

2001 DRAFTING REQUEST

Bill

Received: **09/15/2000**

Received By: **rryan**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 7-9546**

By/Representing: **Jablonsky**

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

Drafter: **rryan**

May Contact: **DHFS- Ellen Hadidian**

Alt. Drafters:

Subject: **Criminal Law - miscellaneous
Criminal Law - procedure
Mental Health - miscellaneous**

Extra Copies: **MGD**

Pre Topic:

DOA:.....Jablonsky -

Topic:

Funding of competency examinations for a county with a population of 500,000 or more

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rryan 09/28/2000	jdyer 09/28/2000		_____			S&L
/P1			pgreensl 09/29/2000	_____	lrb_docadmin 09/29/2000		S&L
/1	rryan 02/05/2001	jdyer 02/05/2001	rschluet 02/05/2001	_____	lrb_docadmin 02/05/2001		

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1/?	rryan	10/1 9/28 jld	9/28 pcj	9/29 km ps			S&L

FE Sent For:

<END>

DHFS

Department of Health and Family Services
2001-2003 Biennial Budget Statutory Language Request
June 19, 2000

Outpatient Competency Examinations

Current Language

s.20.435 (2)(bj); s.46.48(10)

Proposed Change

1. Amend s.20.435 (2)(bj) to place funding for the Milwaukee outpatient competency examination program in this appropriation.
2. Repeal s.46.48(10) to remove funding for the Milwaukee outpatient competency examination program from s.20.435 (7)(bc) in the Division of Supportive Living.
3. Create statutory language that transfers the funds and authority to administer this program to the Division of Care and Treatment Facilities.

Effect of the Change

1. Funding for the Milwaukee outpatient competency examination program will be transferred from the Division of Supportive Living (DSL) to the Division of Care and Treatment Facilities (DCTF).
2. Responsibility for administering the Milwaukee outpatient competency examination program will be transferred from DSL to DCTF.
3. The Department will be able to contract with an entity other than Milwaukee county for the provision of outpatient competency examinations in that county.

Rationale for the Change

The Division of Care and Treatment Facilities has general oversight of the mental health institutes at which the majority of competency-to-stand-trial examinations are performed. DCTF oversees forensic mental health programs and it is appropriate for this division to have responsibility for all competency examinations as well.

Current language specifies that the Department allocate not more than \$484,300 annually to Milwaukee county so that it can perform outpatient competency examinations in that county. In order to manage this program effectively, the Department would like to have the option of contracting with other agencies besides Milwaukee county. By not specifying the amount of funding to be contracted, it may be possible for the Department to negotiate a contract for less than the current contract.

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



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0310/P1

RLR...

SOON

JLD

DOA:.....Jablonsky – Funding of competency examinations for a county with a population of 500,000 or more

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

RMNR

In 9/28/00

D-Note

Do not gen.

1 AN ACT ...; relating to: funding for competency examinations in a county with
2 a population of 500,000[✓] or more.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

Current law prohibits trial, conviction, and sentencing of a person accused of committing an offense if the person lacks sufficient mental capacity to understand the proceeding and to assist in his or her own defense. If there is reason to doubt a person's mental capacity, the court presiding over the proceeding must appoint a mental health expert to examine the defendant. Current law requires that DHFS provide \$484,300 annually from general purpose revenue, to a county with a population of 500,000[✓] or more (Milwaukee County) to pay for competency examinations in that county.

This bill eliminates the designation of Milwaukee County[✓] as the recipient agency of DHFS funding for competency examinations, leaving DHFS discretion to select the recipient agency or agencies. The bill also removes the specification of a dollar amount that DHFS must provide for competency examinations in Milwaukee County. The bill appropriates funds for the competency examinations from the general purpose revenue appropriation that funds treatment and services for people on conditional or supervised release from DHFS mental health institutions.

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. 20.435 (2) (bj) ^X of the statutes is amended to read:
 2 20.435 (2) (bj) Conditional [✓] Competency examinations and conditional and
 3 supervised release treatment and services. Biennially, the amounts in the schedule
 4 for competency examinations in a county with a population of 500,000 or more under
 5 s. 46.58, [✓] and for payment by the department of costs for treatment and services for
 6 persons released under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d) or (4) (e) or
 7 980.08 (5), for which the department has contracted with county departments under
 8 s. 51.42 (3) (aw) 1. d., with other public agencies, or with private agencies to provide
 9 the treatment and services.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (e); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186.

****NOTE: This section involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

10 SECTION 2. 46.48 (10) ^X of the statutes is repealed.

11 SECTION 3. 46.58 of the statutes is created to read:

12 46.58 ^{NO CS} COMPETENCY EXAMINATIONS. From the appropriation under 20.435 (2) (bj) ^{LC} ^{5.}
 13 the department shall distribute funds to provide competency examinations under s.
 14 971.14 (2) in a county with a population of 500,000 or more.

15 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0310/rd1 *Adl*
R.L.R. *min*
Jld

Please review this draft carefully to ensure that it is consistent with your intent.

* Please note that because the bill applies to specific geographical locations to the
* exclusion of others, the bill may be a local bill. Article IV, section 18³ of the Wisconsin
* constitution prohibits any local bill from embracing more than one subject. If enacted
* as part of the budget bill this bill may be subject to a challenge that it violates the state
constitution and may be invalidated.

* Although in practice the funding for competency examinations might be used only
* for outpatient examinations, this bill does not limit the funding to outpatient
* examinations as designated in the DHFS request, because ~~Section~~ s. 971.14 (2) and the
* current grant authority under ~~section~~ s. 46.48 (10) apply to both inpatient and
outpatient examinations.

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0310/P1dn
RLR:jld:pg

September 28, 2000

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2/5/07

0310

Sue Jablonsky:

approp. title too long

**DRAFTER'S NOTE
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LRB-0310/P1dn
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2

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State of Wisconsin
2001 - 2002 LEGISLATURE

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TODAY

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FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

In 2/5/01

RMR

Do NOT GEN

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15 **(END)**