

### 2001 DRAFTING REQUEST

#### Bill

Received: 05/24/2001

Received By: kenneda

Wanted: As time permits

Identical to LRB:

For: John La Fave (608) 266-0486

By/Representing: Judy Kelly (aide)

This file may be shown to any legislator: NO

Drafter: kenneda

May Contact:

Addl. Drafters:

Subject: Mental Health - detent/commit

Extra Copies:

Submit via email: NO

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#### Pre Topic:

No specific pre topic given

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#### Topic:

Permit family members access to information about committed individual's location

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#### Instructions:

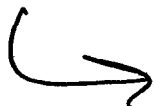
See Attached

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#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	kenneda 08/06/2001	wjackson 08/06/2001	rschluet 08/06/2001	_____	lrb_docadmin 08/06/2001		S&L
/2	kenneda 08/20/2001	wjackson 08/23/2001	rschluet 08/24/2001	_____	lrb_docadmin 08/24/2001	lrb_docadminS&L 09/14/2001	
				_____	lrb_docadmin 08/24/2001		
				_____	lrb_docadmin 08/24/2001		

FE Sent For:



At  
Intro.

<END>

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				_____	lrb_docadmin 08/24/2001		
				_____	lrb_docadmin 08/24/2001		

FE Sent For:

**<END>**

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/1	kenneda 08/06/2001	wjackson 08/06/2001	rschlue 08/06/2001	_____	lrb_docadmin 08/06/2001		S&L

1/2 WLj 8/23

*(Handwritten initials and date)*  
8-24-1

<END>

FE Sent For:

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Drafter: **kenneda**

May Contact:

Addl. Drafters:

Subject: **Mental Health - detent/commit**

Extra Copies:

Submit via email: **NO**

Requester's email:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Permit family members access to information about committed individual's location

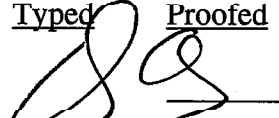
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**Instructions:**

See Attached

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/?	kenneda	1 w/ly 8/6					

8-6-01

FE Sent For:

<END>

**LEGISLATIVE REFERENCE BUREAU**

Legal Section, 5<sup>th</sup> Floor, 100 N. Hamilton St.  
 (608) 266-3561

**BILL REQUEST FORM**

DAIC 7

Use of this form is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill.  
 Use this form only for **BILL** drafts. Attach more pages if necessary.

Date of request: <i>5-2-01</i>	Legislator or agency requesting this draft: <i>REP JOHN LAFAVE</i>
Name/phone number of person submitting request: <i>JUDY KELLY 266-0486</i>	
Persons to contact for questions about this draft (names and phone numbers please): <i>JOHN LAFAVE 266-0486</i>	
Describe the problem, including any helpful examples. How do you want to solve the problem? <i>When a person is institutionalized for mental illness, a family member may be unable to find out the location of the institutionalized person if that person has been moved to another facility. We would like the location of the institutionalized person to be revealed to family members upon request.</i>	
If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy. <i>51.30</i>	

Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

**Requests are confidential unless stated otherwise.**

May we tell others that we are working on this for you?  YES  NO

If yes, anyone who asks?  YES  NO

Any legislator?  YES  NO  ONLY the following persons:

Do you consider this urgent?  YES  NO If yes, please indicate why:

Is this request of higher priority than other pending request(s) you have made?  
 YES  NO If yes, please sign your name here:

Kelly, Judy

**From:** LaFave, John  
**Sent:** Tuesday, February 06, 2001 5:01 PM  
**To:** 'Steve Case'  
**Cc:** Kelly, Judy  
**Subject:** RE: Patient Confidentiality

Thank you Steve. I shall pursue this.

John La Fave

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

**From:** Steve Case [mailto:stacase@hotmail.com]  
**Sent:** Saturday, February 03, 2001 12:49 PM  
**To:** John.LaFave@legis.state.wi.us  
**Subject:** Patient Confidentiality

Brown Deer

February 3<sup>rd</sup>, 2001

Dear State Representative LaFave,

You will recall I E-Mailed you regarding this issue last summer.

This issue is at the top of my list again, my brother has been moved and the voice on the other end of the telephone refuses me information regarding the whereabouts of my brother citing Wisconsin State Statute 51.30

Since I wrote you last, I've done some more investigation:

Here is the text of the notice taped to counter at the Milwaukee County Mental Health Complex desk:

.....  
**Notice to Friends and Family Members**

Chapter 51.30 of the State of Wisconsin Mental Health Act forbids staff at the Milwaukee County Mental Health Division from providing any information about our consumers without their written informed consent.

The Mental Health Division cannot tell you whether your friend or relative is presently at the hospital nor can staff tell you about his or her treatment without WRITTEN PERMISSION from the consumer.

Only a guardian may receive information about his or her ward without written permission

Milwaukee County  
Mental Health Division  
Patients Rights Committee

Dr. Lorraine Luft  
(414) 257 7437  
.....



When I copied this down I asked a few questions of the lady who ran the desk. Are lots of people turned away because of this policy? She very guardedly nodded her head. Do some people get angry? Another guardedly but this time with wide eyes nod.

John, the citizens in Wisconsin who have friends and relatives that suffer from mental disease are being discriminated against.

The legislation needs to be changed.

Institutions are currently operating under a default where if there is no other information available, they lock out family members. I think you would agree, that there is something fundamentally wrong with this.

What needs to be changed is the default of a no information policy, to one of no information for cause.

Here's the section from 51.30 I think they're hanging their hat on:

.....  
51.30(4)(b)5.

5. To qualified staff members of the department, to the director of the county department under s. 51.42 or 51.437 which is responsible for serving a subject individual or to qualified staff members designated by the director as is necessary to determine progress and adequacy of treatment, to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility or for the purposes of s. 51.14. Such information shall remain confidential. The department and county departments under c. 51.42 or 51.437 shall develop procedures to assure the confidentiality of such information.

.....  
Specifically the lines:

"to determine whether the person should be transferred"

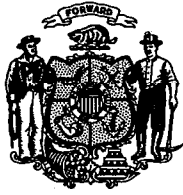
"Such information shall remain confidential."

.....  
They are interpreting that to include the actual whereabouts. Family members being turned away aren't trying to find out why someone's been transferred, just where have they been transferred to?

Please respond.

Sincerely

Steve Case  
9180 North Fairy Chasm Lane  
Brown Deer, Wisconsin 53223  
354 4564 Home  
(262) 532 1074 Work



## 2001 BILL

1 AN ACT <sup>GEN</sup> ...; relating to: an exception to confidentiality requirements for  
2 treatment records.

---

### *Analysis by the Legislative Reference Bureau*

Under current law, the treatment records of an individual who is treated for mental illness, developmental disabilities, alcoholism, or drug dependence must remain confidential, are privileged to the individual, and may be released only with the individual's informed written consent. However, numerous exceptions apply that permit release of treatment records without informed written consent, including, under certain conditions, release to the department of health and family services (DHFS), to the director of a county department of developmental disabilities services or community programs, or to a qualified staff member designated by the director. Release may be made to these persons for billing or collection purposes, as necessary to determine progress and adequacy of treatment, to determine whether the treated individual should be transferred to a less restrictive or more appropriate treatment modality or facility, or to provide for the outpatient treatment of a minor. The treatment records permitted to be released under these conditions must remain confidential, and DHFS and county departments of developmental disabilities services and community programs must develop procedures to assure their confidentiality.

This bill permits DHFS, the director of a county department of developmental disabilities services or community programs, or a qualified staff member designated by the director, to whom treatment records of an individual are released without the individual's informed consent, if the individual is transferred to another facility for

**BILL**

treatment, to inform a requesting member of the individual's immediate family, as defined in the bill, of the location of the facility to which the individual is transferred.

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. 51.30 (4) (b) 5. of the statutes is amended to read:

2           51.30 (4) (b) 5. To qualified staff members of the department, to the director of  
3           the county department under s. 51.42 or 51.437 which is responsible for serving a  
4           subject individual, or to qualified staff members designated by the director as is  
5           necessary to determine progress and adequacy of treatment, to determine whether  
6           the person should be transferred to a less restrictive or more appropriate treatment  
7           modality or facility, or for the purposes of s. 51.14. Such information shall remain  
8           confidential. ~~The~~ and the department and county departments under s. 51.42 or  
9           51.437 shall develop procedures to assure the confidentiality of such information,  
10          except that, if the person is transferred to another facility, the staff member or  
11          director may inform a requesting member of the person's immediate family, as  
12          defined in s. 350.01 (8m), of the location of the facility to which the person is  
13          transferred.

History: 1975 c. 430; 1977 c. 26 s. 75; 1977 c. 61, 428; 1979 c. 110 s. 60 (1); 1983 a. 27, 292, 398, 538; 1985 a. 29, 176; 1985 a. 292 s. 3; 1985 a. 332 ss. 97, 98, 251 (1); 1987 a. 352, 355, 362, 367, 399, 403; 1989 a. 31, 334, 336; 1991 a. 39, 189; 1993 a. 196, 445, 479; 1995 a. 169, 440; 1997 a. 35, 231, 237, 283, 292; 1999 a. 22, 78, 79, 109; s. 13.93 (1) (b).

(END)

## Kennedy, Debora

---

**From:** Kelly, Judy  
**Sent:** Thursday, August 09, 2001 2:34 PM  
**To:** Kennedy, Debora  
**Subject:** LRB3359/1



Memo to Debora  
Kennedy re LRB3...

TO: Debora Kennedy  
FR: Judy Kelly  
Legislative Aide To  
Rep. John La Fave  
RE: LRB 3359/1

We have been in contact with Diane Greenley from the Wisconsin Coalition for Advocacy regarding LRB3359/1. She suggested that the legislation should be to amend 51.30 (4) (b) 13. The statute could be changed to say that information released under this subdivision is limited to notice as to whether or not an individual is a patient at the inpatient facility, and, if not, where the individual has been relocated. However, the word siblings would have to be added. In other words "to the parents, children, siblings or spouse of an individual....."

She further suggests that we add unless the individual who is a patient specifically requests that a named person not be allowed the information.

Do you think this works? If so, I would appreciate your making these changes. If you have questions, please call me at 266-0486. Thank you.



# 2001 BILL

INSERT A ✓

REGEN

1 AN ACT to amend 51.30 (4) (b) 5. of the statutes; relating to: an exception to  
2 confidentiality requirements for treatment records.

### *Analysis by the Legislative Reference Bureau*

Under current law, the treatment records of an individual who is treated for mental illness, developmental disabilities, alcoholism, or drug dependence must remain confidential, are privileged to the individual, and may be released only with the individual's informed written consent. However, numerous exceptions apply that permit release of treatment records without informed written consent,

including, under certain conditions, release to the department of health and family services (DHFS), to the director of a county department of developmental disabilities services or community programs, or to a qualified staff member designated by the director. Release may be made to these persons for billing or collection purposes, as necessary to determine progress and adequacy of treatment, to determine whether the treated individual should be transferred to a less restrictive or more appropriate treatment modality or facility, or to provide for the outpatient treatment of a minor. The treatment records permitted to be released under these conditions must remain confidential, and DHFS and county departments of developmental disabilities services and community programs must develop procedures to assure their confidentiality.

This bill permits DHFS, the director of a county department of developmental disabilities services or community programs, or a qualified staff member designated by the director, to whom treatment records of an individual are released without the individual's informed consent, if the individual is transferred to another facility for

**BILL**

treatment, to inform a requesting member of the individual's immediate family, as defined in the bill, of the location of the facility to which the individual is transferred.

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.** 51.30 (4) (b) 5. of the statutes is amended to read:

2           51.30 (4) (b) 5. To qualified staff members of the department, to the director of  
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5           necessary to determine progress and adequacy of treatment, to determine whether  
6           the person should be transferred to a less restrictive or more appropriate treatment  
7           modality or facility, or for the purposes of s. 51.14. Such information shall remain  
8           confidential. ~~The, and the~~ department and county departments under s. 51.42 or  
9           51.437 shall develop procedures to assure the confidentiality of such information,  
10          except that, if the person is transferred to another facility, the staff member or  
11          director may inform a requesting member of the person's immediate family, as  
12          defined in s. 350.01 (8m), of the location of the facility to which the person is  
13          transferred.

14

(END)

INSERT 2-13 ✓

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3359/2ins  
DAK:wlj:rs

wo 94

INSERT A

One of the exceptions permits the release of information as to whether or not an individual is a patient at an inpatient facility; the information may be released to the individual's parents, children, or spouse, to a law enforcement officer who is seeking to determine if the individual is on unauthorized absence from the facility, and to mental health professionals who are providing treatment to the individual.

This bill expands that exception. For an individual who was, but no longer is, a patient at an inpatient facility, this bill permits the release of information as to the facility to which the individual was transferred or other place, if known, at which the individual is located. The bill permits the information to be released to the individual's siblings. Lastly, the bill restricts the release of the information to the individual's parents, children, siblings, or spouse if the individual has specifically named the person and requested that the information be withheld from him or her.

INSERT 2-13

1 SECTION ~~A~~ 51.30 (4) (b) 13. of the statutes is amended to read:  
2 51.30 (4) (b) 13. To the ~~parents, children~~ parent, child, sibling, or spouse of an  
3 individual who is or was a patient at an inpatient facility; to a law enforcement  
4 officer who is seeking to determine whether an individual is on unauthorized absence  
5 from the facility; and to mental health professionals who are providing treatment  
6 to the individual at the time that the information is released to others. Information  
7 released under this subdivision is limited to notice as to whether or not an individual  
8 is a patient at the inpatient facility and, if the individual is no longer a patient at the  
9 inpatient facility, the facility or other place, if known, at which the individual is  
10 located. This subdivision does not apply to an individual's parent, child, sibling, or  
11 spouse from whom the individual has specifically requested that the information  
12 under this subdivision be withheld.

History: 1975 c. 430; 1977 c. 26 s. 75; 1977 c. 61, 428; 1979 c. 110 s. 60 (1); 1983 a. 27, 292, 398, 538; 1983 a. 29, 170; 1985 a. 292 s. 3; 1985 a. 352 ss. 97, 98, 251 (1); 1987 a. 352, 355, 362, 367, 399, 403; 1989 a. 31, 334, 336; 1991 a. 39, 189; 1993 a. 196, 445, 479; 1995 a. 169, 440; 1997 a. 35, 231, 237, 283, 292; 1999 a. 32, 78, 79, 109; s. 13.93 (1) (b).





# 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

August 24, 2001

### MEMORANDUM

To: Representative La Fave 

From: Debora A. Kennedy, Managing Attorney

Re: LRB-3359/2 Permit family members access to information about committed individual's location

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.

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) 266-0137 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.

## Barman, Mike

---

**From:** Barman, Mike  
**Sent:** Monday, September 17, 2001 2:35 PM  
**To:** Rep.LaFave  
**Subject:** LRB-3359/2 (attached) (from DAK)



01-3359/2

*Mike Barman*

Mike Barman - Senior Program Asst. (PH. 608-266-3561)  
(E-Mail: [mike.barman@legis.state.wi.us](mailto:mike.barman@legis.state.wi.us)) (FAX: 608-264-6948)

State of Wisconsin  
Legislative Reference Bureau - Legal Section - Front Office  
100 N. Hamilton Street - 5th Floor  
Madison, WI 53703