
 23 with s. 51.42 (3) (as) 1. or 51.437 (4rm) (a). Admissions through the department shall
 24 be made in accordance with sub. (3).

~~SECTION 21. 51.35 (3) (a) of the statutes is amended to read:~~

1 51.35 (3) (a) A licensed psychologist of a juvenile correctional facility or a
 2 secured child caring institution, as defined in s. 938.02 (15g), or a licensed physician
 3 of the department of corrections, who has reason to believe that any individual
 4 confined in the facility or institution is, in his or her opinion, in need of services for
 5 developmental disability, alcoholism or drug dependency or in need of psychiatric
 6 services, and who has obtained voluntary consent to make a transfer for treatment,
 7 shall make a report, in writing, to the superintendent of the facility or institution,
 8 stating the nature and basis of the belief and verifying the consent. In the case of
 9 a minor age 14 and over who is in need of services for developmental disability or who
 10 is in need of psychiatric services, the minor and the minor's parent or guardian shall
 11 consent unless the minor is admitted under s. 51.13 (1) (c); and In the case of a minor
 12 who is in need of services for alcoholism or drug dependency or a minor under the age
 13 of 14 who is in need of services for developmental disability or who is in need of
 14 psychiatric services, only the minor's parent or guardian need consent. The
 15 superintendent shall inform, orally and in writing, the minor and the minor's parent
 16 or guardian, that transfer is being considered and shall inform them of the basis for
 17 the request and their rights as provided in s. 51.13 (3). If the department of
 18 corrections, upon review of a request for transfer, determines that transfer is
 19 appropriate, that department shall immediately notify the department of health and
 20 family services and, if the department of health and family services consents, the
 21 department of corrections may immediately transfer the individual. The
 22 department of corrections shall file a petition under s. 51.13 (4) (a) in the court
 23 assigned to exercise jurisdiction under chs. 48 and 938 of the county where the
 24 treatment facility is located.

1. 11/4

25

SECTION 22. 51.35 (3) (b) of the statutes is amended to read:

Insert
11-24

1 51.35 (3) (b) The court assigned to exercise jurisdiction under chs. 48 and 938
2 shall determine, based on the allegations of the petition and accompanying
3 documents, whether the transfer is voluntary on the part of the minor if he or she is
4 aged 14 or over, and whether the transfer of the minor to an inpatient facility is
5 appropriate and consistent with the needs of the minor. In the event that and, if the
6 minor is 14 years of age or ^{older} ~~over~~ and is being transferred for the purpose of receiving
7 services for developmental disability or psychiatric services, whether the transfer is
8 voluntary on the part of the minor. If the court is unable to make such those
9 determinations based on the petition and accompanying documents, it shall the
10 court may order additional information to be produced as it deems necessary to make
11 such review, and make such those determinations within 14 days of after admission,
12 or it the court may hold a hearing within 14 days of after admission. If a notation
13 of the minor's unwillingness appears on the face of the petition, or that if a hearing
14 has been requested by the minor, ^{strike comma} the minor's counsel, guardian ad litem, parent, or ^{or by}
15 guardian, the court shall hold a hearing and appoint counsel or a guardian ad litem
16 for the minor as provided in s. 51.13 (4) (d). At the conclusion of the hearing, the court
17 shall approve or disapprove the request for transfer. If the minor is under the
18 continuing jurisdiction of the court of another county, the court may order the case
19 transferred together with all appropriate records to that court.

20 ~~SECTION 23. 51.35 (3) (g) of the statutes is amended to read:~~

21 ~~51.35 (3) (g) A minor 14 years of age or older who is transferred to a treatment~~
22 ~~facility under par. (a) for the purpose of receiving services for developmental~~
23 ~~disability or psychiatric services may request in writing a return to the juvenile~~
24 ~~correctional facility or secured child caring institution, as defined in s. 938.02 (15g).~~
25 ~~In the case of a minor who is transferred to a treatment facility under par. (a) for the~~

1 ~~purpose of receiving services for alcoholism or drug dependency or a minor under 14~~
 2 ~~years of age who is transferred to a treatment facility under par. (a) for the purpose~~
 3 ~~of receiving services for developmental disability or psychiatric services, the parent~~
 4 ~~or guardian may make the request. Upon receipt of a request for return from a minor~~
 5 ~~14 years of age or over who is transferred to a treatment facility under par. (a) for the~~
 6 ~~purpose of receiving services for developmental disability or psychiatric services, the~~
 7 ~~director shall immediately notify the minor's parent or guardian. The minor shall~~
 8 ~~be returned to the juvenile correctional facility or secured child caring institution~~
 9 ~~within 48 hours after submission of the request unless a petition or statement is filed~~
 10 ~~for emergency detention, emergency commitment, involuntary commitment or~~
 11 ~~protective placement.~~

Insert
13-11

12 SECTION 24. 51.47 (title) of the statutes is amended to read:

13 **51.47 (title) Alcohol and other drug abuse treatment for minors**
 14 **without parental consent.**

15 ~~SECTION 25. 51.47 (1) of the statutes is amended to read:~~

16 ~~51.47 (1) Except as provided in subs. (2) and (3), any physician or health care~~
 17 ~~facility licensed, approved or certified by the state for the provision of health services~~
 18 ~~may render preventive, diagnostic, assessment, evaluation or treatment services for~~
 19 ~~the abuse of alcohol or other drugs to a minor 12 years of age or over without~~
 20 ~~obtaining the consent of or notifying the minor's parent or guardian. Unless consent~~
 21 ~~of the minor's parent or guardian is required under sub. (2), the physician or health~~
 22 ~~care facility shall obtain the minor's consent prior to billing a 3rd party for services~~
 23 ~~under this section. If the minor does not consent, the minor shall be solely~~
 24 ~~responsible for paying for the services, which the department shall bill to the minor~~
 25 ~~under s. 46.03 (18) (b).~~

Insert
13-25

51.475 (1) (B)
51.475 (1) (B)

1

SECTION 26. 51.475 of the statutes is created to read:

2

51.475 Alcohol or other drug abuse treatment for minors with parental

3

consent. A parent or guardian of a minor may consent to have the minor assessed

4

by an approved treatment facility for the minor's abuse of alcohol or other drugs. If,

5

based on the assessment, the approved treatment facility determines that the minor

6

is in need of treatment for the abuse of alcohol or other drugs, the approved treatment

7

facility shall recommend a plan of treatment that is appropriate for the minor's needs

8

and that provides for the least restrictive form of treatment consistent with the

9

minor's needs. That treatment may consist of outpatient treatment, day treatment,

10

or, if the minor is admitted in accordance with s. 51.13, inpatient treatment. The

11

parent or guardian of the minor may consent to the treatment recommended under

12

this section. The consent of the minor to assessment or treatment under this section

13

is not required.

Insert
14-13

14

SECTION 27. 51.61 (6) of the statutes is amended to read:

15

51.61 (6) Subject to the rights of patients provided under this chapter, the

16

department, county departments under s. 51.42 or 51.437, and any agency providing

17

services under an agreement with the department or those county departments have

18

the right to use customary and usual treatment techniques and procedures in a

19

reasonable and appropriate manner in the treatment of patients who are receiving

20

services under the mental health system, for the purpose of ameliorating the

21

conditions for which the patients were admitted to the system. The written,

22

informed consent of any patient shall first be obtained, unless the person has been

23

found not competent to refuse medication and treatment under s. 51.61 (1) (g) or the

24

person is a minor who is receiving services for alcoholism or drug abuse or a minor

25

under 14 years of age who is receiving services for mental illness or developmental

14 years of age or older

, alcoholism, or drug abuse

1 disability. In the case of a minor, the written, informed consent of the parent or
 2 guardian is required. ~~Except, except~~ as provided under an order issued under s.
 3 51.13 (1) (c) or 51.14 (3) (h) or (4) (g), if If the minor is 14 years of age or older and
 4 is receiving services for mental illness or developmental disability, the written,
 5 informed consent of the minor and the minor's parent or guardian is required. A
 6 refusal of either a minor 14 years of age or older or the minor's parent or guardian
 7 to provide written, informed consent for admission to an approved inpatient
 8 treatment facility is reviewable under s. 51.13 (1) (c) and a refusal of either a minor
 9 14 years of age or older or the minor's parent or guardian to provide written, informed
 10 consent for outpatient mental health treatment is reviewable under s. 51.14.

SECTION 28. Initial applicability.

for alcohol or other drug abuse

11 (1) This act first applies to individuals who are receiving treatment in an
 12 approved inpatient treatment facility ^{or who} or who are receiving outpatient ~~mental health~~
 13 ~~treatment~~, on the effective date of this subsection regardless of whether admission
 14 to the inpatient facility or outpatient program occurred or was sought prior to the
 15 effective date of this subsection. ^{or}

SECTION 29. Effective date.

(1099)

16 This act takes effect on the first day of the 2nd month beginning after
 17 publication.

(END)

, except as follows:

- (1) The repeal and recreation of section 51.35
- (3) (c) of the statutes takes effect on December 1,
 2001, or on the day after publication, whichever is
 later.

Insert 3-3

~~ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 480~~

~~November 3, 1999 - Offered by Representative GROTHMAN.~~

1 ~~At the locations indicated, amend the substitute amendment as follows:~~

- 2 ~~1. Page 2, line 12: after "(c)" insert "1".~~
- 3 ~~2. Page 2, line 13: delete lines 13 to 25.~~
- 4 ~~3. Page 3, line 1: delete lines 1 to 3 and substitute:~~

5 ~~SECTION [#]30. 51.13 (1) (c) of the statutes is renumbered 51.13 (1) (c) 1. and~~
6 amended to read:

7 51.13 (1) (c) 1. If a minor 14 years of age or older wishes to be admitted to an
8 approved inpatient treatment facility but a parent with legal custody or the guardian
9 refuses to execute the application for admission or cannot be found, or if there is no
10 parent with legal custody, the minor or a person acting on the minor's behalf may
11 petition the court assigned to exercise jurisdiction under chs. 48 and 938 in the
12 county of residence of the parent or guardian for approval of the admission. A copy

1 of the petition and a notice of hearing shall be served upon the parent or guardian
 2 at his or her last-known address. If, after a hearing, the court determines that the
 3 parent or guardian's consent is of the parent or guardian is being unreasonably
 4 withheld or, that the parent or guardian cannot be found, or that there is no parent
 5 with legal custody, and that the admission is proper under the standards prescribed
 6 in sub. (4) (d), it the court shall approve the minor's admission without the parent
 7 or guardian's consent of the parent or guardian.

8 3. The court may, at the minor's request, temporarily approve the admission
 9 pending hearing on the petition. If a hearing is held under ~~this subsection~~ subd. 1.
 10 or 2., no review or hearing under sub. (4) is required.

11 SECTION ~~39.~~ ^{*} 51.13 (1) (c) 2. [↓] of the statutes is created to read:

12 51.13 (1) (c) 2. If a minor under 14 years of age wishes to be admitted to an
 13 approved inpatient treatment facility but a parent with legal custody or the guardian
 14 cannot be found, or if there is no parent with legal custody, the minor or a person
 15 acting on the minor's behalf may petition the court assigned to exercise jurisdiction
 16 under chs. 48 and 938 in the county of residence of the parent or guardian for
 17 approval of the admission. A copy of the petition and a notice of hearing shall be
 18 served upon the parent or guardian at his or her last-known address. If, after a
 19 hearing, the court determines that the parent or guardian cannot be found or that
 20 there is no parent with legal custody, and that the admission is proper under the
 21 standards prescribed in sub. (4) (d), the court shall approve the minor's admission
 22 without the consent of the parent or guardian.

- 23 4. Page 3, line 9: after "judge" insert "1. or 2"?
- 24 5. Page 4, line 2: after that line insert:

(end of insert)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1414/lins
GMM.....

(INSERT 11-24)

age 14 and over ^{or older}

SECTION 51.35 (3) (a) of the statutes is amended to read:

51.35 (3) (a) A licensed psychologist of a secured correctional facility or, a secured child caring institution, or a secured group home or a licensed physician of the department of corrections, who has reason to believe that any individual confined in the secured correctional facility, secured child caring institution, or secured group home is, in his or her opinion, in need of services for developmental disability, alcoholism, or drug dependency or in need of psychiatric services, and who has obtained voluntary consent to make a transfer for treatment, shall make a report, in writing, to the superintendent of the secured correctional facility, secured child caring institution, or secured group home, stating the nature and basis of the belief and verifying the consent. In the case of a minor age 14 and over who is in need of services for developmental disability or who is in need of psychiatric services, the minor and the minor's parent or guardian shall consent unless the minor is admitted under s. 51.13 (1) (c); and in 1. In the case of a minor who is in need of services for alcoholism or drug dependency or a minor under the age of 14, only the minor's parent or guardian need consent. The superintendent shall inform, orally and in writing, the minor and the minor's parent or guardian, that transfer is being considered and shall inform them of the basis for the request and their rights as provided in s. 51.13 (3). If the department of corrections, upon review of a request for transfer, determines that transfer is appropriate, that department shall immediately notify the department of health and family services and, if the department of health and family services consents, the department of corrections may immediately transfer the individual. The department of health and family

Unless the
minor is
admitted
under s.
51.13 (1) (c)
RA

who is in need of services for developmental disability,
alcoholism, or drug dependency or is in need of
psychiatric services

services shall file a petition under s. 51.13 (4) (a) in the court assigned to exercise jurisdiction under chs. 48 and 938 of the county where the treatment facility is located.

History: 1975 c. 430 ss. 18, 81; 1977 c. 26, 29, 428; 1979 c. 110 s. 60 (1); 1981 c. 74 s. 2; 1981 c. 314 s. 144; 1983 a. 27, 441, 474; 1985 a. 29, 176, 332; 1987 a. 366, 403; 1989 a. 31, 56, 107; 1991 a. 39; 1993 a. 451; 1995 a. 27 ss. 3258m, 3259m, 9126 (19); 1995 a. 77, 292; 1997 a. 35; 1999 a. 9.

(END OF INSERT)

(INSERT 13-11)

~~SECTION 2~~ SECTION 51.35 (3) (c) of the statutes is amended to read:

51.35 (3) (c) A licensed psychologist of a secured correctional facility ~~or~~, a secured child caring institution, or a secured group home, or a licensed physician of the department of corrections, who has reason to believe that any individual confined in the secured correctional facility, secured child caring institution, or secured group home, in his or her opinion, is mentally ill, drug dependent, or developmentally disabled and is dangerous as described in s. 51.20 (1) (a) 2. a., b., c., or d., is mentally ill, is dangerous, and satisfies the standard under s. 51.20 (1) (a) 2. e., or is an alcoholic and is dangerous as described in s. 51.45 (13) (a) 1. and 2., shall file a written report with the superintendent of the secured correctional facility, secured child caring institution, or secured group home, stating the nature and basis of the belief. If the superintendent, upon review of the allegations in the report, determines that transfer is appropriate, he or she shall file a petition according to s. 51.20 or 51.45 in the court assigned to exercise jurisdiction under chs. 48 and 938 of the county where the secured correctional facility, secured child caring institution, or secured group home is located. The court shall hold a hearing according to procedures provided in s. 51.20 or 51.45 (13).

NOTE: NOTE: Par. (c) is repealed and recreated eff. 12-1-01 by 1999 Wis. Act 9 to read:NOTE:

SECTION 3. 51.35 (3) (c) of the statutes, as affected by 1999 Wisconsin Act 9, section 1558d and 2001 Wisconsin Act . . . (this act), is repealed and recreated to read:

51.35 (3) (c) A licensed psychologist of a secured correctional facility, a secured child caring institution or a secured group home, or a licensed physician of the department of corrections, who has reason to believe that any individual confined in the secured correctional facility, secured child caring institution, or secured group home, in his or her opinion, is mentally ill, drug dependent, or developmentally disabled and is dangerous as described in s. 51.20 (1) (a) 2., or is an alcoholic and is dangerous as described in s. 51.45 (13) (a) 1. and 2., shall file a written report with the superintendent of the secured correctional facility, secured child caring institution, or secured group home, stating the nature and basis of the belief. If the superintendent, upon review of the allegations in the report, determines that transfer is appropriate, he or she shall file a petition according to s. 51.20 or 51.45 in the court assigned to exercise jurisdiction under ch. 48 of the county where the secured correctional facility, secured child caring institution, or secured group home is located. The court shall hold a hearing according to procedures provided in s. 51.20 or 51.45 (13).

History: 1975 c. 430 ss. 18, 81; 1977 c. 26, 29, 428; 1979 c. 110 s. 60 (1); 1981 c. 74 s. 2; 1981 c. 314 s. 144; 1983 a. 27, 441, 474; 1985 a. 29, 176, 332; 1987 a. 366, 403; 1989 a. 31, 56, 107; 1991 a. 39; 1993 a. 31; 1995 a. 27 ss. 3258m, 3459m, 9126 (19); 1995 a. 77, 292; 1997 a. 35; 1999 a. 9.

SECTION 4. 51.35 (3) (g) of the statutes is amended to read:

51.35 (3) (g) A minor 14 years of age or older who is transferred to a treatment facility under par. (a) for the purpose of receiving services for developmental disability or psychiatric services may request in writing a return to the secured correctional facility, secured child caring institution, or secured group home. In the case of a minor who is transferred to a treatment facility under par. (a) for the purpose of receiving services for alcoholism or drug dependency or a minor under 14 years of age, the parent or guardian may make the request. Upon receipt of a request for return from a minor 14 years of age or older the director shall immediately notify the minor's parent or guardian. The minor shall be returned to the secured correctional facility, secured child caring institution, or secured group home within 48 hours after submission of the request unless a petition or statement is filed for

who is transferred to a treatment facility under par. (a) for the purpose of receiving services for developmental disability, alcoholism, or drug dependency or psychiatric services

Double Space

14 years of age or older

older

emergency detention, emergency commitment, involuntary commitment, or protective placement.

History: 1975 c. 430 ss. 18, 81; 1977 c. 26, 29, 428; 1979 c. 110 s. 60 (1); 1981 c. 74 s. 2; 1981 c. 314 s. 144; 1983 a. 27, 441, 474; 1985 a. 29, 176, 332; 1987 a. 366, 403; 1989 a. 31, 56, 107; 1991 a. 39; 1993 a. 451; 1995 a. 27 ss. 3258m, 3259m, 9126 (19); 1995 a. 77, 292; 1997 a. 35; 1999 a. 9.

(END OF INSERT)

(INSERT 14-19)

SECTION 5. 51.48 of the statutes is amended to read:

51.48 Alcohol and other drug testing of minors, assessment, and treatment of minor without minor's consent. A minor's parent or guardian may consent to have the minor tested for the presence of alcohol or other drugs in the minor's body or to have the minor assessed by an approved treatment facility for the minor's abuse of alcohol or other drugs according to the criteria specified in s. 938.547 (4). If, based on the assessment, the approved treatment facility determines that the minor is in need of treatment for the abuse of alcohol or other drugs, the approved treatment facility shall recommend a plan of treatment that is appropriate for the minor's needs and that provides for the least restrictive form of treatment consistent with the minor's needs. That treatment may consist of outpatient treatment, day treatment, or, if the minor is admitted in accordance with s. 51.13, inpatient treatment. The parent or guardian of the minor may consent to the treatment recommended under this section. Consent of the minor is not required for testing, assessment, or treatment under this section is not required.

History: 1999 a. 9.

(END OF INSERT)

(INSERT A)

Analysis by the Legislative Reference Bureau

Under current law, the parent or guardian of a minor may consent to have the minor tested for the presence of alcohol or other drugs in the minor's body, without

Insert 13-25

1 ~~SECTION 5m. 51.13 (1) (f) of the statutes is amended to read:~~

2 51.13 (1) (f) Admission under par. (c) 1. or 2. or (d) shall also be approved by
3 the treatment director of the facility or his or her designee, or in the case of a center
4 for the developmentally disabled, the director of the center or his or her designee, and
5 the director of the appropriate county department under s. 51.42 or 51.437 if the
6 county department is to be responsible for the cost of the minor's therapy and
7 treatment, within 14 days of the minor's admission."

8 ~~6.~~ Page 11, line 11: after "and" insert "1. or 2.".

9 ~~7.~~ Page 13, line 15: delete lines 15 to 25 and substitute.

10 ~~SECTION 25g.~~ [#] 51.47 (1) [✓] of the statutes is amended to read:

11 51.47 (1) Except as provided in subs. (2) and (3), any physician or health care
12 facility licensed, approved [Ⓢ] or certified by the state for the provision of health services
13 may render preventive, diagnostic, assessment, evaluation [Ⓢ] or treatment services for
14 the abuse of alcohol or other drugs to a minor 12 years of age or over without
15 obtaining the consent of or notifying the minor's parent or guardian and may render
16 those services to a minor under 12 years of age without obtaining the consent of or
17 notifying the minor's parent or guardian, but only if a parent with legal custody or
18 guardian of the minor under 12 years of age cannot be found or there is no parent with
19 legal custody of the minor under 12 years of age. (Unless consent of the minor's parent
20 or guardian is required under sub. (2), the physician or health care facility shall
21 obtain the minor's consent prior to billing a 3rd party for services under this section.
22 If the minor does not consent, the minor shall be solely responsible for paying for the
23 services, which the department shall bill to the minor under s. 46.03 (18) (b).[✓]

24 (END)

An assessment under
this subsection shall conform to
the criteria specified in s.

Center insert

938.547 (4) ✓

emergency detention, emergency commitment, involuntary commitment, or protective placement.

History: 1975 c. 430 ss. 18, 81; 1977 c. 26, 29, 428; 1979 c. 110 s. 60 (1); 1981 c. 74 s. 2; 1981 c. 314 s. 144; 1983 a. 27, 441, 474; 1985 a. 29, 176, 332; 1987 a. 366, 403; 1989 a. 31, 56, 107; 1991 a. 39; 1993 a. 451; 1995 a. 27 ss. 32.58m, 32.59m, 9126 (19); 1995 a. 77, 292; 1997 a. 35; 1999 a. 9.

(END OF INSERT)

(INSERT 14-13)

SECTION 5. 51.48[✓] of the statutes is amended to read:

51.48 Alcohol and other drug testing of minors, assessment, and treatment of minor without minor's consent. A minor's parent or guardian may consent to have the minor tested for the presence of alcohol or other drugs in the minor's body or to have the minor assessed by an approved treatment facility for the minor's abuse of alcohol or other drugs according to the criteria specified in s. 938.547 (4).[✓] If, based on the assessment, the approved treatment facility determines that the minor is in need of treatment for the abuse of alcohol or other drugs, the approved treatment facility shall recommend a plan of treatment that is appropriate for the minor's needs and that provides for the least restrictive form of treatment consistent with the minor's needs. That treatment may consist of outpatient treatment, day treatment, or, if the minor is admitted in accordance with s. 51.13, inpatient treatment. The parent or guardian of the minor may consent to the treatment recommended under this section. Consent of the minor is not required for testing, assessment, or treatment under this section is not required.

History: 1999 a. 9.

(END OF INSERT)

(INSERT A)

Analysis by the Legislative Reference Bureau

Under current law, the parent or guardian of a minor may consent to have the minor tested for the presence of alcohol or other drugs in the minor's body, without

the consent of the minor. For inpatient treatment of a minor 14 years of age or over for alcohol or other drug abuse, however, the consent of the minor, as well as the consent of the minor's parent or guardian, is required. This bill eliminates the requirement that a minor 14 years of age or over consent before the minor may receive inpatient treatment for alcohol or other drug abuse. The bill also permits a parent or guardian of a minor to consent to have the minor assessed for the minor's abuse of alcohol or other drugs and to consent to a plan of treatment that is recommended based on the assessment. The consent of the minor to the assessment or the treatment is not required.

Under current law, if a minor 14 years of age or over wishes to be admitted to an inpatient facility for treatment for alcohol or other drug abuse, but the minor's parent or guardian refuses to execute the application for admission or cannot be found, the minor may petition the court assigned to exercise jurisdiction under the children's code (juvenile court) for approval of the admission. This bill permits a minor under 14 years of age to petition the juvenile court for approval of his or her admission to an inpatient facility if the minor's parent or guardian cannot be found.

Similarly, under current law, a physician or health care facility may render preventive, diagnostic, assessment, evaluation, or treatment services for the abuse of alcohol or other drugs to a minor 12 years of age or over without obtaining the consent of or notifying the minor's parent or guardian. This bill permits a physician or health care facility to render those services to a minor under 12 years of age without obtaining that consent or providing that notice if the minor's parent or guardian cannot be found.

Under current law, a minor 14 years of age or over who is voluntarily admitted to an inpatient facility for treatment for alcohol or other drug abuse may request that he or she be discharged from the facility and, subject to certain exceptions, must be discharged within 48 hours after submission of the request. This bill eliminates the requirement that a minor 14 years of age or over who has been voluntarily admitted to an inpatient facility be discharged within 48 hours after his or her request and instead requires the juvenile court to hold a hearing on such a request to determine the continued appropriateness of the admission.

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

(END OF INSERT)

A

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1414/1dn
CMM:wlj:pg

January 10, 2001

Representative Skindrud:

This draft, in addition to AA1 to 1999 AB-480, also includes AA1 to AA1 to AB-480 and AA2 to AB-480, all three of which were folded into ASA 1 to AB-480, which, together with AA1 to ASA 1 to AB-480, was passed by the Assembly 95 to 2 last session.

To refresh your memory:

1. AA1, which was your amendment, narrowed the scope of AB-480 to treatment for alcohol or other drug abuse.
2. AA1 to AA1 to AB-480, which was requested by DHFS and approved by the Committee on Children and Families, permits a parent to consent to have a minor assessed for alcohol or other drug abuse.
3. AA2 to AB-480, which was offered by Representative Miller and approved by the Committee on Children and Families, requires an assessment for alcohol or other drug abuse to conform to the multidisciplinary screen criteria specified in s. 938.547 (4), stats.
4. AA1 to ASA 1 to AB-480, which was offered by Representative Grothman, clarifies that a minor under 14 years of age may receive inpatient treatment, and a minor under 12 years of age may receive outpatient treatment, without the consent of the parent only if the parent cannot be found and not if the parent refuses to consent.

If you do not want any of these amendments included in the draft, please advise and I will take them out.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us

Rep. Skindrud 1/17/01

- ① Last paragraph of analysis - change draft
to require discharge of minor (over 14 or under 14)
of minor or parent
min 48 hours after request -- not juvenile ct.
hearing to consider appropriateness of placement



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1414/TC2
GMM:wlj
RNR

SOM

2001 BILL

DNOTE

REGEN

1 AN ACT *to renumber and amend* 51.13 (1) (c); *to amend* 51.13 (1) (a), 51.13 (1)
2 (b), 51.13 (1) (d), 51.13 (1) (e), 51.13 (2) (a), 51.13 (2) (b), 51.13 (2) (d), 51.13 (3)
3 (b), 51.13 (3) (c), 51.13 (4) (a) (intro.), 51.13 (4) (c), 51.13 (4) (d), 51.13 (4) (g)
4 (intro.), 51.13 (4) (g) 1., 51.13 (6) (a), 51.13 (7) (a), 51.13 (7) (b), 51.13 (7) (c), 51.22
5 (2), 51.35 (3) (a), 51.35 (3) (b), 51.35 (3) (c), 51.35 (3) (g), 51.47 (title), 51.47 (1),
6 51.48 and 51.61 (6); *to repeal and recreate* 51.35 (3) (c); and *to create* 51.13
7 (1) (c) 2. of the statutes; **relating to:** treatment of minors for alcohol or other
8 drug abuse.

Analysis by the Legislative Reference Bureau

Under current law, the parent or guardian of a minor may consent to have the minor tested for the presence of alcohol or other drugs in the minor's body, without the consent of the minor. For inpatient treatment of a minor 14 years of age or over for alcohol or other drug abuse, however, the consent of the minor, as well as the consent of the minor's parent or guardian, is required. This bill eliminates the requirement that a minor 14 years of age or over consent before the minor may receive inpatient treatment for alcohol or other drug abuse. The bill also permits a parent or guardian of a minor to consent to have the minor assessed for the minor's abuse of alcohol or other drugs and to consent to a plan of treatment that is

BILL

Insert
A-1 ✓

recommended based on the assessment. The consent of the minor to the assessment or the treatment is not required.

Under current law, if a minor 14 years of age or over wishes to be admitted to an inpatient facility for treatment for alcohol ~~or~~ other drug abuse, but the minor's parent or guardian refuses to execute the application for admission or cannot be found, the minor may petition the court assigned to exercise jurisdiction under the children's code (juvenile court) for approval of the admission. This bill permits a minor under 14 years of age to petition the juvenile court for approval of his or her admission to an inpatient facility if the minor's parent or guardian cannot be found.

Similarly, under current law, a physician or health care facility may render preventive, diagnostic, assessment, evaluation, or treatment services for the abuse of alcohol or other drugs to a minor 12 years of age or over without obtaining the consent of or notifying the minor's parent or guardian. This bill permits a physician or health care facility to render those services to a minor under 12 years of age without obtaining that consent or providing that notice if the minor's parent or guardian cannot be found. ~~for treatment for alcohol or other drug abuse~~

Under current law, a minor 14 years of age or over who is voluntarily admitted to an inpatient facility for ~~treatment for alcohol or other drug abuse~~ may request that he or she be discharged from the facility and, subject to certain exceptions, must be discharged within 48 hours after submission of the request. This bill eliminates the requirement that a minor 14 years of age or over who has been voluntarily admitted to an inpatient facility be discharged within 48 hours after his or her request and instead requires the juvenile court to hold a hearing on such a request to determine the continued appropriateness of the admission. ~~Insert A-2 ✓~~

For further information see the *state and local* 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.** 51.13 (1) (a) of the statutes is amended to read:
- 2 51.13 (1) (a) Except as provided in par. (c) and s. 51.45 (2m), the application for
- 3 voluntary admission of a minor who is under 14 years of age or older to an approved
- 4 inpatient treatment facility for the primary purpose of treatment for alcoholism or
- 5 drug abuse and the application for voluntary admission of a minor who is under 14
- 6 years of age to an approved inpatient treatment facility for the primary purpose of
- 7 treatment for mental illness, developmental disability, alcoholism, or drug abuse
- 8 shall be executed by a parent who has legal custody of the minor or the minor's

BILL

1 guardian. Any statement or conduct by a minor ~~under the age of 14~~ who is the subject
2 of an application for voluntary admission under this paragraph indicating that the
3 minor does not agree to admission to the facility shall be noted on the face of the
4 application and shall be noted in the petition required by sub. (4).

5 **SECTION 2.** 51.13 (1) (b) of the statutes is amended to read:

6 51.13 (1) (b) The application for voluntary admission of a minor who is 14 years
7 of age or ~~ever~~ older to an approved inpatient treatment facility for the primary
8 purpose of treatment for mental illness or developmental disability shall be executed
9 by the minor and a parent who has legal custody of the minor or the minor's guardian,
10 except as provided in par. (c) (1).

11 **SECTION 3.** 51.13 (1) (c) of the statutes is renumbered 51.13 (1) (c) 1. and
12 amended to read:

13 51.13 (1) (c) 1. If a minor 14 years of age or older wishes to be admitted to an
14 approved inpatient treatment facility but a parent with legal custody or the guardian
15 refuses to execute the application for admission or cannot be found, or if there is no
16 parent with legal custody, the minor or a person acting on the minor's behalf may
17 petition the court assigned to exercise jurisdiction under chs. 48 and 938 in the
18 county of residence of the parent or guardian for approval of the admission. A copy
19 of the petition and a notice of hearing shall be served upon the parent or guardian
20 at his or her last-known address. If, after a hearing, the court determines that the
21 ~~parent or guardian's consent is~~ of the parent or guardian is being unreasonably
22 withheld ~~or~~, that the parent or guardian cannot be found, or that there is no parent
23 with legal custody, and that the admission is proper under the standards prescribed
24 in sub. (4) (d), it the court shall approve the minor's admission without the ~~parent~~
25 ~~or guardian's consent of the parent or guardian.~~

BILL

1 3. The court may, at the minor's request, temporarily approve the admission
2 pending hearing on the petition. If a hearing is held under ~~this subsection~~ subd. 1.
3 or 2., no review or hearing under sub. (4) is required.

4 **SECTION 4.** 51.13 (1) (c) 2. of the statutes is created to read:

5 51.13 (1) (c) 2. If a minor under 14 years of age wishes to be admitted to an
6 approved inpatient treatment facility but a parent with legal custody or the guardian
7 cannot be found, or if there is no parent with legal custody, the minor or a person
8 acting on the minor's behalf may petition the court assigned to exercise jurisdiction
9 under chs. 48 and 938 in the county of residence of the parent or guardian for
10 approval of the admission. A copy of the petition and a notice of hearing shall be
11 served upon the parent or guardian at his or her last-known address. If, after a
12 hearing, the court determines that the parent or guardian cannot be found or that
13 there is no parent with legal custody, and that the admission is proper under the
14 standards prescribed in sub. (4) (d), the court shall approve the minor's admission
15 without the consent of the parent or guardian.

16 **SECTION 5.** 51.13 (1) (d) of the statutes is amended to read:

17 51.13 (1) (d) A minor against whom a petition or statement has been filed under
18 s. 51.15, 51.20, or 51.45 (12) or (13) may be admitted under this section. The court
19 may permit the minor to become a voluntary patient pursuant to under this section
20 upon approval by the court of an application executed pursuant to under par. (a), (b),
21 or (c), ~~and the judge.~~ The court shall then dismiss the proceedings under s. 51.15,
22 51.20, or 51.45 (12) or (13). If a hearing is held under this subsection, no hearing
23 under sub. (4) is required.

24 **SECTION 6.** 51.13 (1) (e) of the statutes is amended to read:

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1 51.13 (1) (e) A minor may be admitted immediately upon the approval of the
2 application executed under par. (a) or (b) by the treatment director of the facility or
3 his or her designee or, in the case of a center for the developmentally disabled, the
4 director of the center or his or her designee, and the director of the appropriate county
5 department under s. 51.42 or 51.437 if such the county department is to be
6 responsible for the cost of the minor's therapy and treatment. Approval shall be
7 based upon an informed professional opinion that the minor is in need of psychiatric
8 services or services for developmental disability, alcoholism, or drug abuse, that the
9 treatment facility offers inpatient therapy or treatment ~~which~~ that is appropriate for
10 the minor's needs, and that inpatient care in the facility is the least restrictive
11 therapy or treatment consistent with the minor's needs. In the case of a minor who
12 is being admitted for the primary purpose of treatment for alcoholism or drug abuse,
13 approval shall also be based on the results of an alcohol or other drug abuse
14 assessment that conforms to the criteria specified in s. 938.547 (4).

15 **SECTION 7.** 51.13 (2) (a) of the statutes is amended to read:

16 51.13 (2) (a) A minor may be admitted to an inpatient treatment facility
17 without complying with the requirements of this section if the admission does not
18 involve the department or a county department under s. 51.42 or 51.437, or a contract
19 between a treatment facility and the department or ~~between a treatment facility and~~
20 a county department. The application for voluntary admission of a minor who is 14
21 years of age or older to an inpatient treatment facility for the primary purpose of
22 treatment for alcoholism or drug abuse and the application for voluntary admission
23 of a minor who is under 14 years of age to an inpatient treatment facility for the
24 primary purpose of treatment for mental illness, developmental disability,
25 alcoholism, or drug abuse shall be executed by a parent who has legal custody of the

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~~and any minor who is ad~~

1 minor or by the minor's guardian. The application for voluntary admission of a minor
2 who is 14 years of age or ~~over~~ older to an inpatient treatment facility for the primary
3 purpose of treatment for mental illness or developmental disability shall be executed
4 by the minor and a parent who has legal custody of the minor or the minor's guardian.

5 **SECTION 8.** 51.13 (2) (b) of the statutes is amended to read:

6 51.13 (2) (b) Notwithstanding par. (a), any minor who is 14 years of age or older
7 and who is admitted to an inpatient treatment facility for the primary purpose of
8 treatment of mental illness, or developmental disability, ~~alcoholism or drug abuse~~
9 has the right to be discharged within 48 hours of after his or her request, as provided
10 in sub. (7) (b). At the time of admission, any minor who is 14 years of age or older and
11 who is admitted to an inpatient treatment facility for the primary purpose of
12 treatment for mental illness or developmental disability, shall be informed of this
13 right orally and in writing by the director of the hospital or such person's designee.
14 This paragraph does not apply to individuals who receive services in hospital
15 emergency rooms.

and the minor's parent or guardian

STET
14
No change

16 **SECTION 9.** 51.13 (2) (d) of the statutes is amended to read:

17 51.13 (2) (d) Writing materials for use in requesting a discharge shall be made
18 available at all times to all minors who are ~~14 years of age or older and who are~~
19 admitted under this subsection ~~for the primary purpose of treatment for mental~~
20 ~~illness or developmental disability.~~ The staff of the facility shall assist such minors
21 in preparing or submitting requests for discharge. ~~or hearing~~

22 **SECTION 10.** 51.13 (3) (b) of the statutes is amended to read:

23 51.13 (3) (b) A minor 14 years of age or older who has been admitted to an
24 inpatient treatment facility for the primary purpose of treatment for mental illness
25 or developmental disability, and ~~his or her~~ parent or guardian shall also be informed

↑ a minor who is voluntarily admitted under sub. (1) (c) 1. or 2. ✓ ↑

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1 by the director or his or her designee, both orally and in writing, in easily
2 understandable language, of the minor's right to request discharge and to be
3 discharged within 48 hours of the request if no petition or statement is filed for
4 emergency detention, emergency commitment, involuntary commitment, or
5 protective placement, and the minor's right to consent to or refuse treatment as
6 provided in s. 51.61 (6).

7 **SECTION 11.** 51.13 (3) (c) of the statutes is amended to read:

8 51.13 (3) (c) A minor 14 years of age or older who has been admitted to an
9 inpatient facility for the primary purpose of treatment for alcoholism or drug abuse,
10 a minor under 14 years of age who has been admitted to an inpatient treatment
11 facility for the primary purpose of treatment for mental illness, developmental
12 disability, alcoholism, or drug abuse, and his or her the minor's parent or guardian
13 shall also be informed by the director or his or her designee, both orally and in
14 writing, in easily understandable language, of the minor's right to a hearing to
15 determine continued appropriateness of the admission as provided in sub. (7). (C) ✓

16 **SECTION 12.** 51.13 (4) (a) (intro.) of the statutes is amended to read:

17 51.13 (4) (a) (intro.) Within 3 days of after the admission of a minor under sub.
18 (1), or within 3 days of after application for admission of the minor, whichever occurs
19 first, the treatment director of the facility to which the minor is admitted or, in the
20 case of a center for the developmentally disabled, the director of the center, shall file
21 a verified petition for review of the admission in the court assigned to exercise
22 jurisdiction under chs. 48 and 938 in the county in which the facility is located. A
23 copy of the application for admission and of any relevant professional evaluations
24 shall be attached to the petition. The petition shall contain all of the following:

25 **SECTION 13.** 51.13 (4) (c) of the statutes is amended to read:

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1 51.13 (4) (c) A copy of the petition shall be provided by the petitioner to the
2 minor and his or her parents or guardian within 5 days of after admission.

3 **SECTION 14.** 51.13 (4) (d) of the statutes is amended to read:

4 51.13 (4) (d) Within 5 days of after the filing of the petition, the court assigned
5 to exercise jurisdiction under chs. 48 and 938 shall determine, based on the
6 allegations of the petition and accompanying documents, ~~whether the admission is~~
7 ~~voluntary on the part of the minor if the minor is 14 years of age or older and whether~~
8 there is a prima facie showing that the minor is in need of psychiatric services, or
9 services for developmental disability, alcoholism, or drug abuse, that the treatment
10 facility offers inpatient therapy or treatment ~~which that~~ is appropriate to the minor's
11 needs, and that inpatient care in the treatment facility is the least restrictive therapy
12 or treatment consistent with the needs of the minor, and, if the minor is 14 years of
13 age or older and has been admitted to the treatment facility for the primary purpose
14 of treatment for mental illness or developmental disability, whether the admission
15 is voluntary on the part of the minor. If such a showing is made, the court shall
16 permit voluntary admission. If the court is unable to make such those
17 determinations based on the petition and accompanying documents, ~~it shall the~~
18 court may dismiss the petition as provided in par. (h); ~~or~~ order additional information
19 to be produced as ~~it deems necessary~~ for the court to make ~~such review, and make~~
20 ~~such those~~ determinations within 14 days of after admission or application for
21 admission, whichever is sooner; or ~~it may~~ hold a hearing within 14 days of after
22 admission or application for admission, whichever is sooner. If a notation of the
23 minor's unwillingness appears on the face of the petition, or if a hearing has been
24 requested by the minor, or by the minor's counsel, parent, or guardian, the court shall
25 hold a hearing to review the admission within 14 days of after admission or

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1 application for admission, whichever is sooner, and shall appoint counsel to
2 represent the minor if the minor is unrepresented. If the court deems considers it
3 necessary, ~~it~~ the court shall also appoint a guardian ad litem to represent the minor.

4 **SECTION 15.** 51.13 (4) (g) (intro.) of the statutes is amended to read:

5 51.13 (4) (g) (intro.) If the court finds that the minor is in need of psychiatric
6 services or services for developmental disability, alcoholism, or drug abuse in an
7 inpatient facility, ~~and~~ that the inpatient facility to which the minor is admitted offers
8 therapy or treatment that is appropriate for the minor's needs and that is the least
9 restrictive therapy or treatment consistent with the minor's needs, and, in the case
10 of a minor aged 14 or older who is being admitted for the primary purpose of
11 treatment for mental illness or developmental disability, that the application is
12 voluntary on the part of the minor, the court shall permit voluntary admission. If the
13 court finds that the therapy or treatment in the inpatient facility to which the minor
14 is admitted is not appropriate or is not the least restrictive therapy or treatment
15 consistent with the minor's needs, the court may order placement in or transfer to
16 another more appropriate or less restrictive inpatient facility, except that the court
17 may not permit or order placement in or transfer to the northern or southern centers
18 for the developmentally disabled of a minor unless the department gives approval
19 for the placement or transfer, and if the order of the court is approved by all of the
20 following if applicable:

21 **SECTION 16.** 51.13 (4) (g) 1. of the statutes is amended to read:

22 51.13 (4) (g) 1. The minor if he or she is aged 14 or older and is being admitted
23 for the primary purpose of treatment for mental illness or developmental disability.

24 **SECTION 17.** 51.13 (6) (a) of the statutes is amended to read:

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1 51.13 (6) (a) A minor may be admitted to an inpatient treatment facility
2 without review of the application under sub. (4) for diagnosis and evaluation or for
3 dental, medical, or psychiatric services for a period not to exceed 12 days. The
4 application for short-term admission of a minor shall be executed by the minor's
5 parent or guardian, and ~~by the minor if he or she, if the minor is 14 years of age or~~
6 ~~older and is being admitted for the primary purpose of diagnosis, evaluation, or~~
7 ~~services for mental illness or developmental disability, by the minor.~~ A minor may
8 not be readmitted to an inpatient treatment facility for psychiatric services under
9 this paragraph within 120 days of a previous admission under this paragraph.

10 **SECTION 18.** 51.13 (7) (a) of the statutes is amended to read:

11 51.13 (7) (a) If a minor is admitted to an inpatient treatment facility while
12 under 14 years of age, and if upon reaching age 14 is in need of further inpatient care
13 and treatment primarily for mental illness or developmental disability, the director
14 of the facility shall request the minor and the minor's parent or guardian to execute
15 an application for voluntary admission. Such an application may be executed within
16 30 days prior to a minor's 14th birthday. If the application is executed, a petition for
17 review shall be filed in the manner prescribed in sub. (4), unless such a review has
18 been held within the last 120 days. If the application is not executed by the time of
19 the minor's 14th birthday, the minor shall be discharged unless a petition or
20 statement is filed for emergency detention, emergency commitment, involuntary
21 commitment, or protective placement by the end of the next day in which the court
22 transacts business.

23 **SECTION 19.** 51.13 (7) (b) of the statutes is amended to read:

24 51.13 (7) (b) Any minor 14 years of age or ~~over~~ older voluntarily admitted under
25 this section for the primary purpose of treatment for mental illness or developmental

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From a minor

Insert 11-1

① disability may request discharge in writing. Upon receipt of any form of written
 2 request for discharge, the director of the facility in which the minor is admitted shall
 3 immediately notify the minor's parent or guardian. The minor shall be discharged
 4 within 48 hours after submission of the request, exclusive of Saturdays, Sundays,
 5 and legal holidays, unless a petition or statement is filed for emergency detention,
 6 emergency commitment, involuntary commitment, or protective placement. (use twice)

SECTION 20. 51.13 (7) (c) of the statutes is amended to read:

name who is not discharged under par. (b)

7 51.13 (7) (c) Any minor 14 years of age or older who is voluntarily admitted
 8 under this section for the primary purpose of treatment for alcoholism or drug abuse
 9 and any minor under 14 years of age who is voluntarily admitted under this section
 10 for the primary purpose of treatment for mental illness, developmental disability,
 11 alcoholism, or drug abuse may submit a written request to the court for a hearing to
 12 determine the continued appropriateness of the admission. If the director or staff of
 13 the inpatient treatment facility to which a minor under the age of 14 described in this
 14 paragraph is admitted observes conduct by the minor ~~which~~ that demonstrates an
 15 unwillingness to remain at the facility, including but not limited to a written
 16 expression of opinion or unauthorized absence, the director shall file a written
 17 request with the court to determine the continued appropriateness of the admission.
 18 A request ~~which~~ that is made personally by a minor under this paragraph shall be
 19 signed by the minor but need not be written or composed by ~~him or her~~ the minor.
 20 A request for a hearing under this paragraph ~~which~~ that is received by staff or the
 21 director of the facility in which the child is admitted shall be filed with the court by
 22 the director. The court shall order a hearing upon request if no hearing concerning
 23 the minor's admission has been held within 120 days of after receipt of the request.
 24 The court shall appoint counsel and, if the court ~~deems~~ considers it necessary, a
 25

and any minor who is voluntarily admitted under sub. (1) (c) 1. or 2.5

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1 guardian ad litem to represent the minor and if a hearing is held shall hold the
2 hearing within 14 days of after the request, unless the parties agree to a longer
3 period. After the hearing, the court shall make disposition of the matter in the
4 manner provided in sub. (4).

5 **SECTION 21.** 51.22 (2) of the statutes is amended to read:

6 51.22 (2) Voluntary Except as provided in s. 51.13 (2), voluntary admissions
7 under ss. 51.10, 51.13, and 51.45 (10) shall be through the county department under
8 s. 51.42 or 51.437 serving the person's county of residence, or through the
9 department if the person to be admitted is a nonresident of this state. Admissions
10 through a county department under s. 51.42 or 51.437 shall be made in accordance
11 with s. 51.42 (3) (as) 1. or 51.437 (4rm) (a). Admissions through the department shall
12 be made in accordance with sub. (3).

13 **SECTION 22.** 51.35 (3) (a) of the statutes is amended to read:

14 51.35 (3) (a) A licensed psychologist of a secured correctional facility ~~or~~, a
15 secured child caring institution, or a secured group home, or a licensed physician of
16 the department of corrections, who has reason to believe that any individual confined
17 in the secured correctional facility, secured child caring institution, or secured group
18 home is, in his or her opinion, in need of services for developmental disability,
19 alcoholism, or drug dependency or in need of psychiatric services, and who has
20 obtained voluntary consent to make a transfer for treatment, shall make a report,
21 in writing, to the superintendent of the secured correctional facility, secured child
22 caring institution, or secured group home, stating the nature and basis of the belief
23 and verifying the consent. In the case of a minor age 14 and over age 14 or older who
24 is in need of services for developmental disability or who is in need of psychiatric
25 services, the minor and the minor's parent or guardian shall consent unless the

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1 minor is admitted under s. 51.13 (1) (c); ~~and in 1.~~ In the case of a minor age 14 or older
2 who is in need of services for alcoholism or drug dependency or a minor under the age
3 of 14 who is in need of services for developmental disability, alcoholism, or drug
4 dependency or in need of psychiatric services, only the minor's parent or guardian
5 need consent unless the minor is admitted under s. 51.13 (1) (c). The superintendent
6 shall inform, orally and in writing, the minor and the minor's parent or guardian,
7 that transfer is being considered and shall inform them of the basis for the request
8 and their rights as provided in s. 51.13 (3). If the department of corrections, upon
9 review of a request for transfer, determines that transfer is appropriate, that
10 department shall immediately notify the department of health and family services
11 and, if the department of health and family services consents, the department of
12 corrections may immediately transfer the individual. The department of health and
13 family services shall file a petition under s. 51.13 (4) (a) in the court assigned to
14 exercise jurisdiction under chs. 48 and 938 of the county where the treatment facility
15 is located.

16 **SECTION 23.** 51.35 (3) (b) of the statutes is amended to read:

17 51.35 (3) (b) The court assigned to exercise jurisdiction under chs. 48 and 938
18 shall determine, based on the allegations of the petition and accompanying
19 documents, ~~whether the transfer is voluntary on the part of the minor if he or she is~~
20 ~~aged 14 or over, and whether the transfer of the minor to an inpatient facility is~~
21 ~~appropriate and consistent with the needs of the minor.~~ In the event that and, if the
22 minor is 14 years of age or older and is being transferred for the purpose of receiving
23 services for developmental disability or psychiatric services, whether the transfer is
24 voluntary on the part of the minor. If the court is unable to make such those
25 determinations based on the petition and accompanying documents, ~~it shall the~~

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1 court may order additional information to be produced as ~~it deems~~ necessary to make
2 ~~such review, and make such~~ those determinations within 14 days of after admission,
3 or ~~it~~ the court may hold a hearing within 14 days of after admission. If a notation
4 of the minor's unwillingness appears on the face of the petition, or ~~that~~ if a hearing
5 has been requested by the minor, or by the minor's counsel, guardian ad litem,
6 parent, or guardian, the court shall hold a hearing and appoint counsel or a guardian
7 ad litem for the minor as provided in s. 51.13 (4) (d). At the conclusion of the hearing,
8 the court shall approve or disapprove the request for transfer. If the minor is under
9 the continuing jurisdiction of the court of another county, the court may order the
10 case transferred together with all appropriate records to that court.

11 **SECTION 24.** 51.35 (3) (c) of the statutes is amended to read:

12 51.35 (3) (c) A licensed psychologist of a secured correctional facility ~~or~~, a
13 secured child caring institution, or a secured group home, or a licensed physician of
14 the department of corrections, who has reason to believe that any individual confined
15 in the secured correctional facility, secured child caring institution, or secured group
16 home, in his or her opinion, is mentally ill, drug dependent, or developmentally
17 disabled and is dangerous as described in s. 51.20 (1) (a) 2. a., b., c., or d., is mentally
18 ill, is dangerous, and satisfies the standard under s. 51.20 (1) (a) 2. e., or is an
19 alcoholic and is dangerous as described in s. 51.45 (13) (a) 1. and 2., shall file a written
20 report with the superintendent of the secured correctional facility, secured child
21 caring institution, or secured group home, stating the nature and basis of the belief.
22 If the superintendent, upon review of the allegations in the report, determines that
23 transfer is appropriate, he or she shall file a petition according to s. 51.20 or 51.45
24 in the court assigned to exercise jurisdiction under chs. 48 and 938 of the county
25 where the secured correctional facility, secured child caring institution, or secured

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1 group home is located. The court shall hold a hearing according to procedures
2 provided in s. 51.20 or 51.45 (13).

3 **SECTION 25.** 51.35 (3) (c) of the statutes, as affected by 1999 Wisconsin Act 9,
4 section 1558d, and 2001 Wisconsin Act (this act), is repealed and recreated to
5 read:

6 51.35 (3) (c) A licensed psychologist of a secured correctional facility, a secured
7 child caring institution, or a secured group home, or a licensed physician of the
8 department of corrections, who has reason to believe that any individual confined in
9 the secured correctional facility, secured child caring institution, or secured group
10 home, in his or her opinion, is mentally ill, drug dependent, or developmentally
11 disabled and is dangerous as described in s. 51.20 (1) (a) 2., or is an alcoholic and is
12 dangerous as described in s. 51.45 (13) (a) 1. and 2., shall file a written report with
13 the superintendent of the secured correctional facility, secured child caring
14 institution, or secured group home, stating the nature and basis of the belief. If the
15 superintendent, upon review of the allegations in the report, determines that
16 transfer is appropriate, he or she shall file a petition according to s. 51.20 or 51.45
17 in the court assigned to exercise jurisdiction under ch. 48 of the county where the
18 secured correctional facility, secured child caring institution, or secured group home
19 is located. The court shall hold a hearing according to procedures provided in s. 51.20
20 or 51.45 (13).

21 **SECTION 26.** 51.35 (3) (g) of the statutes is amended to read:

22 51.35 (3) (g) A minor 14 years of age or older who is transferred to a treatment
23 facility under par. (a) for the purpose of receiving services for developmental
24 disability or psychiatric services may request in writing a return to the secured
25 correctional facility, secured child caring institution, or secured group home. In the

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1 case of a minor 14 years of age or older who is transferred to a treatment facility
2 under par. (a) for the purpose of receiving services for alcoholism or drug dependency
3 or a minor under 14 years of age, who is transferred to a treatment facility under par.
4 (a) for the purpose of receiving services for developmental disability, alcoholism, or
5 drug dependency, or psychiatric services, the parent or guardian may make the
6 request. Upon receipt of a request for return from a minor 14 years of age or ~~over~~
7 older, the director shall immediately notify the minor's parent or guardian. The
8 minor shall be returned to the secured correctional facility, secured child caring
9 institution, or secured group home within 48 hours after submission of the request
10 unless a petition or statement is filed for emergency detention, emergency
11 commitment, involuntary commitment, or protective placement.

12 **SECTION 27.** 51.47 (title) of the statutes is amended to read:

13 **51.47 (title) Alcohol and other drug abuse treatment for minors**
14 **without parental consent.**

15 **SECTION 28.** 51.47 (1) of the statutes is amended to read:

16 **51.47 (1)** Except as provided in subs. (2) and (3), any physician or health care
17 facility licensed, approved, or certified by the state for the provision of health services
18 may render preventive, diagnostic, assessment, evaluation, or treatment services for
19 the abuse of alcohol or other drugs to a minor 12 years of age or over without
20 obtaining the consent of or notifying the minor's parent or guardian and may render
21 those services to a minor under 12 years of age without obtaining the consent of or
22 notifying the minor's parent or guardian, but only if a parent with legal custody or
23 guardian of the minor under 12 years of age cannot be found or there is no parent with
24 legal custody of the minor under 12 years of age. An assessment under this
25 subsection shall conform to the criteria specified in s. 938.547 (4). Unless consent of

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1 the minor's parent or guardian is required under sub. (2), the physician or health
2 care facility shall obtain the minor's consent prior to billing a 3rd party for services
3 under this section. If the minor does not consent, the minor shall be solely
4 responsible for paying for the services, which the department shall bill to the minor
5 under s. 46.03 (18) (b).

6 **SECTION 29.** 51.48 of the statutes is amended to read:

7 **51.48 Alcohol and other drug testing of minors, assessment, and**
8 **treatment of minor without minor's consent.** A minor's parent or guardian may
9 consent to have the minor tested for the presence of alcohol or other drugs in the
10 minor's body or to have the minor assessed by an approved treatment facility for the
11 minor's abuse of alcohol or other drugs according to the criteria specified in s. 938.547
12 (4). If, based on the assessment, the approved treatment facility determines that the
13 minor is in need of treatment for the abuse of alcohol or other drugs, the approved
14 treatment facility shall recommend a plan of treatment that is appropriate for the
15 minor's needs and that provides for the least restrictive form of treatment consistent
16 with the minor's needs. That treatment may consist of outpatient treatment, day
17 treatment, or, if the minor is admitted in accordance with s. 51.13, inpatient
18 treatment. The parent or guardian of the minor may consent to the treatment
19 recommended under this section. Consent of the minor is not required for testing,
20 assessment, or treatment under this section is not required.

21 **SECTION 30.** 51.61 (6) of the statutes is amended to read:

22 51.61 (6) Subject to the rights of patients provided under this chapter, the
23 department, county departments under s. 51.42 or 51.437, and any agency providing
24 services under an agreement with the department or those county departments have
25 the right to use customary and usual treatment techniques and procedures in a

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1 reasonable and appropriate manner in the treatment of patients who are receiving
2 services under the mental health system, for the purpose of ameliorating the
3 conditions for which the patients were admitted to the system. The written,
4 informed consent of any patient shall first be obtained, unless the person has been
5 found not competent to refuse medication and treatment under s. 51.61 (1) (g) or the
6 person is a minor 14 years or older who is receiving services for alcoholism or drug
7 abuse or a minor under 14 years of age who is receiving services for mental illness,
8 developmental disability, alcoholism, or drug abuse. In the case of a minor, the
9 written, informed consent of the parent or guardian is required. ~~Except, except as~~
10 ~~provided under an order issued under s. 51.13 (1) (c) or 51.14 (3) (h) or (4) (g), if.~~ If
11 the minor is 14 years of age or older and is receiving services for mental illness or
12 developmental disability, the written, informed consent of the minor and the minor's
13 parent or guardian is required. A refusal of either a minor 14 years of age or older
14 or the minor's parent or guardian to provide written, informed consent for admission
15 to an approved inpatient treatment facility is reviewable under s. 51.13 (1) (c) 1. and
16 a refusal of either a minor 14 years of age or older or the minor's parent or guardian
17 to provide written, informed consent for outpatient mental health treatment is
18 reviewable under s. 51.14.

SECTION 31. Initial applicability.

19
20 (1) This act first applies to individuals who are receiving treatment for alcohol
21 or other drug abuse in an approved inpatient treatment facility, or who are receiving
22 outpatient treatment for alcohol or other drug abuse, on the effective date of this
23 subsection regardless of whether admission to the inpatient facility or outpatient
24 program occurred or was sought prior to the effective date of this subsection.

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FROM THE
LEGISLATIVE REFERENCE BUREAU

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In the case of a minor 14 years of age or older who is voluntarily admitted under this section for the primary purpose of treatment for alcoholism or drug abuse or a minor under 14 years of age who is voluntarily admitted under this section for the primary purpose of treatment for mental illness, developmental disability, alcoholism, or drug abuse, the parent or guardian of the minor may make the request.

(END OF INSERT)

(INSERT A-1)

(no paragraph) The bill also requires a minor who obtains admission to an inpatient facility by petitioning the juvenile court to approve the admission to be discharged within 48 hours after submitting a request for discharge.

(END OF INSERT)

(INSERT A-2)

No ff

requires the minor to be discharged within 48 hours after the request of the minor's parent or guardian. The bill also permits a minor who is not discharged either on the request of the minor or the request of the minor's parent or guardian to submit a request to the juvenile court to hold a hearing to determine the continued appropriateness of the minor's admission.

(END OF INSERT)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1414/2ins

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WJ

dn

Representative Skindrud:

As I began to draft your instruction to require a minor to be discharged within 48 hours after the minor's request, I realized that such a requirement will not work when the parent checks the minor in against the minor's wishes because the requirement would create a vicious circle in which the parent checks the minor, the minor checks himself out, the parent checks the minor back in, and so on. Accordingly, this draft requires the minor to be discharged on the request of the minor's parent, unless it was the minor who checked himself in. In either event, it is the parent or minor, and not the court, who is making the decision.

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This draft does not include your instruction to include a requirement that the advantages, disadvantages, and alternatives to a particular course of treatment be explained before a person may give informed consent to that treatment because that requirement is already covered in s. HFS. 94.03, Wis. Adm. Code, which requires a patient to be provided with specific, complete, and accurate information concerning the treatment proposed for the patient, including all of the following information:

1. The benefits of the proposed treatment.
2. The way the treatment is to be administered.
3. The side effects or risks of side effects of the treatment.
4. Alternative treatment modes.
5. The time period for which the consent is effective, which may be for no longer than 15 months.
6. The right to withdraw the informed consent at any time.

If you have any questions concerning this draft, please do not hesitate to contact me at the phone number or e-mail address listed below.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1414/2dn
GMM:wlj:cmh

January 28, 2001

Representative Skindrud:

As I began to draft your instruction to require a minor to be discharged within 48 hours after the minor's request, I realized that such a requirement will not work when the parent checks in the minor against the minor's wishes because the requirement would create a vicious circle in which the parent checks in the minor, the minor checks out himself or herself, the parent checks back in the minor, and so on. Accordingly, this draft requires the minor to be discharged on the request of the minor's parent, unless it was the minor who checked in himself or herself. In either event, it is the parent or minor, and not the court, who is making the decision.

This draft does not include your instruction to include a requirement that the advantages, disadvantages, and alternatives to a particular course of treatment be explained before a person may give informed consent to that treatment because that requirement is already covered in s. HFS. 94.03, Wis. Adm. Code, which requires a patient to be provided with specific, complete, and accurate information concerning the treatment proposed for the patient, including all of the following information:

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State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

January 28, 2001

MEMORANDUM

To: Representative Skindrud

From: Gordon M. Malaise, Senior Legislative Attorney

Re: LRB-1414 Alcohol and other drug abuse treatment of minors; parental consent requirement

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

A handwritten signature in black ink, appearing to be "G.M. Malaise", with a checkmark to the right.

 JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-9738 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.