

2003 DRAFTING REQUEST

Bill

Received: **10/31/2003**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Carol Roessler (608) 266-5300**

By/Representing: **Jennifer Halbur**

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

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

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

Extra Copies: **GMM**

Submit via email: **YES**

Requester's email: **Sen.Roessler@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Treatment of minors for mental illness

Instructions:

Same as 01-3671/1, but apply only to minors with mental illness, not developmental disability

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>
/?	dkennedy 11/11/2003	wjackson 11/12/2003 wjackson 11/18/2003					S&L
/1			jfrantze 11/19/2003		lnorthro 11/19/2003	lemery 12/17/2003	

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For: *at intro*
1/14/04

<END>

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*Senate
per
Jennifer*

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1/?	dkennedy	11/18	11/19	J/R			

FE Sent For:

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3671/1dn
DAK:kg:pg

November 27, 2001

To Senator Roessler:

Please note that I drafted the following provisions somewhat differently than in 1999 Senate Bill 212:

1. Under current law, a minor who is aged 14 or older and who has been admitted to an inpatient facility for treatment for mental illness or developmental disability and a minor who has been voluntarily admitted when no parent is available or if a parent refuses to consent may request a discharge and be discharged within 48 hours after the request. This bill eliminates the right of the minor aged 14 or older to request and receive discharge. The question is, should the right to discharge also be eliminated for the minor who is voluntarily admitted with no available parent or with a parent who refuses consent? Section 51.13 (3) (b) and (c), stats., both deal with the requirement that the director of an inpatient treatment facility inform a minor of the minor's right to request and receive a discharge from the facility. I drafted them to require that a minor who is voluntarily admitted when no parent is available or if a parent refuses consent be informed of his or her right to request a discharge. Because of those drafting decisions, I also did not repeal s. 51.13 (7) (b), stats., but instead preserved the right of a minor, who is voluntarily admitted when no parent is available or if a parent refuses to consent, to request and receive a discharge. I also added "if available" to the requirement that the parent or guardian of such a minor be notified (otherwise, the requirement might prove to be an impossibility). In s. 51.30 (5) (a), stats. I specified that a minor, who is voluntarily admitted when no parent is available or if a parent refuses to consent, may consent to the release of confidential information in court or treatment records without the consent of his or her parent, guardian, or person in the place of a parent. Lastly, I thought that such a minor would retain the right to consent to or refuse treatment under s. 51.61 (6), since no parent would apparently be available to perform that function. This decision seems consistent with current law under s. 51.35 (3) (a), stats. These drafting decisions are based on the assumption that such a minor exhibits quite an amount of autonomy, i.e., in checking himself or herself into an inpatient treatment facility. If my assumption is incorrect or if there are other circumstances in which such a minor is voluntarily admitted, perhaps you would want to distinguish among these types of minors. Alternatively, you may disagree generally with the decisions that I have made and may not want this type of minor to be able to discharge himself or herself; if that is the case, I can redraft accordingly, but I'm

somewhat concerned that such a minor would have to rely on the director of the facility to make a request for his or her discharge, because a parent or guardian would be absent.

2. In s. 51.13 (7) (c), current law as affected by the biennial budget act requires a hearing on the continued appropriateness of the minor's admission upon request, if no hearing on the minor's admission has been held within 120 days after receipt of the request. (The word "after" was substituted for "of" in the biennial budget act.) However, the same paragraph *also* requires that a hearing be held within 14 days after the request unless the parties agree to a longer period. I believe that "after" is incorrect for the first requirement and that, instead, it should have been changed to "before"; if that change is made, then a hearing is required if no hearing has been held within the previous 120 days, and the hearing must be held 14 days after the request is received. I have changed s. 51.13 (7) (c), stats., accordingly. Please review.

3. The amendment to s. 51.30 (5) (b) 1., stats., in 1999 Senate Bill 212 eliminated language that restricted access by the parent, guardian, or person in the place of a parent of a developmentally disabled minor to the minor's court or treatment records if the minor who is aged 14 or older filed a written objection. The amendment, then, allowed record access to such a parent, guardian, or person "at all times," whereas other language in that same subdivision allows the same access to parents, guardians, and persons in the place of a parent of *other* minors "as provided to subject individuals under this section." However, not all "subject individuals" have access, particularly minors (see s. 51.30 (5) (b) 2.). This provision, then, could be interpreted to restrict access to parents, etc., in the same way that a minor's access is restricted under s. 51.30 (5) (b) 2., stats., which is a nonsensical result. Therefore, I amended the provision to except s. 51.30 (5) (b) 2., stats. Please review.

Please don't hesitate to call if you need a redraft or if I can otherwise help with this bill.

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1 soon - In edit 11/11
State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3619/1
DAK./:....
WLj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: ???

Analysis by the Legislative Reference Bureau

INSERT ✓
1-1

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

2 SECTION 1. 51.13 (1) (a) of the statutes is amended to read:
3 51.13 (1) (a) Except as provided in par. (c) and s. 51.45 (2m), the application for
4 voluntary admission of a minor who is 14 years of age or older to an approved
5 inpatient treatment facility for the primary purpose of treatment for mental illness ↗
6 ~~or~~ alcoholism² or drug abuse and the application for voluntary admission of a minor
7 who is under 14 years of age to an approved inpatient treatment facility for the
8 primary purpose of treatment for mental illness, developmental disability,
9 alcoholism, or drug abuse shall be executed by a parent who has legal custody of the
10 minor or the minor's guardian. Any statement or conduct by a minor who is the

1 subject of an application for voluntary admission under this paragraph indicating
2 that the minor does not agree to admission to the facility shall be noted on the face
3 of the application and shall be noted in the petition required by sub. (4).

4 History: 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 174; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104.

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

5 51.13 (1) (b) The application for voluntary admission of a minor who is 14 years
6 of age or older to an approved inpatient treatment facility for the primary purpose
7 of treatment for ~~mental illness or~~ developmental disability shall be executed by the
8 minor and a parent who has legal custody of the minor or the minor's guardian,
9 except as provided in par. (c) 1.

History: 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 174; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104.

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

INSER
2-10

11 51.13 (2) (a) A minor may be admitted to an inpatient treatment facility
12 without complying with the requirements of this section if the admission does not
13 involve the department or a county department under s. 51.42 or 51.437, or a contract
14 between a treatment facility and the department or a county department. The
15 application for voluntary admission of a minor who is 14 years of age or older to an
16 inpatient treatment facility for the primary purpose of treatment for mental illness [↑]
17 ~~or~~ ⁽²⁾ alcoholism or drug abuse and the application for voluntary admission of a minor
18 who is under 14 years of age to an inpatient treatment facility for the primary
19 purpose of treatment for mental illness, developmental disability, alcoholism, or
20 drug abuse shall be executed by a parent who has legal custody of the minor or by
21 the minor's guardian. The application for voluntary admission of a minor who is 14
22 years of age or older to an inpatient treatment facility for the primary purpose of

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

3 **History:** 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104.

3 **SECTION 4.** 51.13 (2) (b) of the statutes is amended to read:

4 51.13 (2) (b) Notwithstanding par. (a), any minor who is 14 years of age or older
5 and who is admitted to an inpatient treatment facility for the primary purpose of
6 treatment of ~~mental illness~~ or developmental disability has the right to be
7 discharged within 48 hours after his or her request, as provided in sub. (7) (b). At
8 the time of admission, any minor who is 14 years of age or older and who is admitted
9 to an inpatient treatment facility for the primary purpose of treatment for ~~mental~~
10 ~~illness~~ or developmental disability, and the minor's parent or guardian, shall be
11 informed of this right orally and in writing by the director of the hospital or such
12 person's designee. This paragraph does not apply to individuals who receive services
13 in hospital emergency rooms.

14 **History:** 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104.

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

15 51.13 (2) (d) Writing materials for use in requesting a discharge shall be made
16 available at all times to all minors who are 14 years of age or older and who are
17 admitted under this subsection for the primary purpose of treatment for ~~mental~~
18 ~~illness~~ or developmental disability. The staff of the facility shall assist such minors
19 in preparing or submitting requests for discharge.

20 **History:** 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104.

20 **SECTION 6.** 51.13 (3) (b) of the statutes is amended to read:

21 51.13 (3) (b) A minor 14 years of age or older who has been admitted to an
22 inpatient treatment facility for the primary purpose of treatment for ~~mental illness~~
23 or developmental disability, a minor who is voluntarily admitted under sub. (1) (c)
24 1. or 2., and the minor's parent or guardian shall also be informed by the director or

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

6 **History:** 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 14; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104.

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

7 51.13 (3) (c) A minor 14 years of age or older, other than a minor specified under
 8 par. (b), who has been admitted to an inpatient facility for the primary purpose of
 9 treatment for mental illness ² ~~or~~ ² alcoholism or drug abuse, a minor under 14 years of
 10 age who has been admitted to an inpatient treatment facility for the primary purpose
 11 of treatment for mental illness, developmental disability, alcoholism, or drug abuse,
 12 and the minor's parent or guardian shall ~~also~~ be informed by the director or his or
 13 her designee, both orally and in writing, in easily understandable language, of the
 14 right of the parent or guardian to request the minor's discharge as provided in sub.
 15 (7) (b) and of the minor's right to a hearing to determine continued appropriateness
 16 of the admission as provided in sub. (7) (c).

17 **History:** 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 14; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104.

17 **SECTION 8.** 51.13 (4) (d) of the statutes is amended to read:

18 51.13 (4) (d) Within 5 days after the filing of the petition, the court assigned
 19 to exercise jurisdiction under chs. 48 and 938 shall determine, based on the
 20 allegations of the petition and accompanying documents, whether there is a prima
 21 facie showing that the minor is in need of psychiatric services, or services for
 22 developmental disability, alcoholism, or drug abuse, that the treatment facility offers
 23 inpatient therapy or treatment that is appropriate to the minor's needs and that
 24 inpatient care in the treatment facility is the least restrictive therapy or treatment

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

17 **History:** 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104.

SECTION 9. 51.13 (4) (g) (intro.) of the statutes is amended to read:

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

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

10 **History:** 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104.

10 **SECTION 10.** 51.13 (4) (g) 1. of the statutes is amended to read:

11 51.13 (4) (g) 1. The minor if he or she is 14 years of age or older and is being
12 admitted for the primary purpose of treatment for ~~mental illness or~~ developmental
13 disability.

14 **History:** 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104.

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

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

24 **History:** 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104.

24 **SECTION 12.** 51.13 (7) (a) of the statutes is amended to read:

INSERT 6-23

1 51.13 (7) (a) If a minor is admitted to an inpatient treatment facility while
2 under 14 years of age, and if upon reaching age 14 is in need of further inpatient care
3 and treatment primarily for ~~mental illness or~~ developmental disability, the director
4 of the facility shall request the minor and the minor's parent or guardian to execute
5 an application for voluntary admission. Such an application may be executed within
6 30 days prior to a minor's 14th birthday. If the application is executed, a petition for
7 review shall be filed in the manner prescribed in sub. (4), unless such a review has
8 been held within the last 120 days. If the application is not executed by the time of
9 the minor's 14th birthday, the minor shall be discharged unless a petition or
10 statement is filed for emergency detention, emergency commitment, involuntary
11 commitment, or protective placement by the end of the next day in which the court
12 transacts business.

History: 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104.

13 **SECTION 13.** 51.13 (7) (b) of the statutes is amended to read:

14 51.13 (7) (b) Any minor 14 years of age or older who is voluntarily admitted
15 under this section for the primary purpose of treatment for ~~mental illness or~~
16 developmental disability, and any minor who is voluntarily admitted under sub. (1)
17 (c) 1. ~~or 2.~~, may request discharge in writing. ~~In the case of a minor 14 years of age~~
18 ~~or older who is voluntarily admitted under this section for the primary purpose of~~
19 ~~treatment for alcoholism or drug abuse or a minor under 14 years of age who is~~
20 ~~voluntarily admitted under this section for the primary purpose of treatment for~~
21 ~~mental illness, developmental disability, alcoholism, or drug abuse~~ For all other
22 minors who are voluntarily admitted under this section, the parent or guardian of
23 the minor may make the request. Upon receipt of any form of written request for
24 discharge from a minor who is voluntarily admitted under this section for the

1 primary purpose of treatment for developmental disability or who is voluntarily
2 admitted under sub. (1) (c) 1., the director of the facility in which the minor is
3 admitted shall immediately notify the minor's parent or guardian, if available. The
4 minor shall be discharged within 48 hours after submission of the request, exclusive
5 of Saturdays, Sundays, and legal holidays, unless a petition or statement is filed for
6 emergency detention, emergency commitment, involuntary commitment, or
7 protective placement.

8 History: 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104.

SECTION 14. 51.14 (3) (a) of the statutes is amended to read:

9 51.14 (3) (a) ~~Either a~~ A minor 14 years of age or older ~~or his or her parent or~~
10 guardian, other than a minor who is voluntarily admitted under s. 51.13 (1) (c) 1.
11 may petition the mental health review officer in the county in which the parent or
12 guardian has residence for a review of a refusal of ~~either the minor or~~ his or her
13 parent or guardian to provide the informed consent for outpatient mental health
14 treatment required under s. 51.61 (6). The parent or guardian of a minor 14 years
15 of age or older who is voluntarily admitted under this section for the primary purpose
16 of treatment for developmental disability may petition the mental health review
17 officer in the county in which the parent or guardian has residence for a review of a
18 refusal of the minor to provide the informed consent for outpatient mental health
19 treatment required under s. 51.61 (6).

20 History: 1987 a. 367; 1995 a. 77; 1997 a. 27.

SECTION 15. 51.30 (5) (a) of the statutes is amended to read:

21 51.30 (5) (a) *Consent for release of information.* The parent, guardian, or person
22 in the place of a parent of a minor or the guardian of an adult adjudged incompetent
23 under ch. 880 may consent to the release of confidential information in court or
24 treatment records. A minor who is aged 14 or more and voluntarily admitted under

(1)(b)

1 s. 51.13 for the primary purpose of treatment for developmental disability or
 2 voluntarily admitted under s. 51.13 (1) (c) 1. may consent to the release of
 3 confidential information in court or treatment records without the consent of the
 4 minor's parent, guardian, or person in the place of a parent. Consent under this
 5 paragraph must conform to the requirements of sub. (2).

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. 32, 78, 79, 109; 2001 a. 16, 38.

6 **SECTION 16.** 51.30 (5) (b) 1. of the statutes is amended to read:

7 51.30 (5) (b) 1. The guardian of an individual who is adjudged incompetent
 8 under ch. 880 shall have access to the individual's court and treatment records at all
 9 times. The parent, guardian, or person in the place of a parent of a developmentally
 10 disabled minor shall have access to the minor's court and treatment records at all
 11 times except in the case of a minor aged 14 or older who files a written objection to
 12 such access with the custodian of the records. The parent, guardian, or person in the
 13 place of a parent of other minors shall have the same rights of access as provided to
 14 subject individuals under this section, other than under subd. 2.

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. 32, 78, 79, 109; 2001 a. 16, 38.

15 **SECTION 17.** 51.30 (5) (b) 2. of the statutes is amended to read:

16 51.30 (5) (b) 2. A minor ~~upon reaching the age of~~ who is aged 14 or older and
 17 voluntarily admitted under s. 51.13 for the primary purpose of treatment for
 18 developmental disability or voluntarily admitted under s. 51.13 (1) (c) 1. shall have
 19 access to his or her own court and treatment records, as provided in this section. A
 20 ~~minor under the age of 14~~ All other minors shall have access to court records but only
 21 in the presence of parent, guardian, counsel, guardian ad litem, or judge and shall
 22 have access to treatment records as provided in this section but only in the presence

(1)(b)

1 of parent, guardian, counsel, guardian ad litem, or staff member of the treatment
2 facility.

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. 32, 78, 79, 109; 2001 a. 16, 38.

3 **SECTION 18.** 51.35 (3) (a) of the statutes is amended to read:

4 51.35 (3) (a) A licensed psychologist of a secured correctional facility, a secured
5 child caring institution, or a secured group home, or a licensed physician of the
6 department of corrections, who has reason to believe that any individual confined in
7 the secured correctional facility, secured child caring institution, or secured group
8 home is, in his or her opinion, in need of services for developmental disability,
9 alcoholism, or drug dependency or in need of psychiatric services, and who has
10 obtained voluntary consent to make a transfer for treatment, shall make a report,
11 in writing, to the superintendent of the secured correctional facility, secured child
12 caring institution, or secured group home, stating the nature and basis of the belief
13 and verifying the consent. In the case of a minor age 14 or older who is in need of
14 services for developmental disability ~~or who is in need of psychiatric services~~, the
15 minor and the minor's parent or guardian shall consent unless the minor is admitted
16 under s. 51.13 (1) (c) 1. In the case of a minor age 14 or older who is in need of
17 psychiatric services or services for alcoholism or drug dependency or a minor under
18 the age of 14 who is in need of services for developmental disability, alcoholism, or
19 drug dependency or in need of psychiatric services, only the minor's parent or
20 guardian need consent unless the minor is admitted under s. 51.13 (1) (c). The
21 superintendent shall inform, orally and in writing, the minor and the minor's parent
22 or guardian, that transfer is being considered and shall inform them of the basis for
23 the request and their rights as provided in s. 51.13 (3). If the department of
24 corrections, upon review of a request for transfer, determines that transfer is

1 appropriate, that department shall immediately notify the department of health and
2 family services and, if the department of health and family services consents, the
3 department of corrections may immediately transfer the individual. The
4 department of health and family services shall file a petition under s. 51.13 (4) (a)
5 in the court assigned to exercise jurisdiction under chs. 48 and 938 of the county
6 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; 2001 a. 16 ss. 1967f to 1967j, 4034zi; 2003 a. 33.

7 **SECTION 19. 51.35 (3) (b)** of the statutes is amended to read:

8 51.35 (3) (b) The court assigned to exercise jurisdiction under chs. 48 and 938
9 shall determine, based on the allegations of the petition and accompanying
10 documents, whether the transfer of the minor to an inpatient facility is appropriate
11 and consistent with the needs of the minor and, if the minor is 14 years of age or older
12 and is being transferred for the purpose of receiving services for developmental
13 disability ~~or psychiatric services~~, whether the transfer is voluntary on the part of the
14 minor. If the court is unable to make those determinations based on the petition and
15 accompanying documents, the court may order additional information to be
16 produced as necessary to make those determinations within 14 days after admission,
17 or the court may hold a hearing within 14 days after admission. If a notation of the
18 minor's unwillingness appears on the face of the petition, or if a hearing has been
19 requested by the minor or by the minor's counsel, guardian ad litem, parent, or
20 guardian, the court shall hold a hearing and appoint counsel or a guardian ad litem
21 for the minor as provided in s. 51.13 (4) (d). At the conclusion of the hearing, the court
22 shall approve or disapprove the request for transfer. If the minor is under the

1 continuing jurisdiction of the court of another county, the court may order the case
2 transferred together with all appropriate records to that court.

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; 2001 a. 16 ss. 1967f to 1967j, 4034zi; 2003 a. 33.

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

4 51.35 (3) (g) A minor 14 years of age or older who is transferred to a treatment
5 facility under par. (a) for the purpose of receiving services for developmental
6 disability ~~or psychiatric services~~ may request in writing a return to the secured
7 correctional facility, secured child caring institution, or secured group home. In the
8 case of a minor 14 years of age or older who is transferred to a treatment facility
9 under par. (a) for the purpose of receiving services for alcoholism or drug dependency
10 or psychiatric services or a minor under 14 years of age, who is transferred to a
11 treatment facility under par. (a) for the purpose of receiving services for
12 developmental disability, alcoholism, or drug dependency, or psychiatric services,
13 the parent or guardian may make the request. Upon receipt of a request for return
14 from a minor 14 years of age or older, the director shall immediately notify the
15 minor's parent or guardian. The minor shall be returned to the secured correctional
16 facility, secured child caring institution, or secured group home within 48 hours after
17 submission of the request unless a petition or statement is filed for emergency
18 detention, emergency commitment, involuntary commitment, or protective
19 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; 2001 a. 16 ss. 1967f to 1967j, 4034zi; 2003 a. 33.

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

21 51.61 (6) Subject to the rights of patients provided under this chapter, the
22 department, county departments under s. 51.42 or 51.437, and any agency providing
23 services under an agreement with the department or those county departments have

1 the right to use customary and usual treatment techniques and procedures in a
 2 reasonable and appropriate manner in the treatment of patients who are receiving
 3 services under the mental health system, for the purpose of ameliorating the
 4 conditions for which the patients were admitted to the system. The written,
 5 informed consent of any patient shall first be obtained, unless the person has been
 6 found not competent to refuse medication and treatment under s. 51.61 (1) (g) or the
 7 person is a minor 14 years of age or older who is receiving services for mental illness,
 8 alcoholism, or drug abuse or a minor under 14 years of age who is receiving services
 9 for mental illness, developmental disability, alcoholism, or drug abuse. In the case
 10 of a minor, the written, informed consent of the parent or guardian is required, except
 11 as provided under an order issued under s. 51.13 (1) (c) or 51.14 (3) (h) or (4) (g). If
 12 the minor is 14 years of age or older and is receiving services for ~~mental illness or~~
 13 ~~developmental disability,~~ the written, informed consent of the minor and the minor's
 14 parent or guardian is required. A refusal of ~~either a minor 14 years of age or older~~
 15 ~~or the minor's parent or guardian of a minor 14 years of age or older~~ to provide
 16 written, informed consent for admission to an approved inpatient treatment facility
 17 is reviewable under s. 51.13 (1) (c) 1. ~~and a~~ A refusal of ~~either a minor 14 years of~~
 18 ~~age or older or the minor's~~ the parent or guardian of a minor 14 years of age or older,
 19 other than a minor voluntarily admitted under s. 51. ²¹³ ~~2~~(1) (c) 1., or the refusal of a
 20 minor 14 years of age or older who is voluntarily admitted under this section for the
 21 primary purpose of treatment for developmental disability, to provide written,
 22 informed consent for outpatient mental health treatment is reviewable under s.
 23 51.14.

History: 1975 c. 430; 1977 c. 428 ss. 96 to 109, 115; 1981 c. 20; 1981 c. 314 s. 144; 1983 a. 189 s. 329 (5); 1983 a. 293, 357, 538; 1985 a. 176; 1987 a. 366, 367, 403; 1989 a. 31; 1993 a. 184, 445, 479; 1995 a. 27 s. 9126 (19); 1995 a. 92, 268, 292; 1997 a. 292; 2001 a. 16 ss. 1993j to 1993w, 4034zk, 4034zl; 2001 a. 104.

24

(END)

INSERT 13.23

2001 BILL

eliminating the distinction between a minor under 14 years of age and a minor 14 years of age or older with regard to treatment for mental illness, transfer, discharge and access to records

informed consent for

REGENERATE

1 **AN ACT to repeal** 51.13 (1) (b), 51.13 (1) (c) 2., 51.13 (2) (b), 51.13 (2) (d), 51.13
 2 (4) (g) 1. and 51.13 (7) (a); and **to amend** 51.13 (1) (a), 51.13 (1) (c) 1., 51.13 (1)
 3 (c) 3., 51.13 (1) (d), 51.13 (1) (e), 51.13 (2) (a), 51.13 (3) (b), 51.13 (3) (c), 51.13
 4 (4) (d), 51.13 (4) (g) (intro.), 51.13 (6) (a), 51.13 (7) (title), 51.13 (7) (b), 51.13 (7)
 5 (c), 51.14 (3) (a), 51.14 (3) (b) 3., 51.14 (3) (b) 4., 51.14 (3) (g), 51.14 (3) (h) (intro.),
 6 51.14 (4) (a), 51.14 (4) (b), 51.14 (4) (c), 51.14 (4) (g) (intro.), 51.20 (16) (a), 51.30
 7 (5) (a), 51.30 (5) (b) 1., 51.30 (5) (b) 2., 51.35 (3) (a), 51.35 (3) (b), 51.35 (3) (g) and
 8 51.61 (6) of the statutes; relating to: ~~mental health treatment of minors~~

Analysis by the Legislative Reference Bureau older

Currently, the mental health laws distinguish between minors under 14 years of age and minors 14 years of age or ~~over~~ with regard to giving informed consent for outpatient treatment for mental illness or developmental disability; voluntary admission to and discharge from an inpatient facility for treatment and rehabilitation of mental illness or developmental disability; reexamination under, or modification or cancellation of, an involuntary commitment order for treatment for mental illness or developmental disability; transfer from a juvenile secured correctional facility to an inpatient facility for treatment for mental illness or developmental disability; access and consent to the release of court records and

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INSERT 1-1 cont.

treatment records; and informed consent for medication and treatment. ~~the~~ distinction between a minor under 14 years of age and a minor 14 years of age or ~~over~~ with regard to treatment for alcoholism or drug abuse ~~was eliminated under 2001 Wisconsin Act 16 (the biennial budget bill)~~. This bill eliminates the distinction between a minor under 14 years of age and a minor 14 years of age or ~~over~~ with regard to treatment for mental illness ~~or developmental disability~~ under the mental health laws.

Specifically, under current law, subject to certain exceptions, before a minor 14 years of age or ~~over~~ may receive outpatient treatment for mental illness or developmental disability ~~or medication and treatment in general~~, the written, informed consent of the minor and the minor's parent or guardian is required. This bill eliminates the requirement that a minor 14 years of age or ~~over~~, except for a minor whose parent or guardian refuses to execute the admission application or cannot be found, provide his or her written, informed consent, in addition to that of his or her parent or guardian, before he or she may receive outpatient treatment for mental illness ~~or developmental disability or medication and treatment in general~~.

Under current law, subject to certain exceptions, before a minor 14 years of age or ~~over~~ may be admitted voluntarily to an inpatient facility for treatment for mental illness or developmental disability, the minor and the minor's parent who has legal custody of the minor or the minor's guardian must execute an application for voluntary admission to the facility. This bill eliminates the requirement that a minor 14 years of age or ~~over~~ execute the application for voluntary admission to an inpatient facility, along with his or her parent or guardian, before the minor may be admitted to the facility ~~for treatment of mental illness~~.

Under current law, if a minor 14 years of age or ~~over~~ wishes to be admitted to an inpatient facility, but the minor's parent who has legal custody of the minor or the minor's 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 refuses to execute the application for admission or 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 mental illness or developmental disability 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. A minor under 14 years of age, however, may be discharged on his or her request only after a hearing before the juvenile court to determine the continued appropriateness of the admission. This bill eliminates the requirement that a minor 14 years of age or ~~over~~, except for a minor whose parent or guardian refuses to execute the admission application or cannot be found, 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, as is the case for minors under 14 years of age under current law.

The bill retains the requirement for discharge from an inpatient facility of a requesting minor 14 years of age or older who was voluntarily admitted for treatment of developmental disability.

No

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or general medication and treatment

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INSERT 1-1 cont.

and except for a voluntarily admitted developmentally disabled minor

Under current law, a minor 14 years of age or ~~over~~ who has been involuntarily committed for treatment for mental illness or developmental disability may, on his or her own petition or on the petition of a guardian, relative, friend, or person providing treatment under the commitment order, petition the juvenile court for an order that his or her mental condition be reexamined or for an order modifying or canceling his or her commitment. This bill eliminates the right of a minor 14 years of age or ~~over~~, except for a minor whose parent or guardian refuses to execute the admission application or cannot be found, to file his or her own petition for such a reexamination, modification, or cancellation of the minor's treatment for mental illness or ~~developmental disability~~.

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Under current law, a minor may be transferred from a juvenile secured correctional facility to an inpatient facility for treatment for mental illness or developmental disability if the juvenile court finds that the transfer is appropriate and consistent with the needs of the minor and, if the minor is 14 years of age or ~~over~~, that the transfer is voluntary on the part of the minor. This bill eliminates the requirement that a minor 14 years of age or ~~over~~, except for a minor whose parent or guardian refuses to execute the application for admission or cannot be found, consent to being transferred from a juvenile correctional facility to an inpatient facility for treatment for mental illness or ~~developmental disability~~. Under the bill, only the minor's parent or guardian need consent, as is the case for minors under 14 years of age under current law.

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Under current law, a minor 14 years of age or ~~over~~ may have access to his or her court records and treatment records for treatment for mental illness or developmental disability on the same basis as an adult, but a minor under 14 years of age may have access to his or her court records only in the presence of his or her parent, guardian, counsel, or guardian ad litem or a judge and may have access to his or her treatment records only in the presence of his or her parent, guardian, counsel, or guardian ad litem or a staff member of the treatment facility. This bill ~~permits~~ a minor 14 years of age or ~~over~~, except for a minor whose parent or guardian refuses to execute the application for admission or cannot be found, to ~~have access to~~ his or her court records or treatment records ~~for treatment for mental illness or developmental disability only~~ in the presence of a person whose presence is required under current law for a minor under 14 years of age. The bill also eliminates the right under current law of a developmentally disabled minor 14 years of age or over to object to his or her parent or guardian or a person in the place of a parent having access to the minor's court and treatment records.

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Under current law, subject to certain exceptions, confidential information in the court records or treatment records for treatment for mental illness or developmental disability of a minor 14 years of age or ~~over~~ may be released on the consent of the minor without the consent of the minor's parent or guardian or a person in place of a parent. This bill eliminates the right of a minor 14 years of age or ~~over~~, except for a minor whose parent or guardian refuses to execute the application for admission or cannot be found, to consent to the release of confidential information in his or her court records or treatment records for treatment for mental

older

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illness ~~or developmental disability~~ without the consent of his or her parent or guardian or a person in place of a parent.

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

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Cont.

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, as affected by 2001 Wisconsin Act 16,
2 is amended to read:

3 51.13 (1) (a) Except as provided in par. (c) and s. 51.45 (2m), the application for
4 voluntary admission of a minor who is 14 years of age or older to an approved
5 inpatient treatment facility for the primary purpose of treatment for alcoholism or
6 drug abuse and the application for voluntary admission of a minor who is under 14
7 years of age to an approved inpatient treatment facility for the primary purpose of
8 treatment for mental illness, developmental disability, alcoholism, or drug abuse
9 shall be executed by a parent who has legal custody of the minor or the minor's
10 guardian. Any statement or conduct by a minor who is the subject of an application
11 for voluntary admission under this paragraph indicating that the minor does not
12 agree to admission to the facility shall be noted on the face of the application and
13 shall be noted in the petition required by sub. (4).

14 SECTION 2. 51.13 (1) (b) of the statutes, as affected by 2001 Wisconsin Act 16,
15 is repealed.

16 SECTION ~~1~~ 51.13 (1) (c) 1. of the statutes, as affected by 2001 Wisconsin Act 16,
17 is amended to read:

18 51.13 (1) (c) 1. If a minor 14 years of age or older wishes to be admitted to an
19 approved inpatient treatment facility but a parent with legal custody or the guardian
20 refuses to execute the application for admission or cannot be found, or if there is no

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cont.

1 parent with legal custody, the minor or a person acting on the minor's behalf may
 2 petition the court assigned to exercise jurisdiction under chs. 48 and 938 in the
 3 county of residence of the parent or guardian for approval of the admission. A copy
 4 of the petition and a notice of hearing shall be served upon the parent or guardian
 5 at his or her last-known address. If, after a hearing, the court determines that the
 6 consent of the parent or guardian is being unreasonably withheld, that the parent
 7 or guardian cannot be found, or that there is no parent with legal custody, and that
 8 the admission is proper under the standards prescribed in sub. (4) (d), the court shall
 9 approve the minor's admission without the consent of the parent or guardian.

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10 SECTION ~~47~~[#] 51.13 (1) (c) 2. of the statutes, ~~as created by 2001 Wisconsin Act 16,~~^J
 11 is repealed.

12 SECTION ~~59~~[#] 51.13 (1) (c) 3. of the statutes, ~~as affected by 2001 Wisconsin Act 16,~~^J
 13 is amended to read:

14 51.13 (1) (c) 3. The court may, at the minor's request, temporarily approve the
 15 admission pending hearing on the petition. If a hearing is held under subd. 1. or 2.,
 16 no review or hearing under sub. (4) is required.

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17 SECTION 6. 51.13 (1) (d) of the statutes, as affected by 2001 Wisconsin Act 16,
 18 is amended to read.

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

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1 **SECTION 7.** 51.13 (1) (e) of the statutes, as affected by 2001 Wisconsin Act 16,
2 is amended to read:

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

17 **SECTION 8.** 51.13 (2) (a) of the statutes, as affected by 2001 Wisconsin Act 16,
18 is amended to read:

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

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

8 ~~SECTION 9. 51.13 (2) (b) of the statutes, as affected by 2001 Wisconsin Act 16,~~
9 ~~is repealed.~~

10 ~~SECTION 10. 51.13 (2) (d) of the statutes, as affected by 2001 Wisconsin Act 16,~~
11 ~~is repealed.~~

12 ~~SECTION 11. 51.13 (3) (b) of the statutes, as affected by 2001 Wisconsin Act 16,~~
13 ~~is amended to read:~~

14 ~~51.13 (3) (b) A minor 14 years of age or older who has been admitted to an~~
15 ~~inpatient treatment facility for the primary purpose of treatment for mental illness~~
16 ~~or developmental disability, a minor who is voluntarily admitted under sub. (1) (c)~~
17 ~~1. or 2., and the minor's parent or guardian shall also be informed by the director or~~
18 ~~his or her designee, both orally and in writing, in easily understandable language,~~
19 ~~of the minor's right to request discharge and to be discharged within 48 hours of the~~
20 ~~request if no petition or statement is filed for emergency detention, emergency~~
21 ~~commitment, involuntary commitment, or protective placement, and the minor's~~
22 ~~right to consent to or refuse treatment as provided in s. 51.61 (6).~~

23 ~~SECTION 12. 51.13 (3) (c) of the statutes, as affected by 2001 Wisconsin Act 16,~~
24 ~~is amended to read:~~

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1 51.13 (3) (c) ~~A minor 14 years of age or older, other than a minor specified under~~
2 ~~par. (b), who has been admitted to an inpatient facility for the primary purpose of~~
3 ~~treatment for alcoholism or drug abuse, a minor under 14 years of age who has been~~
4 ~~admitted to an inpatient treatment facility for the primary purpose of treatment for~~
5 ~~mental illness, developmental disability, alcoholism, or drug abuse, and the minor's~~
6 ~~and his or her parent or guardian shall also be informed by the director or his or her~~
7 ~~designee, both orally and in writing, in easily understandable language, of the right~~
8 ~~of the parent or guardian to request the minor's discharge as provided in sub. (7) (b)~~
9 ~~and of the minor's right to a hearing to determine continued appropriateness of the~~
10 ~~admission as provided in sub. (7) (c).~~

11 **SECTION 13.** 51.13 (4) (d) of the statutes, as affected by 2001 Wisconsin Act 16,
12 is amended to read:

13 51.13 (4) (d) Within 5 days after the filing of the petition, the court assigned
14 to exercise jurisdiction under chs. 48 and 938 shall determine, based on the
15 allegations of the petition and accompanying documents, whether there is a prima
16 facie showing that the minor is in need of psychiatric services, or services for
17 developmental disability, alcoholism, or drug abuse; that the treatment facility
18 offers inpatient therapy or treatment that is appropriate to the minor's needs; and
19 that inpatient care in the treatment facility is the least restrictive therapy or
20 treatment consistent with the needs of the minor, and, if the minor is 14 years of age
21 or older and has been admitted to the treatment facility for the primary purpose of
22 treatment for mental illness or developmental disability, whether the admission is
23 voluntary on the part of the minor. If such a showing is made, the court shall permit
24 voluntary admission. If the court is unable to make those determinations based on
25 the petition and accompanying documents, the court may dismiss the petition as

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1 provided in par. (h); order additional information to be produced as necessary for the
2 court to make those determinations within 14 days after admission or application for
3 admission, whichever is sooner; or hold a hearing within 14 days after admission or
4 application for admission, whichever is sooner. If a notation of the minor's
5 unwillingness appears on the face of the petition, or if a hearing has been requested
6 by the minor or by the minor's counsel, parent, or guardian, the court shall hold a
7 hearing to review the admission within 14 days after admission or application for
8 admission, whichever is sooner, and shall appoint counsel to represent the minor if
9 the minor is unrepresented. If the court considers it necessary, the court shall also
10 appoint a guardian ad litem to represent the minor.

11 **SECTION 14.** 51.13 (4) (g) (intro.) of the statutes, as affected by 2001 Wisconsin
12 Act 16, is amended to read:

13 51.13 (4) (g) (intro.) If the court finds that the minor is in need of psychiatric
14 services or services for developmental disability, alcoholism, or drug abuse in an
15 inpatient facility, and that the inpatient facility to which the minor is admitted offers
16 therapy or treatment that is appropriate for the minor's needs and that is the least
17 restrictive therapy or treatment consistent with the minor's needs, ~~and, in the case~~
18 ~~of a minor aged 14 or older who is being admitted for the primary purpose of~~
19 ~~treatment for mental illness or developmental disability, that the application is~~
20 ~~voluntary on the part of the minor,~~ the court shall permit voluntary admission. If the
21 court finds that the therapy or treatment in the inpatient facility to which the minor
22 is admitted is not appropriate or is not the least restrictive therapy or treatment
23 consistent with the minor's needs, the court may order placement in or transfer to
24 another more appropriate or less restrictive inpatient facility, except that the court
25 may not permit or order placement in or transfer to the northern or southern centers

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1 for the developmentally disabled of a minor unless the department gives approval
2 for the placement or transfer, and if the order of the court is approved by all of the
3 following if applicable:

4 **SECTION 15.** 51.13 (4) (g) 1. of the statutes, as affected by 2001 Wisconsin Act
5 16, is repealed.

6 **SECTION 16.** 51.13 (6) (a) of the statutes, as affected by 2001 Wisconsin Act 16,
7 is amended to read:

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

INSERT
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17 **SECTION 17.** 51.13 (7) (title) of the statutes is amended to read:

18 51.13 (7) (title) DISCHARGE OR CONTINUED APPROPRIATENESS OF ADMISSION.

19 **SECTION 18.** 51.13 (7) (a) of the statutes, as affected by 2001 Wisconsin Act 16,
20 is repealed.

21 **SECTION 19.** 51.13 (7) (b) of the statutes, as affected by 2001 Wisconsin Act 16,
22 is amended to read:

23 51.13 (7) (b) Any minor 14 years of age or older who is voluntarily admitted
24 under this section for the primary purpose of treatment for mental illness or
25 developmental disability, and any minor who is voluntarily admitted under sub. (1)

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1 (c) 1. ~~or 2.~~, may request discharge in writing. ~~In the case of a minor 14 years of age~~
 2 ~~or older who is voluntarily admitted under this section for the primary purpose of~~
 3 ~~treatment for alcoholism or drug abuse or a minor under 14 years of age who is~~
 4 ~~voluntarily admitted under this section for the primary purpose of treatment for~~
 5 ~~mental illness, developmental disability, alcoholism, or drug abuse~~ For all other
 6 minors who are voluntarily admitted under this section, the parent or guardian of
 7 the minor may make the request. Upon receipt of any form of written request for
 8 discharge from a minor who is voluntarily admitted under sub. (1) (c) 1., the director
 9 of the facility in which the minor is admitted shall immediately notify the minor's
 10 parent or guardian, if available. The minor shall be discharged within 48 hours after
 11 submission of the request, exclusive of Saturdays, Sundays, and legal holidays,
 12 unless a petition or statement is filed for emergency detention, emergency
 13 commitment, involuntary commitment, or protective placement.

14 SECTION ~~20~~[#] 51.13 (7) (c) of the statutes, as affected by 2001 Wisconsin Act 16,
 15 is amended to read:

16 51.13 (7) (c) Any minor ~~14 years of age or older~~ who is voluntarily admitted
 17 under this section ~~for the primary purpose of treatment for alcoholism or drug abuse,~~
 18 ~~and who is not discharged under par. (b), and any minor under 14 years of age who~~
 19 ~~is voluntarily admitted under this section for the primary purpose of treatment for~~
 20 ~~mental illness, developmental disability, alcoholism, or drug abuse,~~ and who is not
 21 discharged under par. (b), may submit a written request to the court for a hearing
 22 to determine the continued appropriateness of the admission. If the director or staff
 23 of the inpatient treatment facility to which a minor described in this paragraph is
 24 admitted observes conduct by the minor that demonstrates an unwillingness to
 25 remain at the facility, including ~~but not limited to~~ a written expression of opinion or

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1 unauthorized absence, the director shall file a written request with the court to
 2 determine the continued appropriateness of the admission. A request that is made
 3 personally by a minor under this paragraph shall be signed by the minor but need
 4 not be written or composed by the minor. A request for a hearing under this
 5 paragraph that is received by staff or the director of the facility in which the ~~child~~
 6 minor is admitted shall be filed with the court by the director. The court shall order
 7 a hearing upon request if no hearing concerning the minor's admission has been held
 8 within 120 days ~~after~~ before receipt of the request. The court shall appoint counsel
 9 and, if the court considers it necessary, a guardian ad litem to represent the minor
 10 and ~~if~~. If a hearing is held, the court shall hold the hearing within 14 days after
 11 receipt of the request, unless the parties agree to a longer period. After the hearing,
 12 the court shall ~~make disposition~~ dispose of the matter in the manner provided in sub.

13 (4). ~~END INSERT 8-7~~ *, other than who is not admit under this sec for the prim purpose of treatment for dev disab. or is not admitted under sub. (1)*

14 SECTION 21. 51.14 (3) (a) of the statutes is amended to read:
 15 51.14 (3) (a) ~~Either a~~ A minor 14 years of age or older ~~or his or her parent or~~
 16 guardian may petition the mental health review officer in the county in which the
 17 parent or guardian has residence for a review of a refusal of ~~either the minor or his~~
 18 ~~or her~~ the minor's parent or guardian to provide the informed consent for outpatient
 19 mental health treatment required under s. 51.61 (6). *The purpose of a minor 14 years of age or older who is not admitted under this sec for the prim purpose of treatment for dev disab.*

20 SECTION 22. 51.14 (3) (b) 3. of the statutes is amended to read:
 21 51.14 (3) (b) 3. The facts substantiating the petitioner's minor's belief that the
 22 ~~minor~~ he or she needs outpatient mental health treatment.

23 SECTION 23. 51.14 (3) (b) 4. of the statutes is amended to read:
 24 51.14 (3) (b) 4. Any available information which substantiates the
 25 appropriateness of the particular treatment sought ~~for~~ by the minor and that the

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1 particular treatment sought is the least restrictive treatment consistent with the
2 needs of the minor.

3 **SECTION 24.** 51.14 (3) (g) of the statutes is amended to read:

4 51.14 (3) (g) Within 21 days after the filing of a petition under this subsection,
5 the mental health review officer shall hold a hearing on the refusal of the minor or
6 the minor's parent or guardian to provide informed consent for outpatient treatment.
7 The mental health review officer shall provide notice of the date, time, and place of
8 the hearing to the minor and the minor's parent or guardian at least 96 hours prior
9 to the hearing.

10 **SECTION 25.** 51.14 (3) (h) (intro.) of the statutes is amended to read:

11 51.14 (3) (h) (intro.) If following the hearing under par. (g) and after taking into
12 consideration the recommendations, if any, of the county department under s. 51.42
13 or 51.437 made under par. (e), the mental health review officer finds all of the
14 following, he or she shall issue a written order that, notwithstanding the written,
15 informed consent requirement of s. 51.61 (6), the written, informed consent of the
16 minor, if the minor is refusing to provide consent, or the written, informed consent
17 of the minor's parent or guardian, if the parent or guardian is refusing to provide
18 consent, is not required for outpatient mental health treatment for the minor:

19 **SECTION 26.** 51.14 (4) (a) of the statutes is amended to read:

20 51.14 (4) (a) Within 21 days after the issuance of the order by the mental health
21 review officer under sub. (3) or if the requirements of sub. (3) (f) are satisfied, the
22 minor or his or her parent or guardian may petition a court assigned to exercise
23 jurisdiction under chs. 48 and 938 in the county of residence of the minor's parent
24 or guardian for a review of the refusal of either the minor or his or her the parent or

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1 guardian to provide the informed consent for outpatient mental health treatment
2 required under s. 51.61 (6).

3 **SECTION 27.** 51.14 (4) (b) of the statutes is amended to read:

4 51.14 (4) (b) The petition in par. (a) shall conform to the requirements set forth
5 in sub. (3) (b). ~~If the minor has refused to provide informed consent, a notation of this~~
6 ~~fact shall be made on the face of the petition.~~

7 **SECTION 28.** 51.14 (4) (c) of the statutes is amended to read:

8 51.14 (4) (c) ~~If a notation of a minor's refusal to provide informed consent to~~
9 ~~outpatient mental health treatment appears on the petition, the court shall, at least~~
10 ~~7 days prior to the time scheduled for the hearing, appoint counsel to represent the~~
11 ~~minor if the minor is unrepresented. If the minor's parent or guardian has refused~~
12 ~~to provide informed consent and the minor is unrepresented, the court shall appoint~~
13 ~~counsel to represent the minor, if requested by the minor or determined by the court~~
14 ~~to be in the best interests of the minor.~~

15 **SECTION 29.** 51.14 (4) (g) (intro.) of the statutes is amended to read:

16 51.14 (4) (g) (intro.) After the hearing under this subsection, the court shall
17 issue a written order stating that, notwithstanding the written, informed consent
18 requirement of s. 51.61 (6), ~~the written, informed consent of the minor, if the minor~~
19 ~~refuses to provide consent, or the written, informed consent of the parent or~~
20 ~~guardian, if the parent or guardian refuses to provide consent, is not required for~~
21 outpatient mental health treatment for the minor if the court finds all of the
22 following:

23 **SECTION 29.** 51.20 (16) (a) of the statutes is amended to read:

24 51.20 (16) (a) Except in the case of alcoholic commitments, a commitment under
25 s. 51.45 (13) ~~or in the case of~~ a minor, any patient who is involuntarily committed for

and except for

other than a minor committed for treatment of developmental disability

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1 treatment under this chapter, may on the patient's own verified petition, ~~except in~~
2 ~~the case of a minor who is under 14 years of age, or on the verified petition of the~~
3 patient's guardian, relative, friend, or any person providing treatment under the
4 order of commitment, request a reexamination or request the court to modify or
5 cancel an order of commitment. **END INSERT 8-19**

6 **SECTION 31.** ~~51.30~~ (5) (a) of the statutes is amended to read:

7 ~~51.30 (5) (a) *Consent for release of information.* The parent, guardian, or person~~
8 ~~in the place of a parent of a minor or the guardian of an adult adjudged incompetent~~
9 ~~under ch. 880 may consent to the release of confidential information in court or~~
10 ~~treatment records. A minor who is aged 14 or more voluntarily admitted under s.~~
11 ~~51.13 (1) (c) 1. may consent to the release of confidential information in court or~~
12 ~~treatment records without the consent of the minor's parent, guardian, or person in~~
13 ~~the place of a parent. Consent under this paragraph must conform to the~~
14 ~~requirements of sub. (2).~~

15 **SECTION 32.** ~~51.30~~ (5) (b) 1. of the statutes is amended to read:

16 ~~51.30 (5) (b) 1. The guardian of an individual who is adjudged incompetent~~
17 ~~under ch. 880 shall have access to the individual's court and treatment records at all~~
18 ~~times. The parent, guardian, or person in the place of a parent of a developmentally~~
19 ~~disabled minor shall have access to the minor's court and treatment records at all~~
20 ~~times ~~except in the case of a minor aged 14 or older who files a written objection to~~~~
21 ~~~~such access with the custodian of the records.~~ The parent, guardian, or person in the~~
22 ~~place of a parent of other minors shall have the same rights of access as provided to~~
23 ~~subject individuals under this section, other than under subd. 2.~~

24 **SECTION 33.** 51.30 (5) (b) 2. of the statutes is amended to read:

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1 51.30 (5) (b) 2. ~~A minor upon reaching the age of 14 shall have access to his~~
2 ~~or her own court and treatment records, as provided in this section.~~ A minor under
3 the age of 14 shall have access to court records but only in the presence of a parent,
4 guardian, counsel, guardian ad litem, or judge and shall have access to treatment
5 records as provided in this section but only in the presence of a parent, guardian,
6 counsel, guardian ad litem, or staff member of the treatment facility.

7 **SECTION 34.** 51.35 (3) (a) of the statutes, as affected by 2001 Wisconsin Act 16,
8 is amended to read:

9 51.35 (3) (a) A licensed psychologist of a secured correctional facility, a secured
10 child caring institution, or a secured group home, or a licensed physician of the
11 department of corrections, who has reason to believe that any individual confined in
12 the secured correctional facility, secured child caring institution, or secured group
13 home is, in his or her opinion, in need of services for developmental disability,
14 alcoholism, or drug dependency or in need of psychiatric services, and who has
15 obtained voluntary consent to make a transfer for treatment, shall make a report,
16 in writing, to the superintendent of the secured correctional facility, secured child
17 caring institution, or secured group home, stating the nature and basis of the belief
18 and verifying the consent. In the case of a minor age 14 or older who is in need of
19 ~~services for developmental disability or who is in need of psychiatric services, the~~
20 ~~minor and, the minor's parent or guardian shall consent unless the minor is admitted~~
21 ~~under s. 51.13 (1) (c) 1. In the case of a minor age 14 or older who is in need of services~~
22 ~~for alcoholism or drug dependency or a minor under the age of 14 who is in need of~~
23 ~~services for developmental disability, alcoholism, or drug dependency or in need of~~
24 ~~psychiatric services, only the minor's parent or guardian need consent unless the~~
25 ~~minor is admitted under s. 51.13 (1) (c).~~ The superintendent shall inform, orally and

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1 in writing, the minor and the minor's parent or guardian, that transfer is being
2 considered and shall inform them of the basis for the request and their rights as
3 provided in s. 51.13 (3). If the department of corrections, upon review of a request
4 for transfer, determines that transfer is appropriate, that department shall
5 immediately notify the department of health and family services and, if the
6 department of health and family services consents, the department of corrections
7 may immediately transfer the individual. The department of health and family
8 services shall file a petition under s. 51.13 (4) (a) in the court assigned to exercise
9 jurisdiction under chs. 48 and 938 of the county where the treatment facility is
10 located.

11 **SECTION 35.** 51.35 (3) (b) of the statutes, as affected by 2001 Wisconsin Act 16,
12 is amended to read:

13 51.35 (3) (b) The court assigned to exercise jurisdiction under chs. 48 and 938
14 shall determine, based on the allegations of the petition and accompanying
15 documents, whether the transfer of the minor to an inpatient facility is appropriate
16 and consistent with the needs of the minor and, if the minor is 14 years of age or older
17 and is being transferred for the purpose of receiving services for developmental
18 disability or psychiatric services, whether the transfer is voluntary on the part of the
19 minor. If the court is unable to make these determinations, that determination based
20 on the petition and accompanying documents, the court may order additional
21 information to be produced as necessary to make these determinations the
22 determination within 14 days after admission, or the court may hold a hearing
23 within 14 days after admission. If a notation of the minor's unwillingness appears
24 on the face of the petition, or if a hearing has been requested by the minor or by the
25 minor's counsel, guardian ad litem, parent, or guardian, the court shall hold a

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1 hearing and appoint counsel or a guardian ad litem for the minor as provided in s.
2 51.13 (4) (d). At the conclusion of the hearing, the court shall approve or disapprove
3 the request for transfer. If the minor is under the continuing jurisdiction of the court
4 of another county, the court may order the case transferred together with all
5 appropriate records to that court.

6 **SECTION 36.** 51.35 (3) (g) of the statutes, as affected by 2001 Wisconsin Act 16,
7 is amended to read:

8 51.35 (3) (g) ~~A parent or guardian of a minor 14 years of age or older who is~~
9 ~~transferred to a treatment facility under par. (a) for the purpose of receiving services~~
10 ~~for developmental disability or psychiatric services may request in writing a return~~
11 ~~of the minor to the secured correctional facility, secured child caring institution, or~~
12 ~~secured group home. In the case of a minor 14 years of age or older who is transferred~~
13 ~~to a treatment facility under par. (a) for the purpose of receiving services for~~
14 ~~alcoholism or drug dependency or a minor under 14 years of age, who is transferred~~
15 ~~to a treatment facility under par. (a) for the purpose of receiving services for~~
16 ~~developmental disability, alcoholism, or drug dependency, or psychiatric services,~~
17 ~~the parent or guardian may make the request. Upon receipt of a request for return~~
18 ~~from a minor 14 years of age or older, the director shall immediately notify the~~
19 ~~minor's parent or guardian. The minor shall be returned to the secured correctional~~
20 ~~facility, secured child caring institution, or secured group home within 48 hours after~~
21 ~~submission of the request unless a petition or statement is filed for emergency~~
22 ~~detention, emergency commitment, involuntary commitment, or protective~~
23 ~~placement.~~

24 **SECTION 37.** 51.61 (6) of the statutes, as affected by 2001 Wisconsin Act 16, is
25 amended to read:

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1 51.61 (6) Subject to the rights of patients provided under this chapter, the
 2 department, county departments under s. 51.42 or 51.437, and any agency providing
 3 services under an agreement with the department or those county departments have
 4 the right to use customary and usual treatment techniques and procedures in a
 5 reasonable and appropriate manner in the treatment of patients who are receiving
 6 services under the mental health system, for the purpose of ameliorating the
 7 conditions for which the patients were admitted to the system. The written,
 8 informed consent of any patient shall first be obtained, unless the person has been
 9 found not competent to refuse medication and treatment under s. 51.61 (1) (g) or the
 10 person is a minor 14 years or older who is receiving services for ^{mental illness or} alcoholism or drug
 11 abuse or a minor under 14 years of age who is receiving services for mental illness, ^{refuse}
 12 developmental disability, alcoholism, or drug abuse. In the case of a minor, the ^{all}
 13 written, informed consent of the parent or guardian is required, except as provided ^{stücken}
 14 under an order issued under s. 51.13 (1) (c) or 51.14 (3) (h) or (4) (g). If the minor is
 15 14 years of age or older and is receiving services for mental illness or developmental ^{refuse}
 16 disability, the written, informed consent of the minor and the minor's parent or ^{all}
 17 guardian is required. A refusal of either a minor 14 years of age or older or the ^{other}
 18 minor's parent or guardian to provide written, informed consent for admission to an ^{stücken}
 19 approved inpatient treatment facility is reviewable under s. 51.13 (1) (c) 1. and a. A
 20 refusal of either a minor 14 years of age or older or the minor's parent or guardian
 21 ^{(of a minor 14 years of age or older or of a minor 14 years of age or}
 22 ^{older who is}
 23 ^{receiving services}
 24 ^{for dev. disability}
 25 reviewable under s. 51.14.

SECTION ~~37~~ Initial applicability.

(1) This act first applies to individuals who are receiving treatment in an approved inpatient treatment facility, or who are receiving outpatient mental health

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1 treatment, on the effective date of this subsection regardless of whether admission
2 to the inpatient facility or outpatient program occurred or was sought prior to the
3 effective date of this subsection.

4 **SECTION ~~38~~ Effective date.**

5 (1) This act takes effect on the first day of the 2nd month beginning after
6 publication.

(END OF INERT)
~~END~~

7