

2005 Assembly Bill 296

Date of enactment: **October 13, 2005**
Date of publication*: **October 27, 2005**

2005 WISCONSIN ACT 47

AN ACT to amend 46.279 (2) and 46.279 (3) of the statutes; **relating to:** modifying certain restrictions on admissions to, protective placements in, or transfers to intermediate care facilities for the mentally retarded and nursing homes.

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

SECTION 1. 46.279 (2) of the statutes is amended to read:

46.279 (2) PLACEMENTS AND ADMISSIONS TO INTERMEDIATE FACILITIES. Except as provided in sub. (5), no person may protectively place or continue protective placement of an individual with a developmental disability in an intermediate facility and no intermediate facility may admit or continue service for such an individual unless, before the protective placement, continued placement following review under s. 55.06 (10), or admission and after having considered a plan developed under sub. (4), a court under s. 55.06 (9) (a) or (10) (a) 2. finds that protective placement in the intermediate facility is the most integrated setting that is appropriate to the needs of the individual or that the county of residence of the individual would not reasonably be able to provide community-based care in accordance with the plan within the limits of available state and federal funds and county funds required to be appropriated to match state funds, taking into account information presented by all affected parties. An intermediate facility to which an individual who has a developmental disability applies for admission

shall, within 5 days after receiving the application, notify the county department that is participating in the program under s. 46.278 of the county of residence of the individual who is seeking admission concerning the application.

SECTION 2. 46.279 (3) of the statutes is amended to read:

46.279 (3) PLACEMENTS AND ADMISSIONS TO NURSING FACILITIES. Except as provided in sub. (5), if the department or an entity determines from a screening under s. 49.45 (6c) (b) that an individual requires active treatment for developmental disability, no individual may be protectively placed in a nursing facility or have protective placement in a nursing facility continued following review under s. 55.06 (10), and no nursing facility may admit or continue service for the individual, unless ~~it is determined from the department or entity that conducts the screening~~ determines that the individual's need for care cannot fully be met in an intermediate facility or under a plan under sub. (4) or that the county of residence of the individual would not reasonably be able to provide community-based care in accordance with the plan within the limits of available state and federal funds and county funds required to be appropriated to match state funds.

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].