

1 (a) Direct the development of a treatment plan for the person specifying the protective
2 services, including psychotropic medication as ordered by the treating physician, that the
3 person should receive. If the person resides in a nursing home or hospital, the nursing home
4 or hospital shall develop the treatment plan. If the person resides elsewhere, the county
5 department or an agency designated by it shall develop the treatment plan. The treatment plan
6 shall include a plan for the involuntary administration of psychotropic medication to the
7 person. The treatment plan is subject to the approval of the guardian. The court shall review
8 the plan and approve or disapprove the plan. The court shall order the county department or
9 an agency designated by it to ensure that psychotropic medication is administered in
10 accordance with the treatment plan.

11 (b) Order the person to comply with the treatment plan under par. (a). The order shall
12 provide that if the person fails to comply with provisions of the treatment plan that require the
13 person to take psychotropic medications, the medications may be administered involuntarily
14 with consent of the guardian. The order shall specify the methods of involuntary
15 administration of psychotropic medication to which the guardian may consent. An order
16 authorizing the forcible restraint of a person shall specify that a person licensed under s.
17 441.06, 441.10, or 448.05 (2) or (5) shall be present at all times that psychotropic medication
18 is administered in this manner and shall require the person or facility using forcible restraint
19 to maintain records stating the date of each administration, the medication administered, and
20 the method of forcible restraint utilized.

21 (10) If a person who is subject to an order under this section is not in compliance with
22 the order because he or she refuses to take psychotropic medication as ordered under the
23 treatment plan, and it is necessary for the person to be transported to an appropriate facility
24 so that the person may be forcibly restrained for administration of psychotropic medications,

1 the corporation counsel may file with the court a statement of the facts which constitute the
2 basis for the belief that the person is not in compliance. The statement shall be sworn to be
3 true and shall be based upon the information and belief of the person filing the statement. The
4 statement shall be signed by the person's guardian and by the director or designee of the county
5 department or an agency designated by it to develop and administer the treatment plan. Upon
6 receipt of the statement of noncompliance, if the court finds by clear and convincing evidence
7 that the person has substantially failed to comply with the administration of psychotropic
8 medication as ordered under the treatment plan, the court may issue an order authorizing the
9 sheriff or any other law enforcement agency in the county in which the person is found or in
10 which it is believed that the person may be present to take the person into custody and transport
11 the person to an appropriate facility for administration of psychotropic medication using
12 forcible restraint, with consent of the guardian.

13 (11) Nothing in this section prohibits the involuntary administration of psychotropic
14 medication as an emergency protective service under s. 55.13.

15 (12) The county department or an agency designated by it shall provide to the
16 department a copy of any order issued under this section that applies to any protectively placed
17 person in the county.

18 (13) The department shall annually submit to the legislature under s. 13.172 (2) a report
19 regarding orders under this section.

20 (14) An order under this section is subject to annual review under s. 55.19.

21 SECTION 57. 55.15 of the statutes is created to read:

22 **55.15 Transfer of an individual under a protective placement order.** (1) TRANSFERS
23 AUTHORIZED. An individual under a protective placement order may be transferred between

1 placement units, between placement facilities, or from a placement unit to a medical facility
2 provided that the medical facility is not a psychiatric facility.

3 (2) WHO MAY TRANSFER. A guardian, a county department or agency designated by it
4 that placed the individual pursuant to the order of the court, the department, or a placement
5 facility may seek the transfer of an individual under a protective placement order as provided
6 in this section. Transfers may be made pursuant to this section notwithstanding any court order
7 that named a specific facility for the protective placement of the individual.

8 (3) CONSENT OF GUARDIAN REQUIRED. An entity in sub. (2), other than the guardian, who
9 seeks a transfer of an individual under a protective placement order shall obtain the written
10 consent of the guardian prior to making the transfer, except in the case of an emergency
11 transfer.

12 (4) CONSENT OF COUNTY DEPARTMENT. Except in the case of an emergency transfer, a
13 person or entity in sub. (2) who seeks a transfer of an individual under a protective placement
14 shall obtain the written consent of the county department prior to making the transfer if the
15 transfer is to a facility that is more costly to the county.

16 (5) NOTICE OF TRANSFER. (a) *Nonemergency transfer.* A person or entity who initiates
17 a transfer shall provide 10 days' prior written notice of a transfer to the court that ordered the
18 placement and to any of the other persons or entities specified in sub. (2) who did not initiate
19 the transfer. The notice of transfer shall include notice of the right of the guardian, the
20 individual under a protective placement, the individual's attorney, if any, or other interested
21 person to petition the court for a hearing on the transfer.

22 (b) *Emergency transfer.* If an emergency precludes providing the notice specified in
23 par. (a), or obtaining the prior written consent of the guardian specified in sub. (3), the
24 individual may be transferred, and the written notice shall be provided immediately upon

1 transfer. Notice of emergency transfers shall also be provided to the court that ordered the
2 placement within a reasonable time, not to exceed 48 hours from the time of transfer.

3 (6) PETITION. An individual under protective placement, the individual's guardian, the
4 individual's attorney, if any, or other interested person may file a petition with the court
5 objecting to the proposed transfer. The petition shall specify the reasons for the person's
6 objection to the transfer.

7 (7) HEARING. (a) The court shall order a hearing within 10 days after filing of a petition
8 in sub. (6).

9 (b) The court shall notify the petitioner, individual under protective placement, the
10 individual's guardian, the individual's attorney, if any, and county department of the time and
11 place of the hearing.

12 (c) A guardian ad litem shall be appointed to represent the individual under protective
13 placement at the hearing. If the individual is an adult who is indigent, the county in which the
14 hearing is held shall be liable for guardian ad litem fees. If the individual is a minor, the
15 individual's parents or the county in which the hearing is held shall be liable for guardian ad
16 litem fees as provided in s. 48.235 (c).

17 (cm) The court shall appoint counsel for the individual under protective placement if
18 the individual, the individual's guardian ad litem, or anyone on the individual's behalf requests
19 that counsel be appointed for the individual

20 (d) The petitioner, individual under protective placement, the individual's guardian,
21 and the individual's attorney, if any, have the right to attend the hearing and to present and
22 cross-examine witnesses.

23 (8) STANDARD FOR TRANSFER. In determining whether to approve a proposed transfer,
24 the court shall consider all of the following:

1 (a) Whether the proposed placement meets the standards of s. 55.12.

2 (b) Whether the proposed placement is in the least restrictive environment consistent
3 with the person's needs and with the factors in s. 55.12 (3), (4), and (5) or, if the transfer is to
4 an intermediate facility or nursing facility, is in the most integrated setting as defined in s.
5 46.279 (1) (bm).

6 (c) Whether the placement is in the best interests of the ward.

7 (9) ORDER RELATING TO TRANSFER. Following the hearing under sub. (7), the court shall
8 do one of the following:

9 (a) If the court finds that the individual continues to meet the standards under s. 55.08
10 (1) and the individual's current placement does not meet the standard for transfer under sub.
11 (9), the court shall issue an order prohibiting the transfer. The court shall include the
12 information relied upon as a basis for the order and shall make findings based on the factors
13 in s. 55.08 (1) in support of the denial of the transfer.

14 (b) If the court finds that the individual continues to meet the standards under s. 55.08
15 (1) and the proposed transfer meets the standard under sub. (9), the court shall order the
16 transfer of the individual to a proposed facility. The court may order protective services along
17 with transfer of placement. The court shall include the information relied upon as a basis for
18 the order and shall make findings based on the standards in s. 55.08 (1) in support of the need
19 for continued protective placement.

20 (c) If the court finds that the individual no longer meets the standards under s. 55.08 (1),
21 the court shall terminate the protective placement, as provided in s. 55.17.

22 **SECTION 58.** 55.16 of the statutes is created to read:

23 **55.16 Modification of an order for protective placement or services. (1) USE OF**
24 **TRANSFER PROVISIONS.** If a petitioner is an entity authorized under s. 55.15 (2) to transfer an

1 individual under a protective placement and the modification sought is a transfer of an
2 individual between placement units, between placement facilities, or from a placement unit
3 to a medical facility, the petitioner may utilize the procedure in s. 55.15 in lieu of the procedure
4 under this subsection.

5 (2) PETITION. An individual under protective placement, the individual's guardian or
6 guardian ad litem, the department, the county department that placed the individual pursuant
7 to an order of the court, a contractual agency, or any interested person, may file a petition at
8 any time for modification of an order for protective services or protective placement. The
9 petition shall be served on the individual; the individual's guardian; the individual's legal
10 counsel and guardian ad litem, if any; and the county department.

11 (a) *Modification of an order for protective placement; allegations.* A petition for
12 modification of an order for a protective placement shall allege that the protective placement
13 order should be modified for one of the following reasons:

14 1. The protective placement is not in the least restrictive environment that is consistent
15 with the person's needs.

16 2. A protective placement in a facility with a higher level of restrictiveness would be
17 more consistent with the individual's current needs.

18 3. A protective placement in a different facility with the same level of restrictiveness
19 as the current placement would be more consistent with the individual's current needs for
20 reasons unrelated to the level of restrictiveness.

21 (b) *Modification of an order for protective services; allegations.* 1. A petition for
22 modification of an order for protective services, other than an order under s. 55.14, shall allege
23 that the order should be modified because the protective services are not provided in the least

1 restrictive manner that is consistent with the individual's needs or are not otherwise consistent
2 with his or her current needs.

3 2. A petition for modification of an order under s. 55.14 shall allege that modification
4 of the order or the treatment plan for the individual would be in the best interests of the person.

5 (3) HEARING. (a) The court shall order a hearing within 21 days after the filing of the
6 petition, and may order a hearing if a hearing on a protective placement or petition for
7 court-ordered protective services or transfer of protective placement with respect to the
8 individual has been held within the previous 6 months.

9 (b) The court may extend the 21-day limitation in par. (a) if requested by the individual
10 or the individual's guardian, guardian ad litem, or legal counsel.

11 (c) The hearing shall be subject to the requirements of s. 55.10 (4).

12 (4) ORDER FOR INDIVIDUAL UNDER PROTECTIVE PLACEMENT. The court, in making a
13 determination with respect to the modification of an order for protective placement under this
14 section, may make one of the following findings and, if made, shall issue an order that includes
15 the information relied on as a basis for that order:

16 (a) If the court finds that individual continues to meet the standards under s. 55.08 (1)
17 and the individual's protective placement is in the least restrictive environment that is
18 consistent with his or her needs and with the factors in s. 55.12 (3), (4), and (5), the court shall
19 order continuation of the protective placement in the facility in which the individual resides
20 at the time of the hearing.

21 (b) If the court finds that the individual continues to meet the standards under s. 55.08
22 (1) and the protective placement of the individual is not in an environment that is consistent
23 with his or her needs and with the factors in s. 55.12 (3), (4), and (5), the court shall order
24 transfer of the individual to a protective placement that is in the least restrictive environment

1 consistent with the individual's needs and with the factors in s. 55.12 (3), (4), and (5). In lieu
2 of ordering transfer of the individual to a specific facility, the court may order the county
3 department of residence to develop or recommend a protective placement that is in the least
4 restrictive environment consistent with the individual's needs and with the factors in s. 55.12
5 (3), (4), and (5), and arrange for the individual's transfer to that protective placement within
6 60 days after the court's order. The court may extend this time period to permit development
7 of a protective placement. The court may order protective services along with transfer of
8 placement.

9 (c) If the court finds that individual no longer meets the standards under s. 55.08 (1),
10 the court shall terminate the protective placement, as provided in s. 55.17 (3) (c).

11 (5) ORDER FOR INDIVIDUAL RECEIVING COURT-ORDERED PROTECTIVE SERVICES. (a) The
12 court, in making a determination with respect to the modification of an order for protective
13 services under this section, other than an order under s. 55.14, may make one of the following
14 findings and, if made, shall issue an order that includes the information relied on as a basis for
15 that order:

16 1. If the court finds that the individual continues to meet the standard under s. 55.08 (2)
17 and the current protective services are provided in the least restrictive manner that is consistent
18 with his or her needs and with the factors in s. 55.12 (3), (4), and (5), the court shall continue
19 the order for protective services.

20 2. If the court finds that the individual continues to meet the standard under s. 55.08 (2)
21 and the protective services ordered for the individual are not provided in the manner that is
22 consistent with his or her needs or with the factors in s. 55.12 (3), (4), and (5), the court shall
23 order protective services that are more consistent with his or her current needs. The services

1 shall be provided in the least restrictive manner consistent with the individual's needs and with
2 the factors in s. 55.12 (3), (4), and (5).

3 3. If the court finds that the individual no longer meets the standard for protective
4 services under s. 55.08 (2), the court shall terminate the order for protective services.

5 (b) The court, in making a determination with respect to the modification of an order
6 under s. 55.14, may make one of the findings set forth in s. 55.19 (3) (e) 1., 2., or 3. and if made,
7 shall issue an order that includes the information relied upon as a basis for that order.

8 **SECTION 59.** 55.17 of the statutes is created to read:

9 **55.17 Termination of an order for protective placement or services. (1) PETITION.**
10 An individual, the individual's guardian or guardian ad litem, the department, the county
11 department, a contractual agency, or any interested person, may file a petition at any time for
12 termination of order for a protective placement or services. The petition shall be served on
13 the individual; the individual's guardian; the individual's attorney and guardian ad litem, if
14 any; and the county department. The petition shall allege that the protective placement or
15 court-ordered protective services order shall be terminated because the individual no longer
16 meets the standards under s. 55.08 (1) for protective placement or under s. 55.08 (2) for
17 court-ordered protective services.

18 (2) HEARING. A hearing under this subsection shall comply with s. 55.16 (3).

19 (3) ORDER FOR INDIVIDUAL UNDER PROTECTIVE PLACEMENT. The court, in making a
20 determination with respect to the termination of an order for protective placement under this
21 section, may make one of the following findings and, if made, shall issue an order that includes
22 the information relied on as a basis for that order:

23 (a) If the individual continues to meet the standards under s. 55.08 (1) and the
24 individual's protective placement is in the least restrictive environment that is consistent with

1 his or her needs and with the factors in s. 55.12 (3), (4), and (5), the court shall order
2 continuation of the individual's protective placement in the facility in which he or she resides
3 at the time of the hearing.

4 (b) If the court finds that the individual continues to meet the standards under s. 55.08
5 (1) and the protective placement of the individual is not in an environment that is consistent
6 with his or her needs and with the factors in s. 55.12 (3), (4), and (5), the court shall make an
7 order specified in s. 55.16 (4) (b).

8 (c) If the individual no longer meets the standards under s. 55.08 (1), the court shall
9 terminate the protective placement. If the protective placement is terminated, all of the
10 following shall apply:

11 1. The court shall review the needs of the individual with respect to protective services
12 If the court determines that the individual meets the standard for protective services under s.
13 55.08 (2), the court may order protective services. The services shall be provided in the least
14 restrictive manner consistent with the individual's needs and with the factors in s. 55.12 (3),
15 (4), and (5).

16 2. If the court determines that the individual does not meet the standard for protective
17 services under s. 55.08 (2), and the individual is being transferred or discharged from his or
18 her current residential facility, the county department shall assist the residential facility with
19 discharge planning for the individual, including planning for a proper residential living
20 arrangement and the necessary support services for the individual.

21 3. Any individual whose protective placement is terminated under this subdivision is
22 permitted to reside in his or her current residential facility for up to 60 days after a
23 determination under subd. 1. or 2. in order to arrange for an alternative living arrangement.
24 If the residential facility has fewer than 16 beds, the individual may remain in the residential

1 facility as long as the requirements of s. 55.055 are met. Admission by the individual, if an
2 adult, to another residential facility shall be under s. 55.055.

3 (4) ORDER FOR INDIVIDUAL RECEIVING COURT-ORDERED PROTECTIVE SERVICES. (a) The
4 court, in making a determination with respect to termination of an order for protective services
5 under this section, other than an order under s. 55.14, may make one of the following findings
6 and, if made, shall issue an order that includes the information relied on as a basis for that
7 order:

8 1. If the individual continues to meet the standard under s. 55.08 (2) and the current
9 protective services are provided in the least restrictive manner that is consistent with his or her
10 needs and with the factors under s. 55.12 (3), (4), and (5), the court shall continue the order
11 for protective services.

12 2. If the individual continues to meet the standard under s. 55.08 (2) and the protective
13 services ordered for the individual are not provided in the manner that is consistent with his
14 or her needs and with the factors under s. 55.12 (3), (4), and (5), the court shall make an order
15 for protective services as provided in s. 55.16 (5) (b).

16 3. If the individual no longer meets the standard for protective services under s. 55.08
17 (2), the court shall terminate the order for protective services.

18 (b) The court, in making a determination with respect to termination of an order under
19 s. 55.14, may make one of the findings set forth in s. 55.19 (3) (e) 1., 2., or 3. and, if made,
20 shall issue an order that includes the information relied upon as a basis for that order.

21 SECTION 60. 55.175 of the statutes is created to read:

22 **55.175 Discharge from protective placement.** Prior to any discharge from a
23 protective placement the county department which is responsible for placement shall review
24 the need for provision of continuing protective services or for continuation of full or limited

1 guardianship or provision for such guardianship if the individual has no guardian.
2 Recommendation shall be made to the court if the recommendation includes a course of action
3 for which court approval would be required. Prior to discharge from any state institute or
4 center for the developmentally disabled, the department shall make such review under s.
5 51.35.

6 **SECTION 61.** 55.18 of the statutes is created to read:

7 **55.18 Annual review of protective placement.** All of the following shall be
8 performed with respect to any individual who is protectively placed under s. 55.12:

9 (1) COUNTY DEPARTMENT PERFORMANCE OF REVIEW. (a) The county department of the
10 individual's county of residence shall, except as provided in pars. (b) and (bm), annually
11 review the status of each individual who has been protectively placed. The review shall
12 include a written evaluation of the physical, mental, and social condition of the individual and
13 the service needs of the individual. The review shall be made a part of the permanent record
14 of the individual. The county department shall inform the guardian of the individual of the
15 review at the time the review is made and shall invite the individual and the guardian to submit
16 comments or information concerning the individual's need for protective placement or
17 protective services before completing a report of the review. Not later than the first day of the
18 11th month after the initial order is made for protective placement for an individual, and,
19 except as provided in par. (b), annually thereafter, the county department shall:

20 1. File a report of the review with the court that ordered the protective placement under
21 s. 55.12.

22 2. File with the court under subd. 1. a petition for annual review by the court of the
23 protective placement ordered under s. 55.12 for the individual.

1 3. Provide the report under subd. 1. to the individual and the guardian of the individual,
2 and to the person's agent under an activated power of attorney for health care, if any.

3 (b) If, in an annual review of an individual's status under par. (a), the individual or the
4 individual's guardian or guardian ad litem requests modification or termination of the
5 individual's protective placement and a full due process hearing is provided, or a full due
6 process hearing is provided pursuant to a petition for modification or termination of the
7 protective placement, the county is not required to initiate a subsequent review of the
8 individual's status under this section until the first day of the 11th month after the date that the
9 court issues a final order after the full due process hearing.

10 (bm) If the individual is subject to an order for involuntary administration of
11 psychotropic medication under s. 55.14, the review under this section shall be conducted
12 simultaneously with the review under s. 55.19.

13 (c) The county department or contractual agency staff member performing the review
14 under par. (a) shall visit the individual and shall contact the individual's guardian, as provided
15 under par. (a) (intro.). The review may not be conducted by a person who is an employee of
16 the facility in which the individual resides. The report of the review shall include information
17 on all of the following:

18 1. The functional abilities and disabilities of the individual at the time the review is
19 made including the needs of the individual for health, social, or rehabilitation services, and
20 the level of supervision needed.

21 2. The ability of community services to provide adequate support for the individual's
22 needs.

23 3. The ability of the individual to live in a less restrictive setting.

1 4. Whether sufficient services are available to support the individual and meet the
2 individual's needs in the community and if so, an estimate of the cost of such services,
3 including the use of county funds.

4 5. Whether the protective placement order should be terminated or whether the
5 individual should be placed in another residential facility with adequate support services that
6 places fewer restrictions on the individual's personal freedom, is closer to the individual's
7 home community or more adequately meets the individual's needs, including any
8 recommendation that is made during the reporting period by the department with respect to
9 termination of the protective placement or placement of the individual in another residential
10 facility.

11 6. The comments of the individual and the individual's guardian during the performance
12 of the review, as summarized by the county department, and the response of the county
13 department to the comments.

14 7. The comments, if any, of any staff member at the facility in which the individual is
15 placed which are relevant to the review of the individual's placement.

16 **(1m)** The county of residence of an individual whose placement is in a different county
17 may enter into an agreement under which the county of the individual's placement performs
18 all or part of the duties of the county of residence under this subsection.

19 **(2) GUARDIAN AD LITEM APPOINTMENT AND REPORT.** After a county department has filed
20 a report with a court under sub. (1) (a) 1., the court shall appoint a guardian ad litem who is
21 an attorney appointed in accordance with s. 757.48 (1). The guardian ad litem shall do all of
22 the following:

23 (a) Review the report filed under sub. (1) (a) 1., the report under s. 880.38 (3), and any
24 other relevant reports on the individual's condition and placement.

1 (b) Meet with the individual and contact the individual's guardian and explain to the
2 individual and guardian all of the following:

- 3 1. The procedure for review of protective placement.
- 4 2. The right to appointment of legal counsel.
- 5 3. The right to performance of an evaluation under sub. (3) (a) 1.
- 6 4. The contents of the report under sub. (1) (a) 1.
- 7 5. That a change in or termination of protective placement or protective services may
8 be ordered by the court.
- 9 6. That a full due process hearing may be requested by the individual or the individual's
10 guardian.

11 (c) Provide the information under par. (b) to the individual in writing.

12 (d) Review the individual's condition, placement, and rights with the individual's
13 guardian.

14 (e) Ascertain whether the individual wishes to exercise any of his or her rights under
15 par. (b) 2., 3. or 6.

16 (f) File a written report with the court within 30 days after appointment, using
17 information obtained under this paragraph and any other evaluations or records of the
18 individual. The report shall discuss whether the individual appears to continue to meet the
19 standards for protective placement under s. 55.08 (1) and whether the protective placement
20 is in the least restrictive environment that is consistent with the individual's needs. The report
21 shall also state whether any of the following apply:

- 22 1. An evaluation under sub. (3) (a) 1. is requested by the guardian ad litem, the
23 individual, or the individual's guardian.

1 2. The individual or the individual's guardian requests modification or termination of
2 the protective placement.

3 3. The individual or his or her guardian requests or the guardian ad litem recommends
4 that legal counsel be appointed for the individual.

5 4. The individual or his or her guardian or guardian ad litem requests a full due process
6 hearing under this section for the individual.

7 (g) Certify to the court that he or she has complied with the requirements of pars. (b),
8 (c), and (d).

9 **(3) COURT REVIEW OF REPORTS; HEARING; ORDER.** (a) The court that ordered protective
10 placement for an individual under s. 55.12 shall review the report of the guardian ad litem
11 under sub. (2) (f), the annual review report filed under sub. (1) (a) 1., and the report filed under
12 s. 880.38 (3). The court shall determine whether any of the following is necessary:

13 1. Performance of an evaluation of the physical, mental, and social condition of the
14 individual and the individual's service needs by an individual who is not an employee of the
15 county department and that, if the individual is indigent, is performed at the expense of the
16 responsible county department under sub. (1) (a).

17 2. Obtaining any other information with respect to the individual.

18 3. Appointment of legal counsel.

19 4. Holding of a full due process hearing.

20 (b) The court shall order performance of an evaluation of the physical, mental, and
21 social condition of the individual and the service needs of the individual that is independent
22 of the review performed under sub. (1) (a) if any of the following apply:

23 1. The review report required under sub. (1) (a) 1. is not timely filed, or the court
24 determines that the report fails to meet the requirements of sub. (1) (c).

1 2. Following review of the guardian ad litem's report under sub. (2) (f), the court
2 determines that an independent evaluation for the individual is necessary.

3 3. The individual or the individual's guardian or guardian ad litem so requests.

4 (bm) If an evaluation is ordered under par. (b), it shall be performed at the expense of
5 the individual unless the individual is indigent. If the individual is indigent, the evaluation
6 shall be performed at the expense of the county of residence under sub. (1) (a).

7 (c) The court shall order legal counsel for an individual and, if the individual appears
8 to be indigent, refer him or her to the authority for indigency determinations under s. 977.07
9 (1) if any of the following apply:

10 1. Following review of the guardian ad litem's report under sub. (2) (f), the court
11 determines that legal counsel for the individual is necessary.

12 2. The individual or the individual's guardian or guardian ad litem so requests.

13 (d) The court shall order either a summary hearing or a full due process hearing. A
14 summary hearing may be held in court or may be held by other means such as by telephone
15 or videoconference. The court shall hold a full due process hearing if any of the following
16 apply:

17 1. The individual or the individual's guardian or guardian ad litem so requests.

18 2. The report under sub. (2) (f) indicates that the individual no longer meets the
19 standards for protective placement.

20 3. The report under sub. (2) (f) indicates that the current placement is not in the least
21 restrictive environment consistent with the individual's needs.

22 4. The report under sub. (2) (f) indicates that the individual objects to the current
23 placement.

24 (e) Following the hearing under par. (d), the court shall do one of the following:

1 1. If the court finds that the individual continues to meet the standards under s. 55.08
2 (1) and the protective placement of the individual is in the least restrictive environment that
3 is consistent with his or her needs and with the factors in s. 55.12 (3), (4), and (5), the court
4 shall order the continuation of the protective placement in the facility in which he or she
5 resides at the time of the hearing. The court shall include the information relied upon as a basis
6 for the order and shall make findings based on the factors in s. 55.08 (1) in support of the need
7 for continuation of the protective placement.

8 2. If the court finds that the individual continues to meet the standards under s. 55.08
9 (1) and the protective placement of the individual is not in the least restrictive environment
10 that is consistent with his or her needs and with the factors in s. 55.12 (3), (4), and (5), the court
11 shall order transfer of the individual to a protective placement that is in the least restrictive
12 environment consistent with the individual's needs and with the factors in s. 55.12 (3), (4), and
13 (5). In lieu of ordering transfer of the individual to a specific facility, the court may order the
14 county department of residence to develop or recommend a protective placement that is in the
15 least restrictive environment consistent with the individual's needs and with the factors in s.
16 55.12 (3), (4), and (5) and arrange for the individual's transfer to that protective placement
17 within 60 days after the court's order. The court may extend this period to permit development
18 of a protective placement. The court may order protective services along with transfer of
19 placement. The court shall include the information relied upon as a basis for the order and shall
20 make findings based on the factors in s. 55.08 (1) in support of the need for continued
21 protective placement.

22 3. If the court finds that the individual no longer meets the standards under s. 55.08 (1),
23 terminate the protective placement. If the protective placement is terminated, s. 55.17 (3) (c)
24 shall apply.

1 (f) The court shall provide a copy of the order made under par. (e) to all of the following:

2 1. The individual.

3 2. The individual's guardian, guardian ad litem, and legal counsel, if any, and to the
4 person's agent under an activated power of attorney for health care, if any.

5 3. The facility in which the individual resided when the petition for annual review was
6 filed.

7 4. The county department under sub. (1) (a).

8 (4) ESTABLISHMENT OF COUNTY POLICY. The county protective services agency shall
9 ensure that no later than December 31, 2004, the county establishes a written policy that
10 specifies procedures to be followed in the county which are designed to ensure that annual
11 reviews of all protectively placed persons residing in the county are conducted as required by
12 this section. The county protective services agency shall maintain a copy of the written policy
13 and shall make the policy available for public inspection.

14 (5) The register in probate of each county shall, by December 31 of each year, file with
15 the chief judge of the judicial administrative district a statement indicating whether each
16 report and petition required to be filed by the county under sub. (1) that year has been filed.
17 If the statement indicates that a required report or petition has not been filed, the statement
18 shall include an explanation of the reasons the report or petition has not been filed.

19 SECTION 62. 55.19 of the statutes is created to read:

20 **55.19 Annual review of order authorizing involuntary administration of**
21 **psychotropic medication.** All of the following shall be performed with respect to any
22 individual who is subject to an order under s. 55.14 or an order initially issued under s. 880.33
23 (4r), 2001 stats., authorizing involuntary administration of psychotropic medication:

1 **(1) COUNTY DEPARTMENT PERFORMANCE OF REVIEW.** (a) The county department of the
2 individual's county of residence shall, except as provided in par. (b) and (bm), review, in
3 compliance with the requirements of this section, the status of each individual who is the
4 subject of the order under s. 55.06 (9) (am). The review shall include a written evaluation of
5 the physical, mental, and social condition of the individual that are relevant to the issue of the
6 continued need for the order. The review shall be made a part of the permanent record of the
7 individual. The county department shall inform the guardian of the individual of the review
8 at the time the review is made and shall invite the individual and the guardian to submit
9 comments or information concerning the individual's need for involuntary administration of
10 psychotropic medication or other protective services before completing a report of the review.
11 Not later than the first day of the 11th month after the initial order is made for an individual,
12 and, except as provided in par. (b), at least annually thereafter, the county department shall do
13 all of the following:

- 14 1. File a report of the review with the court that issued the order.
- 15 2. File with the court under subd. 1. a petition for annual review by the court of the order.
- 16 3. Provide the report under subd. 1. to the individual and the guardian of the individual.

17 (b) If, in an annual review of an individual's status under par. (a), the individual or the
18 individual's guardian or guardian ad litem requests termination of the order and a full due
19 process hearing is provided, or a full due process hearing is provided pursuant to a petition for
20 modification or termination of the order, the county is not required to initiate a subsequent
21 review under this section until the first day of the 11th month after the date that the court issues
22 a final order after the full due process hearing.

1 (bm) If the individual is subject to a protective placement order, the review under this
2 section shall be conducted simultaneously with the review of the individual's protective
3 placement under s. 55.18.

4 (c) The county department or contractual agency staff member performing the review
5 under par. (a) shall visit the individual and shall contact the individual's guardian, as provided
6 under par. (a) (intro.). The review may not be conducted by a person who is an employee of
7 a facility in which the individual resides or from which the individual receives services. The
8 report of the review shall include information on all of the following:

- 9 1. Whether the individual continues to meet the standards for protective services.
- 10 2. Whether the individual is competent to refuse psychotropic medication, as set forth
11 in s. 55.14 (4) (b).
- 12 3. Whether the individual continues to refuse to take psychotropic medication
13 voluntarily or attempting to administer psychotropic medication to the individual voluntarily
14 is not in the best interests of the individual, as set forth in s. 55.14 (4) (c).
- 15 4. Whether the individual's condition for which psychotropic medication has been
16 prescribed has been improved by psychotropic medication and the person has responded
17 positively to psychotropic medication.
- 18 5. Whether the individual continues to meet the dangerousness criteria set forth in s.
19 55.14 (4) (e).
- 20 6. The comments of the individual and the individual's guardian during the performance
21 of the review, as summarized by the county department, and the response of the county
22 department to the comments.

1 7. The comments, if any, of any staff member at any facility at which the individual is
2 placed, receives services or at which psychotropic medication is administered to the individual
3 which are relevant to the review of the continued need for the order.

4 **(1m)** The county of residence of an individual who is subject to an order under s. 55.14
5 and is protectively placed and whose placement is in a different county may enter into an
6 agreement under which the county of the individual's placement performs all or part of the
7 duties of the county of residence under this subsection.

8 **(2) GUARDIAN AD LITEM APPOINTMENT AND REPORT.** After a county department has filed
9 a report with a court under sub. (1) (a) 1., the court shall appoint a guardian ad litem who is
10 an attorney appointed in accordance with s. 757.48 (1). The guardian ad litem shall do all of
11 the following:

12 (a) Review the report filed under sub. (1) (a) 1., and any other relevant reports on the
13 individual's condition and continued need for the order under s. 55.14.

14 (b) Meet with the individual and contact the individual's guardian and explain to the
15 individual and guardian all of the following:

16 1. The procedure for review of an order for involuntary administration of psychotropic
17 medication.

18 2. The right to appointment of legal counsel.

19 3. The right to performance of an evaluation under sub. (3) (a) 1.

20 4. The contents of the report under sub. (1) (a) 1.

21 5. That a termination of the order for involuntary administration of psychotropic
22 medication may be ordered by the court.

23 6. That a full due process hearing may be requested by the individual or the individual's
24 guardian.

1 (c) Provide the information under par. (b) to the individual in writing.

2 (d) Review the individual's condition and rights with the individual's guardian.

3 (e) Ascertain whether the individual wishes to exercise any of his or her rights under
4 par. (b) 2., 3. or 6.

5 (f) File a written report with the court within 30 days after appointment, using
6 information obtained under this paragraph and any other evaluations or records of the
7 individual. The report shall discuss whether the individual appears to continue to meet the
8 standards for an order under s. 55.14. The report shall also state whether any of the following
9 apply:

10 1. An evaluation under sub. (3) (a) 1. is requested by the guardian ad litem, the
11 individual, or the individual's guardian.

12 2. The individual or the individual's guardian requests termination of the order under
13 s. 55.14.

14 3. The individual or his or her guardian requests or the guardian ad litem recommends
15 that legal counsel be appointed for the individual.

16 4. The individual or his or her guardian or guardian ad litem requests a full due process
17 hearing under this section for the individual.

18 (g) Certify to the court that he or she has complied with the requirements of pars. (b),
19 (c), and (d).

20 **(3) COURT REVIEW OF REPORTS; HEARING; ORDER.** (a) The court that issued the order under
21 s. 55.14 shall review the report of the guardian ad litem under sub. (2) (f), and the annual
22 review report filed under sub. (1) (a) 1. The court shall determine whether any of the following
23 is necessary:

1 1. Performance of an evaluation of the physical, mental, and social condition of the
2 individual that are relevant to the issue of the continued need for the order under s. 55.14 by
3 an individual who is not an employee of the county department and that, if the individual is
4 indigent, is performed at the expense of the responsible county department under sub. (1) (a).

5 2. Obtaining any other information with respect to the individual.

6 3. Appointment of legal counsel.

7 4. Holding of a full due process hearing.

8 (b) The court shall order performance of an evaluation of the physical, mental, and
9 social condition of the individual that are relevant to the issue of the continued need for the
10 order under s. 55.14 that is independent of the review performed under sub. (1) (a) if any of
11 the following apply:

12 1. The review report required under sub. (1) (a) 1. is not timely filed, or the court
13 determines that the report fails to meet the requirements of sub. (1) (c).

14 2. Following review of the guardian ad litem's report under sub. (2) (f), the court
15 determines that an independent evaluation for the individual is necessary.

16 3. The individual or the individual's guardian or guardian ad litem so requests.

17 (bm) If an evaluation is ordered under par. (b), it shall be performed at the expense of
18 the individual unless the individual is indigent. If the individual is indigent, the evaluation
19 shall be performed at the expense of the county of residence under sub. (1) (a).

20 (c) The court shall order legal counsel for an individual and, if the individual appears
21 to be indigent, refer him or her to the authority for indigency determinations under s. 977.07
22 (1) if any of the following apply:

23 1. Following review of the guardian ad litem's report under sub. (2) (f), the court
24 determines that legal counsel for the individual is necessary.

1 2. The individual or the individual's guardian or guardian ad litem so requests.

2 (d) The court shall order either a summary hearing or a full due process hearing. A
3 summary hearing may be held in court or may be held by other means such as by telephone
4 or videoconference. The court shall hold a full due process hearing if any of the following
5 apply:

6 1. The individual or the individual's guardian or guardian ad litem so requests.

7 2. The report under sub. (2) (f) indicates that the individual no longer meets the
8 standards for an order under s. 55.14.

9 3. The report under sub. (2) (f) indicates that the individual objects to the order.

10 (e) Following the hearing under par. (d), the court shall do one of the following:

11 1. If the court finds that the individual continues to meet the standards for an order under
12 s. 55.14, the court shall order the continuation of the order. The court shall include the
13 information relied upon as a basis for the order and shall make findings based on the factors
14 in s. 55.14 in support of the need for continuation of the order.

15 2. If the court finds that the individual continues to meet the standards for an order under
16 s. 55.14 but that modification of the order or the treatment plan would be in the best interests
17 of the individual, the court shall modify the order, order modifications to the individual's
18 treatment plan, or both. Any modifications to the treatment plan are subject to the approval
19 of the guardian. The court shall include the information relied upon as a basis for its order and
20 shall make findings based on the factors in s. 55.14 (4) in support of the need for authorizing
21 the guardian to consent to involuntary administration of psychotropic medication.

22 3. If the court finds that the individual no longer meets the standards for an order under
23 s. 55.14, terminate the order. If the order is terminated, the court shall review the needs of the
24 individual with respect to other protective services. If the court determines that the individual

1 meets the standard for other protective services under s. 55.08 (2) which are not currently
2 being provided to the individual, the court may order those protective services for the
3 individual.

4 (f) The court shall provide a copy of the order made under par. (e) to all of the following:

- 5 1. The individual.
- 6 2. The individual's guardian, guardian ad litem, and legal counsel, if any.
- 7 3. The facility in which the individual resided, if any, when the petition for annual
8 review was filed.
- 9 4. The county department under sub. (1) (a).4.

10 **SECTION 63.** 55.21 (title) of the statutes is created to read:

11 **55.21 Centers for developmentally disabled.**

12 **SECTION 64.** 55.22 (title) of the statutes is created to read:

13 **55.22 Records.**

14 **SECTION 65.** 851.72 (11) of the statutes is created to read:

15 851.72 (11) Annually submit to the chief judge of the judicial administrative district the
16 statement required under s. 55.065 (5) regarding the completion of annual reviews of
17 protective placement orders under s. 55.065 (1).

18 **SECTION 66.** 880.01 (7m) of the statutes is repealed.

19 **SECTION 67.** 880.01 (8m) of the statutes is created to read:

20 880.01 (8m) "Psychotropic medication" means a prescription drug, as defined in s.
21 450.01 (20), that is used to treat or manage a psychiatric symptom or challenging behavior.

NOTE: Creates a definition of "psychotropic medication" in ch. 880,
relating to guardianship.

22 **SECTION 68.** 880.06 (1) of the statutes is amended to read:

1 880.06 (1) ORIGINAL PROCEEDING. The court wherein a petition is first filed shall
2 determine venue. If The court shall direct that proper notice be given to any potentially
3 responsible or affected county. After all potentially responsible or affected counties and
4 parties have been given an opportunity to be heard, if it is determined that venue lies in another
5 county, the court shall order the entire record certified to the proper court. A court wherein
6 a subsequent petition is filed shall, upon being satisfied of an earlier filing in another court,
7 summarily dismiss such petition. If any potentially responsible or affected county or party
8 objects to the court's finding that the ward is a resident of another county, the issue shall be
9 referred to the department pursuant to s. 51.40 (2) (g). The court shall then suspend ruling on
10 the motion for change of venue until the determination under s. 51.40 (2) (g) is final. Proper
11 notice is given to a potentially responsible or affected county if written notice of the
12 proceeding is sent by certified mail to the county's clerk and corporation counsel.

13 **SECTION 69.** 880.06 (2) of the statutes is repealed and recreated to read:

14 880.06 (2) CHANGE OF RESIDENCE OF WARD BY GUARDIAN. A guardian for good cause
15 shown may change a ward's county of residence by filing with the court a written statement
16 pursuant to s. 51.40 (2) (f).

17 **SECTION 70.** 880.07 (1m) of the statutes is repealed.

18 **SECTION 71.** 880.07 (2m) of the statutes is created to read:

19 880.07 (2m) Whenever a petition for guardianship on the ground of incompetency is
20 filed with respect to a person who resides in a facility licensed for 16 or more beds, a petition
21 for protective placement of the person shall also be filed.

NOTE: Requires the filing of a protective placement petition whenever a
 petition for guardianship on the ground of incompetency is filed with
 respect to a person who resides in a facility licensed for 16 or more beds.

22 **SECTION 72.** 880.08 (1) of the statutes is amended to read:

1 880.08 (1) INCOMPETENTS. A petitioner shall have notice served of a petition for
2 appointment or change of a guardian upon the proposed incompetent and existing guardian,
3 if any, by personal service at least 10 days before the time set for hearing. If such proposed
4 incompetent is in custody or confinement, a petitioner shall have notice served by registered
5 or certified mail on the proposed incompetent's custodian, who shall immediately serve it on
6 the proposed incompetent. The custodian shall inform the proposed incompetent of the
7 complete contents of the notice and certify thereon that the custodian served and informed the
8 proposed incompetent and returned the certificate and notice to the circuit judge. The notice
9 shall include the names of all persons who are petitioning for guardianship. A copy of the
10 petition shall be attached to the notice. The proposed incompetent shall be present at the
11 hearing unless, after a personal interview, the guardian ad litem certifies in writing to the court
12 specific reasons why the person is unable to attend or certifies in writing that the person is
13 unwilling to participate or unable to participate in a meaningful way. If the person is unable
14 to attend a hearing because of physical inaccessibility or lack of transportation, the court shall
15 hold the hearing in a place where the person may attend if requested by the proposed ward,
16 guardian ad litem, adversary counsel or other interested person. The court is not required to
17 hold the hearing in the presence of the person sought to be placed if the guardian ad litem, after
18 a personal interview with the person, certifies in writing to the court that the person is
19 unwilling to participate or unable to participate in a meaningful way. Such notice shall also
20 be given personally or by mail at least 10 days before the hearing to the proposed
21 incompetent's counsel, if any, guardian ad litem, presumptive adult heirs or other persons who
22 have legal or physical custody of the proposed incompetent whose names and addresses are
23 known to the petitioner or can with reasonable diligence be ascertained, to any governmental
24 or private agency, charity or foundation from which the proposed incompetent is receiving aid

1 and to such other persons or entities as the court may require. The court shall then proceed
2 under s. 880.33.

NOTE: Specifies that the court need not hold a hearing on appointment of a guardian for a person alleged to be incompetent in the presence of the person under certain circumstances. These provisions are identical to provisions inserted into ch. 55 by SEC. 2 of the bill.

3 **SECTION 73.** 880.24 (3) (a) (intro.) of the statutes is amended to read:

4 880.24 (3) (a) (intro.) Except as provided in par. (b), when a guardian is appointed, the
5 court shall award from the ward's estate payment of the petitioner's reasonable attorney fees
6 and costs, ~~including those fees and costs, if any, related to protective placement of the ward,~~
7 unless the court finds, after considering all of the following, that it would be inequitable to do
8 so:

9 **SECTION 74.** 880.24 (3) (a) 4. of the statutes is renumbered 880.24 (3) (a) 5.

NOTE: Renumbers an existing statutory provision to facilitate the creation of s. 880.24 (3) (a) 4. in SEC. 75.

10 **SECTION 75.** 880.24 (3) (b) of the statutes is renumbered 880.24 (3) (a) 4. and amended
11 to read:

12 880.24 (3) (a) 4. ~~If the court finds that~~ Whether the ward had executed a durable power
13 of attorney under s. 243.07 or a power of attorney for health care under s. 155.05 or had
14 engaged in other advance planning to avoid guardianship, ~~the court may not make the award~~
15 ~~specified in par. (a).~~

NOTE: Specifies that the court may consider whether the ward engaged in advance planning to avoid guardianship when deciding whether to award payment of the petitioner's attorney fees and costs from the ward's estate.

16 **SECTION 76.** 880.33 (2) (f) of the statutes is created to read:

17 880.33 (2) (f) An interested person may participate in the hearing on the petition at the
18 court's discretion.

NOTE: This provision is taken from the decision of the Wisconsin Court of Appeals in *Coston v. Joseph P.*, 222 Wis. 2d 1, 586 N.W.2d 52 (Ct. App. 1998).

1 **SECTION 77.** 880.33 (4m) of the statutes is repealed.

2 **SECTION 78.** 880.33 (4r) of the statutes is repealed.

3 **SECTION 79.** 880.331 (4) (a), (b), (d) and (e) of the statutes are amended to read:

4 880.331 (4) (a) Interview the proposed ward ~~or~~ subject of a petition for protective
5 placement or court-ordered protective services, or alleged incompetent and explain the
6 applicable hearing procedure, the right to counsel and, in an incompetency case, the right to
7 request or continue a limited guardianship.

8 (b) Advise the proposed ward ~~or~~ alleged incompetent, or subject of a petition for
9 protective placement or court-ordered protective services, both orally and in writing, of that
10 person's rights to a jury trial, to an appeal, to counsel and to an independent medical or
11 psychological examination on the issue of competency or on the issue of the need for an order
12 for protective placement or services, at county expense if the person is indigent.

13 (d) If applicable, inform the court that the individual who is the proposed ward ~~or~~
14 alleged incompetent, or subject of a protective placement or court-ordered protective services
15 petition objects to a finding of incompetency, the present or proposed placement or services
16 or the recommendation of the guardian ad litem as to the ~~proposed ward's or alleged~~
17 ~~incompetent's~~ individual's best interests or that the ~~proposed ward's or alleged incompetent's~~
18 individual's position on these matters is ambiguous.

19 (e) Present evidence concerning the best interests of the proposed ward ~~or~~ alleged
20 incompetent, or subject of a protective placement or court-ordered protective services
21 petition, if necessary.

22 **SECTION 80.** 880.331 (4) (am), (ar), and (as) of the statutes are created to read:

1 880.331 (4) (am) Interview the proposed guardian and any other person seeking
2 appointment as guardian.

3 (ar) Make a recommendation to the court regarding the fitness of the proposed guardian.

4 (as) Interview the guardian of an individual who is the subject of a petition for protective
5 placement or court-ordered protective services, if one has already been appointed.

6 **SECTION 81.** 880.331 (4) (dm), (dr) and (ds) of the statutes are created to read:

7 880.331 (4) (dm) Inform the court and the petitioner, or petitioner's counsel where the
8 petitioner is represented, if the proposed ward requests representation by counsel.

9 (dr) Attend all court proceedings related to the guardianship.

10 (ds) Notify the guardian of the right to be present at and participate in the hearing, to
11 present and cross-examine witnesses, and to receive a copy of the evaluations under ss. 55.06
12 (8) and 880.33 (2) (b).

13 **SECTION 82.** 880.34 (6) of the statutes is repealed.

14 **SECTION 83.** 880.38 (2) of the statutes is amended to read:

15 880.38 (2) A guardian of the person shall endeavor to secure necessary care, services
16 or appropriate protective placement on behalf of the ward. Subject to any limitation imposed
17 by the court under s. 880.33 (8) (b), a guardian may consent, without further court
18 involvement, to involuntary administration of medication, other than psychotropic
19 medication, and involuntary medical treatment that is in the ward's best interest. A guardian
20 may consent to involuntary administration of psychotropic medication only pursuant to a
21 court order under s. 55.14. In determining whether medication or medical treatment is in the
22 ward's best interest, the guardian shall consider the invasiveness of the medication or
23 treatment and the likely benefits and side effects of the medication or treatment.

24 **SECTION 84.** 880.38 (4) of the statutes is created to read:

1 880.38 (4) (a) In this subsection, “protest” means make more than one discernible
2 negative response, other than mere silence, to the offer of, recommendation for, or other
3 proffering of voluntary receipt of psychotropic medication. “Protest” does not mean a
4 discernible negative response to a proposed method of administration of the psychotropic
5 medication.

6 (b) A guardian may, without court approval, give an informed consent to the voluntary
7 receipt by a ward of medication, including any appropriate psychotropic medication, if the
8 guardian has first made a good-faith attempt to discuss with the guardian’s ward the ward’s
9 voluntary receipt of the medication, and if the ward does not protest.

NOTE: Creates a definition of “protest” and creates a provision under
 which a guardian may provide informed consent to voluntary receipt of
 medication, including psychotropic medication, by a ward.

10 **SECTION 85.** 977.05 (4) (i) 8. of the statutes is created to read:

11 977.05 (4) (i) 8. Cases involving persons who are subject to petitions for protective
12 placement under ch. 55.

13 **SECTION 86. Nonstatutory provisions. (1) REVIEW OF ORDER.** For an individual who
14 is subject to an order initially issued under section 880.33 (4r), 2001 statutes, that is in effect
15 on the effective date of this subsection, the county department of the individual’s county of
16 residence shall, no later than 9 months after the effective date of this subsection, review the
17 individual’s status under the requirements of section 55.19 of the statutes, as created by this
18 act.

19 **(2) TRANSITION.** Notwithstanding the repeal of section 880.33 (4r) of the statutes by this
20 act, all orders issued under section 880.33 (4r), 2001 statutes, in effect on the effective date

1 of this subsection, remain in effect until modified or terminated by a court order under section
2 55.16, 55.17, or 55.19 of the statutes, as created by this act.

3 (END)