

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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✓ **SECTION 1.** 46.27 (6r) (b) 2. of the statutes is amended to read:

46.27 (6r) (b) 2. The person has ~~chronic~~ severe and persistent mental illness, as defined under s. 51.01 (~~3g~~) (14t), affecting mental health to the extent that long-term or repeated hospitalization is likely unless the person receives long-term community support services.

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9, 63; 2001 a. 16, 103; 2003 a. 33.

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✓ **SECTION 2.** 46.286 (1) (intro.) of the statutes is amended to read:

46.286 (1) ELIGIBILITY. (intro.) A person is eligible for, but not necessarily entitled to, the family care benefit if the person is at least 18 years of age; has a physical disability, as defined in s. 15.197 (4) (a) 2., a developmental disability, as defined in s. 51.01 (5) (a), or ~~infirmities of aging~~ degenerative brain disorder, as defined in s. 55.01 (~~3~~) (1v); and meets all of the following criteria:

History: 1999 a. 9, 185; 2001 a. 16, 109; 2003 a. 33.

✓ **SECTION 3.** 46.286 (3) (a) (intro.) of the statutes is amended to read:

46.286 (3) (a) (intro.) Subject to pars. (c) and (d), a person is entitled to and may receive the family care benefit through enrollment in a care management organization if he or she is at least 18 years of age, has a physical disability, as defined in s. 15.197 (4) (a) 2., a developmental disability, as defined in s. 51.01 (5) (a), or ~~infirmities of aging~~ degenerative brain disorder, as defined in s. 55.01 (~~3~~) (1v), is financially eligible, fulfills any applicable cost-sharing requirements and meets any of the following criteria:

History: 1999 a. 9, 185; 2001 a. 16, 109; 2003 a. 33.

✓ **SECTION 4.** 46.90 (1) (c) of the statutes is amended to read:

46.90 (1) (c) "Elder person" means a person who is age 60 or older or who is subject to the infirmities of aging degenerative brain disorder.

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

SECTION 5. 46.90 (1) (d) of the statutes is renumbered 46.90 (1) (bg) and amended to read:

46.90 (1) (bg) "~~Infirmities of aging~~ Degenerative brain disorder" has the meaning provided under s. 55.01 (3) (1v).

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

SECTION 6. 46.972 (3) (a) of the statutes is amended to read:

46.972 (3) (a) In this subsection, "~~chronic severe and persistent~~ mental illness" has the meaning given in s. 51.01 (3g) (14t).

History: 1989 a. 31; 1991 a. 39, 189; 1993 a. 16; 1997 a. 27; 2001 a. 16.

SECTION 7. 46.972 (3) (b) of the statutes is amended to read:

46.972 (3) (b) From the appropriation under s. 20.435 (7) (ce), the department may not allocate more than \$45,000 in each fiscal year to applying public or nonprofit private entities for the costs of providing certain mental health services to homeless individuals with ~~chronic severe and persistent~~ mental illness. Entities that receive funds allocated by the department under this subsection shall provide the mental health services required under 42 USC 290cc-24. The amount that the department allocates to an applying entity may not exceed 50% of the amount of matching funds required under 42 USC 290cc-23.

History: 1989 a. 31; 1991 a. 39, 189; 1993 a. 16; 1997 a. 27; 2001 a. 16.

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SECTION 8. 49.45 (6m) (i) 2. of the statutes is amended to read:

49.45 (6m) (i) 2. Payment for personal or residential care is available for a person in a facility certified under 42 USC 1396 to 1396p only if the person entered a facility before the date specified in subd. 1. and has continuously resided in a facility since the date specified in subd. 1. If the person has a primary diagnosis of

developmental disabilities or ~~chronic~~ severe and persistent mental illness, payment for personal or residential care is available only if the person entered a facility on or before November 1, 1983.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33.

✓ **SECTION 9.** 49.45 (25) (am) 2. of the statutes is amended to read:

49.45 (25) (am) 2. Has a ~~chronic~~ severe and persistent mental illness, as defined under s. 51.01 (~~3g~~) (14t).

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33.

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✓ **SECTION 10.** 51.01 (2g) (b) of the statutes is amended to read:

51.01 (2g) (b) "Brain injury" does not include alcoholism, Alzheimer's disease as specified under s. 46.87 (1) (a) or ~~the infirmities of aging degenerative brain disorder as specified under s. 55.01 (3)~~ defined in s. 55.01 (1v).

History: 1975 c. 430 ss. 11, 81; 1977 c. 26; 1977 c. 203 s. 106; 1977 c. 428; 1981 c. 79 s. 17; 1983 a. 189 s. 329 (19); 1983 a. 441; 1985 a. 29 s. 3202 (23); 1985 a. 265, 307; 1993 a. 445; 1995 a. 27; 1997 a. 47; 1999 a. 9.

✓ **SECTION 11.** 51.01 (3s) of the statutes is amended to read:

51.01 (3s) "Community support program" means a coordinated care and treatment system which provides a network of services through an identified treatment program and staff to ensure ongoing therapeutic involvement and individualized treatment in the community for persons with chronic severe and persistent mental illness.

History: 1975 c. 430 ss. 11, 81; 1977 c. 26; 1977 c. 203 s. 106; 1977 c. 428; 1981 c. 79 s. 17; 1983 a. 189 s. 329 (19); 1983 a. 441; 1985 a. 29 s. 3202 (23); 1985 a. 265, 307; 1993 a. 445; 1995 a. 27; 1997 a. 47; 1999 a. 9.

✓ **SECTION 12.** 51.01 (5) (a) of the statutes is amended to read:

51.01 (5) (a) "Developmental disability" means a disability attributable to brain injury, cerebral palsy, epilepsy, autism, Prader-Willi syndrome, mental

retardation, or another neurological condition closely related to mental retardation or requiring treatment similar to that required for mental retardation, which has continued or can be expected to continue indefinitely and constitutes a substantial handicap to the afflicted individual. "Developmental disability" does not include senility which is primarily caused by the process of aging ^{that} or the infirmities of aging degenerative brain disorder, as defined in s. 55.01 (1v).

History: 1975 c. 430 ss. 11, 81; 1977 c. 26; 1977 c. 203 s. 106; 1977 c. 428; 1981 c. 79 s. 17; 1983 a. 189 s. 329 (19); 1983 a. 441; 1985 a. 29 s. 3202 (23); 1985 a. 265, 307; 1993 a. 445; 1995 a. 27; 1997 a. 47; 1999 a. 9.

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SECTION 13. 51.20 (7) (d) 1. (intro.) of the statutes is amended to read:

51.20 (7) (d) 1. (intro.) If the court determines after hearing that there is probable cause to believe that the subject individual is a fit subject for guardianship and protective placement or services, the court may, without further notice, appoint a temporary guardian for the subject individual and order temporary protective placement or services under ch. 55 for a period not to exceed 30 days, and shall proceed as if petition had been made for guardianship and protective placement or services. If the court orders only temporary protective services for a subject individual under this paragraph, the individual shall be provided care only on an outpatient basis. The court may order psychotropic medication as a temporary protective service under this paragraph if it finds that there is probable cause to believe that the allegations under s. 880.07 (1m) (c) and (cm) apply, that the individual is not competent to refuse psychotropic medication and that the medication ordered will have therapeutic value and will not unreasonably impair the ability of the individual to prepare for and participate in subsequent legal proceedings. An individual is not competent to refuse psychotropic medication if, because of ~~chronic~~ severe and persistent mental illness, and after the advantages

and disadvantages of and alternatives to accepting the particular psychotropic medication have been explained to the individual, one of the following is true:

History: 1975 c. 430; 1977 c. 26, 29; 1977 c. 187 ss. 42, 43, 134, 135; 1977 c. 428 ss. 29 to 65, 115; 1977 c. 447, 449; Sup. Ct. Order, 83 Wis. 2d xiii; 1979 c. 32, 89; Sup. Ct. Order, eff. 1-1-80; 1979 c. 110 s. 60 (1); 1979 c. 175 s. 53; 1979 c. 300, 336, 356; 1981 c. 20, 367; 1981 c. 390 s. 252; 1983 a. 27, 219; 1983 a. 474 ss. 2 to 9m, 14; 1985 a. 29 ss. 1067 to 1071, 3200 (56), 3202 (56); 1985 a. 139, 176, 321, 332; 1987 a. 27; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 366, 394, 403; 1989 a. 31, 334; 1993 a. 98, 196, 227, 316, 451, 474; 1995 a. 77, 201, 268, 292, 440; Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 35, 130, 237, 283; 1999 a. 83, 89, 162; 2001 a. 16 ss. 1966i to 1966n, 4034ze to 4034zh; 2001 a. 38, 61, 109; 2003 a. 33, 50.

✓ **SECTION 14.** 51.20 (7) (d) 1. b. of the statutes is amended to read:

51.20 (7) (d) 1. b. The individual is substantially incapable of applying an understanding of the advantages, disadvantages and alternatives to his or her chronic severe and persistent mental illness in order to make an informed choice as to whether to accept or refuse psychotropic medication.

History: 1975 c. 430; 1977 c. 26, 29; 1977 c. 187 ss. 42, 43, 134, 135; 1977 c. 428 ss. 29 to 65, 115; 1977 c. 447, 449; Sup. Ct. Order, 83 Wis. 2d xiii; 1979 c. 32, 89; Sup. Ct. Order, eff. 1-1-80; 1979 c. 110 s. 60 (1); 1979 c. 175 s. 53; 1979 c. 300, 336, 356; 1981 c. 20, 367; 1981 c. 390 s. 252; 1983 a. 27, 219; 1983 a. 474 ss. 2 to 9m, 14; 1985 a. 29 ss. 1067 to 1071, 3200 (56), 3202 (56); 1985 a. 139, 176, 321, 332; 1987 a. 27; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 366, 394, 403; 1989 a. 31, 334; 1993 a. 98, 196, 227, 316, 451, 474; 1995 a. 77, 201, 268, 292, 440; Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 35, 130, 237, 283; 1999 a. 83, 89, 162; 2001 a. 16 ss. 1966i to 1966n, 4034ze to 4034zh; 2001 a. 38, 61, 109; 2003 a. 33, 50.

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✓ **SECTION 15.** 51.35 (4m) (intro.) of the statutes is amended to read:

51.35 (4m) TRANSFER OR DISCHARGE OF PERSONS WITH ~~CHRONIC SEVERE AND PERSISTENT~~ MENTAL ILLNESS. (intro.) The department or county department under s. 51.42 or any person authorized to discharge or transfer patients under this section shall, prior to the discharge of a patient with chronic severe and persistent mental illness from an inpatient facility, or prior to the transfer of a patient with chronic severe and persistent mental illness from inpatient to outpatient status, with the patient's permission if the patient is a voluntary patient, do all of the following:

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.

✓ AM 51-40 (2) (intro.) ~~INSERT 40-15~~

SECTION 16. 51.40 (2) (b) 2. (intro.) of the statutes is renumbered 51.40 (2) (b) 2m. ag. and amended to read:

2 51.40 (2) (b) 2m. ag. ~~'Individuals in nursing homes.'~~ An individual in a nursing home who was admitted to the nursing home on or after August 1, 1987, is a resident of the county ~~which~~ that approved the admission under s. 50.04 (2r).

am. An individual in a nursing home on August 1, 1987, is presumed to be a resident of the county in which the individual is physically present unless another county accepts the individual as a resident. ~~The presumption of residence may be overcome by substantial evidence which clearly establishes residence in another county in one of the following ways:~~

History: 1987 a. 27; 1989 a. 31, 359; 1995 a. 27 s. 9126 (19).

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SECTION 17. 51.40 (2) (b) 2m. (intro.) of the statutes is created to read:

51.40 (2) (b) 2m. 'Individuals in nursing homes.' The following presumptions regarding the residence of an individual in a nursing home may be overcome by substantial evidence that clearly establishes residence in another county:

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✓ **SECTION 18.** 51.421 (1) of the statutes is amended to read:

51.421 (1) PURPOSE. In order to provide the least restrictive and most appropriate care and treatment for persons with ~~chronic~~ severe and persistent mental illness, community support programs should be available in all parts of the state. In order to integrate community support programs with other long-term care programs, community support programs shall be coordinated, to the greatest extent possible, with the community options program under s. 46.27, with the protective services system in a county, with the medical assistance program under subch. IV of ch. 49 and with other care and treatment programs for persons with ~~chronic~~ severe and persistent mental illness.

History: 1983 a. 441; 1985 a. 120, 176; 1987 a. 27, 368; 1989 a. 31; 1993 a. 16; 1995 a. 27; 1997 a. 237; 2001 a. 16.

✓ **SECTION 19.** 51.421 (2) of the statutes is amended to read:

51.421 (2) SERVICES. If funds are provided, and within the limits of the availability of funds provided under s. 51.423 (2), each county department under s.

51.42 shall establish a community support program. Each community support program shall use a coordinated case management system and shall provide or assure access to services for persons with ~~chronic~~ severe and persistent mental illness who reside within the community. Services provided or coordinated through a community support program shall include assessment, diagnosis, identification of persons in need of services, case management, crisis intervention, psychiatric treatment including medication supervision, counseling and psychotherapy, activities of daily living, psychosocial rehabilitation which may include services provided by day treatment programs, client advocacy including assistance in applying for any financial support for which the client may be eligible, residential services and recreational activities. Services shall be provided to an individual based upon his or her treatment and psychosocial rehabilitation needs.

History: 1983 a. 441; 1985 a. 120, 176; 1987 a. 27, 368; 1989 a. 31; 1993 a. 16; 1995 a. 27; 1997 a. 237; 2001 a. 16.

✓ **SECTION 20.** 51.421 (3) (c) of the statutes is amended to read:

51.421 (3) (c) Monitor the establishment and the continuing operation of community support programs and ensure that community support programs comply with the standards promulgated by rule. The department shall ensure that the persons monitoring community support programs to determine compliance with the standards are persons who are knowledgeable about treatment programs for persons with ~~chronic~~ severe and persistent mental illness.

History: 1983 a. 441; 1985 a. 120, 176; 1987 a. 27, 368; 1989 a. 31; 1993 a. 16; 1995 a. 27; 1997 a. 237; 2001 a. 16.

✓ **SECTION 21.** 51.67 (intro.) of the statutes is amended to read:

51.67 Alternate procedure; protective services. (intro.) If, after a hearing under s. 51.13 (4) or 51.20, the court finds that commitment under this chapter is not warranted and that the subject individual is a fit subject for guardianship and protective placement or services, the court may, without further notice, appoint a

temporary guardian for the subject individual and order temporary protective placement or services under ch. 55 for a period not to exceed 30 days. Temporary protective placement for an individual in a center for the developmentally disabled is subject to s. 51.06 (3). Any interested party may then file a petition for permanent guardianship or protective placement or services, including medication, under ch. 55. If the individual is in a treatment facility, the individual may remain in the facility during the period of temporary protective placement if no other appropriate facility is available. The court may order psychotropic medication as a temporary protective service under this section if it finds that there is probable cause to believe the individual is not competent to refuse psychotropic medication and that the medication ordered will have therapeutic value and will not unreasonably impair the ability of the individual to prepare for and participate in subsequent legal proceedings. An individual is not competent to refuse psychotropic medication if, because of chronic severe and persistent mental illness, and after the advantages and disadvantages of and alternatives to accepting the particular psychotropic medication have been explained to the individual, one of the following is true:

History: 1975 c. 430; 1977 c. 187, 428; 1979 c. 89, 336; 1985 a. 29; 1987 a. 366; 1995 a. 268; 2003 a. 33.

SECTION 22. 51.67 (2) of the statutes is amended to read:

51.67 (2) The individual is substantially incapable of applying an understanding of the advantages, disadvantages and alternatives to his or her chronic severe and persistent mental illness in order to make an informed choice as to whether to accept or refuse psychotropic medication.

History: 1975 c. 430; 1977 c. 187, 428; 1979 c. 89, 336; 1985 a. 29; 1987 a. 366; 1995 a. 268; 2003 a. 33.

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SECTION 23. 55.01 (2) of the statutes is amended to read:

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CR; 55.01(4)(c) A health care agent, as defined in s. 15-5.01(4).

55.01 (2) "Developmentally disabled person" means any individual having a disability attributable to mental retardation, cerebral palsy, epilepsy, autism or another neurological condition closely related to mental retardation or requiring treatment similar to that required for mentally retarded individuals, which has continued or can be expected to continue indefinitely, substantially impairs the individual from adequately providing for his or her own care or custody, and constitutes a substantial handicap to the afflicted individual. The term does not include a person affected by senility which is primarily caused by the process of aging or ~~the infirmities of aging~~ degenerative brain disorder.

History: 1973 c. 284; 1975 c. 393, 430; 1979 c. 221; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1991 a. 316; 1993 a. 445; 2003 a. 33.

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✓ **SECTION 24.** 55.03 (3) (title) of the statutes is created to read:

55.03 (3) (title) GUARDIAN AUTHORITY AND RESPONSIBILITY APPLICABLE TO PARENT OF MINOR.

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✓ **SECTION 25.** 55.05 (2) (intro.) of the statutes is amended to read:

55.05 (2) CONDITIONS REQUIRED. (intro.) The department or an agency providing protective services under s. 55.04 55.02 (2) may provide such services under any of the following conditions:

History: 1973 c. 284; 1975 c. 393; 1981 c. 379; 1985 a. 29 s. 3200 (56); 1985 a. 135 s. 83 (3); 1985 a. 176; 1987 a. 161 ss. 7, 13m; 1987 a. 366; 1989 a. 200; 1991 a. 316; 1993 a. 187, 316, 445.

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✓ **SECTION 26.** 55.05 (5) (c) 1. of the statutes is renumbered 55.055 (5) (a) and amended to read:

55.055 (5) (a) Determine whether the protest persists or has been voluntarily withdrawn and consult with the ~~person's~~ individual's guardian regarding the reasons for the admission.

History: 1973 c. 284; 1975 c. 393; 1981 c. 379; 1985 a. 29 s. 3200 (56); 1985 a. 135 s. 83 (3); 1985 a. 176; 1987 a. 161 ss. 7, 13m; 1987 a. 366; 1989 a. 200; 1991 a. 316; 1993 a. 187, 316, 445.

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SECTION 27. 55.06 (2) to (9) of the statutes are repealed.

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SECTION 28. 880.01 (2) of the statutes is amended to read:

880.01 (2) "Developmentally disabled person" means any individual having a disability attributable to mental retardation, cerebral palsy, epilepsy, autism or another neurological condition closely related to mental retardation or requiring treatment similar to that required for mentally retarded individuals, which has continued or can be expected to continue indefinitely, substantially impairs the individual from adequately providing for his or her own care or custody and constitutes a substantial handicap to the afflicted individual. The term does not include a person affected by senility which is primarily caused by the process of aging or ~~the infirmities of aging~~ degenerative brain disorder.

History: 1971 c. 41 s. 8; 1971 c. 228 s. 36; Stats. 1971 s. 880.01; 1973 c. 284; 1975 c. 430; 1981 c. 379; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1987 a. 366; 1993 a. 486; 1995 a. 268.

SECTION 29. 880.01 (4) of the statutes is amended to read:

880.01 (4) "Incompetent" means a person adjudged by a court of record to be substantially incapable of managing his or her property or caring for himself or herself by reason of ~~infirmities of aging~~ degenerative brain disorder, developmental disabilities, or other like incapacities. Physical disability without mental incapacity is not sufficient to establish incompetence.

History: 1971 c. 41 s. 8; 1971 c. 228 s. 36; Stats. 1971 s. 880.01; 1973 c. 284; 1975 c. 430; 1981 c. 379; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1987 a. 366; 1993 a. 486; 1995 a. 268.

SECTION 30. 880.01 (5) of the statutes is renumbered 880.01 (1t) and amended to read:

880.01 (1t) "~~Infirmities of aging~~ Degenerative brain disorder" means ~~organic brain damage caused by advanced age or other physical degeneration in connection therewith to the extent that the person so afflicted~~ the loss or dysfunction of brain

cells to the extent that the individual is substantially impaired in his or her ability to adequately provide adequately for his or her own care or custody.

History: 1971 c. 41 s. 8; 1971 c. 228 s. 36; Stats. 1971 s. 880.01; 1973 c. 284; 1975 c. 430; 1981 c. 379; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1987 a. 366; 1993 a. 486; 1995 a. 268.

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✓ **SECTION 31.** 940.285 (1) (a) of the statutes is renumbered 940.285 (1) (am).

✓ **SECTION 32.** 940.285 (1) (b) of the statutes is renumbered 940.285 (1) (ag) and amended to read:

940.285 (1) (ag) "~~Infirmities of aging~~ "Degenerative brain disorder" has the meaning ~~specified in s. 55.01 (3)~~ given in s. 55.01 (1v).

History: 1985 a. 306; 1993 a. 445; 1997 a. 180; 2001 a. 109.

✓ **SECTION 33.** 940.285 (1) (e) (intro.) of the statutes is amended to read:

940.285 (1) (e) (intro.) "Vulnerable adult" means any person 18 years of age or older who either is a developmentally disabled person or has ~~infirmities of aging~~ degenerative brain disorder, mental illness or other like incapacities and who is:

History: 1985 a. 306; 1993 a. 445; 1997 a. 180; 2001 a. 109.

✓ **SECTION 34.** 940.295 (1) (hm) of the statutes is renumbered 940.295 (1) (eg) and amended to read:

940.295 (1) (eg) "~~Infirmities of aging~~ Degenerative brain disorder" has the meaning given in s. 55.01 (3) (1v).

History: 1993 a. 445; 1995 a. 225; 1997 a. 180; 1999 a. 9; 2001 a. 57, 59, 109.

✓ SEC AM 940.295 (1)(e)(intro.)

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SECTION 1. 46.27 (6r) (b) 2. of the statutes is amended to read:

46.27 (6r) (b) 2. The person has chronic severe and persistent mental illness, as defined under s. 51.01 (~~3g~~) (14t), affecting mental health to the extent that long-term or repeated hospitalization is likely unless the person receives long-term community support services.

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9, 63; 2001 a. 16, 103; 2003 a. 33.

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SECTION 2. 46.286 (1) (intro.) of the statutes is amended to read:

46.286 (1) ELIGIBILITY. (intro.) A person is eligible for, but not necessarily entitled to, the family care benefit if the person is at least 18 years of age; has a physical disability, as defined in s. 15.197 (4) (a) 2., a developmental disability, as defined in s. 51.01 (5) (a), or infirmities of aging degenerative brain disorder, as defined in s. 55.01 (~~3~~) (1v); and meets all of the following criteria:

History: 1999 a. 9, 185; 2001 a. 16, 109; 2003 a. 33.

SECTION 3. 46.286 (3) (a) (intro.) of the statutes is amended to read:

46.286 (3) (a) (intro.) Subject to pars. (c) and (d), a person is entitled to and may receive the family care benefit through enrollment in a care management organization if he or she is at least 18 years of age, has a physical disability, as defined in s. 15.197 (4) (a) 2., a developmental disability, as defined in s. 51.01 (5) (a), or infirmities of aging degenerative brain disorder, as defined in s. 55.01 (~~3~~) (1v), is financially eligible, fulfills any applicable cost-sharing requirements and meets any of the following criteria:

History: 1999 a. 9, 185; 2001 a. 16, 109; 2003 a. 33.

SECTION 4. 46.90 (1) (c) of the statutes is amended to read:

46.90 (1) (c) "Elder person" means a person who is age 60 or older or who is subject to ~~the infirmities of aging~~ degenerative brain disorder.

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

SECTION 5. 46.90 (1) (d) of the statutes is renumbered 46.90 (1) (bg) and amended to read:

46.90 (1) (bg) "~~Infirmities of aging~~ Degenerative brain disorder" has the meaning provided under s. 55.01 (3) (1v).

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33.

SECTION 6. 46.972 (3) (a) of the statutes is amended to read:

46.972 (3) (a) In this subsection, "~~chronic severe and persistent~~ mental illness" has the meaning given in s. 51.01 (3g) (14t).

History: 1989. a. 31; 1991 a. 39, 189; 1993 a. 16; 1997 a. 27; 2001 a. 16.

SECTION 7. 46.972 (3) (b) of the statutes is amended to read:

46.972 (3) (b) From the appropriation under s. 20.435 (7) (ce), the department may not allocate more than \$45,000 in each fiscal year to applying public or nonprofit private entities for the costs of providing certain mental health services to homeless individuals with ~~chronic severe and persistent~~ mental illness. Entities that receive funds allocated by the department under this subsection shall provide the mental health services required under 42 USC 290cc-24. The amount that the department allocates to an applying entity may not exceed 50% of the amount of matching funds required under 42 USC 290cc-23.

History: 1989. a. 31; 1991 a. 39, 189; 1993 a. 16; 1997 a. 27; 2001 a. 16.

INSERT 35-7

SECTION 8. 49.45 (6m) (i) 2. of the statutes is amended to read:

49.45 (6m) (i) 2. Payment for personal or residential care is available for a person in a facility certified under 42 USC 1396 to 1396p only if the person entered a facility before the date specified in subd. 1. and has continuously resided in a facility since the date specified in subd. 1. If the person has a primary diagnosis of

developmental disabilities or chronic severe and persistent mental illness, payment for personal or residential care is available only if the person entered a facility on or before November 1, 1983.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33.

SECTION 9. 49.45 (25) (am) 2. of the statutes is amended to read:

49.45 (25) (am) 2. Has a chronic severe and persistent mental illness, as defined under s. 51.01 (3g) (14t).

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33.

~~INSERT 35-11~~

SECTION 10. 51.01 (3s) of the statutes is amended to read:

51.01 (3s) "Community support program" means a coordinated care and treatment system which provides a network of services through an identified treatment program and staff to ensure ongoing therapeutic involvement and individualized treatment in the community for persons with chronic severe and persistent mental illness.

History: 1975 c. 430 ss. 11, 81; 1977 c. 26; 1977 c. 203 s. 106; 1977 c. 428; 1981 c. 79 s. 17; 1983 a. 189 s. 329 (19); 1983 a. 441; 1985 a. 29 s. 3202 (23); 1985 a. 265, 307; 1993 a. 445; 1995 a. 27; 1997 a. 47; 1999 a. 9.

~~INSERT 36-23~~

SECTION 11. 51.01 (2g) (b) of the statutes is amended to read:

51.01 (2g) (b) "Brain injury" does not include alcoholism, Alzheimer's disease as specified under s. 46.87 (1) (a) or ~~the infirmities of aging~~ degenerative brain disorder as specified under s. 55.01 (3) defined in s. 55.01 (1v).

History: 1975 c. 430 ss. 11, 81; 1977 c. 26; 1977 c. 203 s. 106; 1977 c. 428; 1981 c. 79 s. 17; 1983 a. 189 s. 329 (19); 1983 a. 441; 1985 a. 29 s. 3202 (23); 1985 a. 265, 307; 1993 a. 445; 1995 a. 27; 1997 a. 47; 1999 a. 9.

SECTION 12. 51.01 (5) (a) of the statutes is amended to read:

51.01 (5) (a) "Developmental disability" means a disability attributable to brain injury, cerebral palsy, epilepsy, autism, Prader-Willi syndrome, mental retardation, or another neurological condition closely related to mental retardation or requiring treatment similar to that required for mental retardation, which has continued or can be expected to continue indefinitely and constitutes a substantial handicap to the afflicted individual. "Developmental disability" does not include senility which is primarily caused by the process of aging or ~~the infirmities of aging~~ degenerative brain disorder, as defined in s. 55.01 (1v).

History: 1975 c. 430 ss. 11, 81; 1977 c. 26; 1977 c. 203 s. 106; 1977 c. 428; 1981 c. 79 s. 17; 1983 a. 189 s. 329 (19); 1983 a. 441; 1985 a. 29 s. 3202 (23); 1985 a. 265, 307; 1993 a. 445; 1995 a. 27; 1997 a. 47; 1999 a. 9.

INSERT 37-10

SECTION 13. 51.20 (7) (d) 1. (intro.) of the statutes is amended to read:

51.20 (7) (d) 1. (intro.) If the court determines after hearing that there is probable cause to believe that the subject individual is a fit subject for guardianship and protective placement or services, the court may, without further notice, appoint a temporary guardian for the subject individual and order temporary protective placement or services under ch. 55 for a period not to exceed 30 days, and shall proceed as if petition had been made for guardianship and protective placement or services. If the court orders only temporary protective services for a subject individual under this paragraph, the individual shall be provided care only on an outpatient basis. The court may order psychotropic medication as a temporary protective service under this paragraph if it finds that there is probable cause to believe that the allegations under s. 880.07 (1m) (c) and (cm) apply, that the individual is not competent to refuse psychotropic medication and that the medication ordered will have therapeutic value and will not unreasonably impair the ability of the individual to prepare for and participate in subsequent legal

proceedings. An individual is not competent to refuse psychotropic medication if, because of chronic severe and persistent mental illness, and after the advantages and disadvantages of and alternatives to accepting the particular psychotropic medication have been explained to the individual, one of the following is true:

History: 1975 c. 430; 1977 c. 26, 29; 1977 c. 187 ss. 42, 43, 134, 135; 1977 c. 428 ss. 29 to 65, 115; 1977 c. 447, 449; Sup. Ct. Order, 83 Wis. 2d xiii; 1979 c. 32, 89; Sup. Ct. Order, eff. 1-1-80; 1979 c. 110 s. 60 (1); 1979 c. 175 s. 53; 1979 c. 300, 336, 356; 1981 c. 20, 367; 1981 c. 390 s. 252; 1983 a. 27, 219; 1983 a. 474 ss. 2 to 9m, 14; 1985 a. 29 ss. 1067 to 1071, 3200 (56), 3202 (56); 1985 a. 139, 176, 321, 332; 1987 a. 27; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 366, 394, 403; 1989 a. 31, 334; 1993 a. 98, 196, 227, 316, 451, 474; 1995 a. 77, 201, 268, 292, 440; Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 35, 130, 237, 283; 1999 a. 83, 89, 162; 2001 a. 16 ss. 1966i to 1966n, 4034ze to 4034zh; 2001 a. 38, 61, 109; 2003 a. 33, 50.

SECTION 14. 51.20 (7) (d) 1. b. of the statutes is amended to read:

51.20 (7) (d) 1. b. The individual is substantially incapable of applying an understanding of the advantages, disadvantages and alternatives to his or her chronic severe and persistent mental illness in order to make an informed choice as to whether to accept or refuse psychotropic medication.

History: 1975 c. 430; 1977 c. 26, 29; 1977 c. 187 ss. 42, 43, 134, 135; 1977 c. 428 ss. 29 to 65, 115; 1977 c. 447, 449; Sup. Ct. Order, 83 Wis. 2d xiii; 1979 c. 32, 89; Sup. Ct. Order, eff. 1-1-80; 1979 c. 110 s. 60 (1); 1979 c. 175 s. 53; 1979 c. 300, 336, 356; 1981 c. 20, 367; 1981 c. 390 s. 252; 1983 a. 27, 219; 1983 a. 474 ss. 2 to 9m, 14; 1985 a. 29 ss. 1067 to 1071, 3200 (56), 3202 (56); 1985 a. 139, 176, 321, 332; 1987 a. 27; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 366, 394, 403; 1989 a. 31, 334; 1993 a. 98, 196, 227, 316, 451, 474; 1995 a. 77, 201, 268, 292, 440; Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 35, 130, 237, 283; 1999 a. 83, 89, 162; 2001 a. 16 ss. 1966i to 1966n, 4034ze to 4034zh; 2001 a. 38, 61, 109; 2003 a. 33, 50.

INSERT 38-2

SECTION 15. 51.35 (4m) (intro.) of the statutes is amended to read:

51.35 (4m) TRANSFER OR DISCHARGE OF PERSONS WITH CHRONIC SEVERE AND PERSISTENT MENTAL ILLNESS. (intro.) The department or county department under s. 51.42 or any person authorized to discharge or transfer patients under this section shall, prior to the discharge of a patient with chronic severe and persistent mental illness from an inpatient facility, or prior to the transfer of a patient with chronic severe and persistent mental illness from inpatient to outpatient status, with the patient's permission if the patient is a voluntary patient, do all of the following:

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.

INSERT 40-15

SECTION 16. 51.40 (2) (b) 2. (intro.) of the statutes is renumbered 51.40 (2) (b) 2m. ag. and amended to read:

51.40 (2) (b) 2m. ag. ~~‘Individuals in nursing homes.’~~ An individual in a nursing home who was admitted to the nursing home on or after August 1, 1987, is a resident of the county ~~which~~ that approved the admission under s. 50.04 (2r).

am. An individual in a nursing home on August 1, 1987, is presumed to be a resident of the county in which the individual is physically present unless another county accepts the individual as a resident. ~~The presumption of residence may be overcome by substantial evidence which clearly establishes residence in another county in one of the following ways:~~

INSERT 40-17

History: 1987 a. 27; 1989 a. 31, 359; 1995 a. 27 s. 9126 (19).

SECTION 17. 51.40 (2) (b) 2m. (intro.) of the statutes is created to read:

51.40 (2) (b) 2m. ‘Individuals in nursing homes.’ The following presumptions regarding the residence of an individual in a nursing home may be overcome by substantial evidence that clearly establishes residence in another county:

INSERT 42-23

SECTION 18. 51.421 (1) of the statutes is amended to read:

51.421 (1) PURPOSE. In order to provide the least restrictive and most appropriate care and treatment for persons with ~~chronic~~ chronic severe and persistent mental illness, community support programs should be available in all parts of the state. In order to integrate community support programs with other long-term care programs, community support programs shall be coordinated, to the greatest extent possible, with the community options program under s. 46.27, with the protective services system in a county, with the medical assistance program under subch. IV of ch. 49 and with other care and treatment programs for persons with ~~chronic~~ chronic severe and persistent mental illness.

History: 1983 a. 441; 1985 a. 120, 176; 1987 a. 27, 368; 1989 a. 31; 1993 a. 16; 1995 a. 27; 1997 a. 237; 2001 a. 16.

SECTION 19. 51.421 (2) of the statutes is amended to read:

51.421 (2) SERVICES. If funds are provided, and within the limits of the availability of funds provided under s. 51.423 (2), each county department under s. 51.42 shall establish a community support program. Each community support program shall use a coordinated case management system and shall provide or assure access to services for persons with ~~chronic~~ chronic severe and persistent mental illness who reside within the community. Services provided or coordinated through a community support program shall include assessment, diagnosis, identification of persons in need of services, case management, crisis intervention, psychiatric treatment including medication supervision, counseling and psychotherapy, activities of daily living, psychosocial rehabilitation which may include services provided by day treatment programs, client advocacy including assistance in applying for any financial support for which the client may be eligible, residential services and recreational activities. Services shall be provided to an individual based upon his or her treatment and psychosocial rehabilitation needs.

History: 1983 a. 441; 1985 a. 120, 176; 1987 a. 27, 368; 1989 a. 31; 1993 a. 16; 1995 a. 27; 1997 a. 237; 2001 a. 16.

SECTION 20. 51.421 (3) (c) of the statutes is amended to read:

51.421 (3) (c) Monitor the establishment and the continuing operation of community support programs and ensure that community support programs comply with the standards promulgated by rule. The department shall ensure that the persons monitoring community support programs to determine compliance with the standards are persons who are knowledgeable about treatment programs for persons with ~~chronic~~ chronic severe and persistent mental illness.

History: 1983 a. 441; 1985 a. 120, 176; 1987 a. 27, 368; 1989 a. 31; 1993 a. 16; 1995 a. 27; 1997 a. 237; 2001 a. 16.

SECTION 21. 51.67 (intro.) of the statutes is amended to read:

51.67 Alternate procedure; protective services. (intro.) If, after a hearing under s. 51.13 (4) or 51.20, the court finds that commitment under this chapter is not

warranted and that the subject individual is a fit subject for guardianship and protective placement or services, the court may, without further notice, appoint a temporary guardian for the subject individual and order temporary protective placement or services under ch. 55 for a period not to exceed 30 days. Temporary protective placement for an individual in a center for the developmentally disabled is subject to s. 51.06 (3). Any interested party may then file a petition for permanent guardianship or protective placement or services, including medication, under ch. 55. If the individual is in a treatment facility, the individual may remain in the facility during the period of temporary protective placement if no other appropriate facility is available. The court may order psychotropic medication as a temporary protective service under this section if it finds that there is probable cause to believe the individual is not competent to refuse psychotropic medication and that the medication ordered will have therapeutic value and will not unreasonably impair the ability of the individual to prepare for and participate in subsequent legal proceedings. An individual is not competent to refuse psychotropic medication if, because of ~~chronic~~ chronic severe and persistent mental illness, and after the advantages and disadvantages of and alternatives to accepting the particular psychotropic medication have been explained to the individual, one of the following is true:

History: 1975 c. 430; 1977 c. 187, 428; 1979 c. 89, 336; 1985 a. 29; 1987 a. 366; 1995 a. 268; 2003 a. 33.

SECTION 22. 51.67 (2) of the statutes is amended to read:

51.67 (2) The individual is substantially incapable of applying an understanding of the advantages, disadvantages and alternatives to his or her ~~chronic~~ chronic severe and persistent mental illness in order to make an informed choice as to whether to accept or refuse psychotropic medication.

History: 1975 c. 430; 1977 c. 187, 428; 1979 c. 89, 336; 1985 a. 29; 1987 a. 366; 1995 a. 268; 2003 a. 33.

INSERT 43-22

SECTION 23. 55.01 (2) of the statutes is amended to read:

55.01 (2) "Developmentally disabled person" means any individual having a disability attributable to mental retardation, cerebral palsy, epilepsy, autism or another neurological condition closely related to mental retardation or requiring treatment similar to that required for mentally retarded individuals, which has continued or can be expected to continue indefinitely, substantially impairs the individual from adequately providing for his or her own care or custody, and constitutes a substantial handicap to the afflicted individual. The term does not include a person affected by senility which is primarily caused by the process of aging or ~~the infirmities of aging~~ degenerative brain disorder.

History: 1973 c. 284; 1975 c. 393, 430; 1979 c. 221; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1991 a. 316; 1993 a. 445; 2003 a. 33.

INSERT 97-24

SECTION 24. 880.01 (2) of the statutes is amended to read:

880.01 (2) "Developmentally disabled person" means any individual having a disability attributable to mental retardation, cerebral palsy, epilepsy, autism or another neurological condition closely related to mental retardation or requiring treatment similar to that required for mentally retarded individuals, which has continued or can be expected to continue indefinitely, substantially impairs the individual from adequately providing for his or her own care or custody and constitutes a substantial handicap to the afflicted individual. The term does not include a person affected by senility which is primarily caused by the process of aging or ~~the infirmities of aging~~ degenerative brain disorder.

History: 1971 c. 41 s. 8; 1971 c. 228 s. 36; Stats. 1971 s. 880.01; 1973 c. 284; 1975 c. 430; 1981 c. 379; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1987 a. 366; 1993 a. 486; 1995 a. 268.

SECTION 25. 880.01 (4) of the statutes is amended to read:

880.01 (4) "Incompetent" means a person adjudged by a court of record to be substantially incapable of managing his or her property or caring for himself or herself by reason of ~~infirmities of aging~~ degenerative brain disorder, developmental disabilities, or other like incapacities. Physical disability without mental incapacity is not sufficient to establish incompetence.

History: 1971 c. 41 s. 8; 1971 c. 228 s. 36; Stats. 1971 s. 880.01; 1973 c. 284; 1975 c. 430; 1981 c. 379; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1987 a. 366; 1993 a. 486; 1995 a. 268.

SECTION 26. 880.01 (5) of the statutes is renumbered 880.01 (1t) and amended to read:

880.01 (1t) "~~Infirmities of aging~~ Degenerative brain disorder" means ~~organic brain damage caused by advanced age or other physical degeneration in connection therewith to the extent that the person so afflicted~~ the loss or dysfunction of brain cells to the extent that the individual is substantially impaired in his or her ability to ~~adequately provide~~ adequately for his or her own care or custody.

History: 1971 c. 41 s. 8; 1971 c. 228 s. 36; Stats. 1971 s. 880.01; 1973 c. 284; 1975 c. 430; 1981 c. 379; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1987 a. 366; 1993 a. 486; 1995 a. 268.

INSERT 103-22

SECTION 27. 940.285 (1) (a) of the statutes is renumbered 940.285 (1) (am).

SECTION 28. 940.285 (1) (b) of the statutes is renumbered 940.285 (1) (ag) and amended to read:

940.285 (1) (ag) "~~Infirmities of aging~~ "Degenerative brain disorder" has the meaning ~~specified in s. 55.01 (3)~~ given in s. 55.01 (1v).

History: 1985 a. 306; 1993 a. 445; 1997 a. 180; 2001 a. 109.

SECTION 29. 940.285 (1) (e) (intro.) of the statutes is amended to read:

940.285 (1) (e) (intro.) "Vulnerable adult" means any person 18 years of age or older who either is a developmentally disabled person or has ~~infirmities of aging~~ degenerative brain disorder, mental illness or other like incapacities and who is:

History: 1985 a. 306; 1993 a. 445; 1997 a. 180; 2001 a. 109.

SECTION 30. 940.295 (1) (hm) of the statutes is renumbered 940.295 (1) (eg) and amended to read:

940.295 (1) (eg) "~~Infirmities of aging~~ Degenerative brain disorder" has the meaning given in s. 55.01 ~~(3)~~ (1v).

History: 1993 a. 445; 1995 a. 225; 1997 a. 180; 1999 a. 9; 2001 a. 57, 59, 109.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4212/P2dn
DAK....ch

To Laura Rose and Mary Matthias:

The following issues arose in the course of drafting this bill:

1. In ss. 46.27 (11) (b), 46.275 (4) (b) 1., 46.277 (2) (intro.), and 46.278 (2) (a), should a legal representative include the spouse of an emancipated minor.
2. In s. 49.00 (8) I used "or," instead of "and" as the conjunction, so as to avoid the inference that persons other than competents or incompetents must satisfy all three conditions.
3. In s. 50.01 (2) (ad), your NOTE indicates that the rules are to apply only to C-BRF's, nursing homes, and adult family homes, but using the words "each facility licensed under this subchapter," sweeps in residential care apartment complexes. Do you intend to do that? Do you want a nonstatutory provision that would require submittal of proposed rules to the Legislative Council staff by a specific date? (Otherwise, the rules may not be promulgated anytime soon.)
4. In s. 50.06 (2) (d), I added authorization to admit the incapacitated individual to the facility; otherwise, s. 50.06 (2) (intro.) would not permit it, because all conditions in s. 50.06 (2) (a) to (d) must be satisfied before admission is made.
5. Please note that I added and amended numerous statutes to account for the changed term "serious and persistent mental illness" and the renumbering of s. 51.01 (3g) to s. 51.01 (14t) and to account for the changed term "degenerative brain disorder", the creation of s. 55.01 (1v), and the repeal of s. 55.01 (3), stats.
6. In s. 51.20 (13) (g) 4., what kind of responsibility does the county department retain? Fiscal only? Physical?
7. The definition of "facility" in s. 51.40 (1) (em) refers to "any facility licensed or registered under ch. 50." That term includes nursing homes, community-based residential facilities, licensed adult family homes under s. 50.033, registered residential care apartment complexes under s. 50.034 (1) (b), home health agencies, rural medical centers, and hospices. Do you wish to exclude any of these? The term excludes certified adult family homes under s. 50.032, certified residential care apartment complexes under s. 50.034 (1) (a), and hospitals (which are issued certificates of approval under s. 50.35). Do you wish to include any of these? Note also that the term does *not* include psychiatric facilities, which are licensed under ch. 51.

8. The term "relative," as defined in s. 51.40, is not used in that section in current law or under the changes made by the bill; did you want it used instead of "immediate family" in s. 51.40 (2) (g) 1.? If not, the definition should be eliminated.

9. I realize that it's current law, but shouldn't the second sentence of s. 51.40 (2) (b) 2. (which your draft rennumbers s. 51.40 (2) (b) 2. b.) be *before* August 1, 1987, rather than *on* August 1, 1987, because of the wording of the previous sentence?

10. I eliminated s. 55.02 (1) (b) 2., as proposed; it's unnecessary, because ch. 227 independently grants agencies these powers, to provide authority for DHFS to promulgate rules.

11. Please see my changes to s. 55.03 (3), stats., as it's treated in the bill; so far as I could see, the only amendment to it was in the title, which should be separately created. Also, I know that it's current law, but how does this statute get administered if a child with developmental disability has a guardian who is not the child's parent?

12. Please check my changes to s. 55.055 (2) (c); is this what you intended? Note also that I numbered s. 55.055 (4) to be s. 55.055 (2) (d), because it seemed to be parallel to s. 55.055 (2) (c); please check my changes to this provision as well.

Matthias, Mary

From: Dianne Greenley [dianneg@w-c-a.org]
Sent: Monday, September 29, 2003 12:17 PM
To: Matthias, Mary
Subject: Re: ch. 55 drafting question

I looked at her questions and am not sure what to do - the standards for review under current law and under proposed 55.066 are somewhat different. Under 880.34(6)(f)1. court ordered meds may be continued if the court finds that the person would meet the standard under 880.07(lm)(c) if protective services, including medications, were withdrawn. Under proposed 55.066 the issue is whether the person continues to meet the standard under 55.06(9)(am)3. - this is different from the person meeting the standard if services were withdrawn. Thus, this may have to go to the committee - either we change 55.066 so it contains the withdrawal of treatment component, we change 880 so the people under court orders meet the new standard or we have two different standards - which seems pretty confusing. I'll also be very glad to revisions to 0217/1.

Dianne

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

From: Matthias, Mary <Mary.Matthias@legis.state.wi.us>
To: <dianneg@w-c-a.org>
Sent: Thursday, September 25, 2003 12:32 PM
Subject: FW: ch. 55 drafting question

> Dianne- FYI. Please let me know what you think about Deb's questions.

>
> Also, if you don't mind, I'd like to send you my revision of 0217/1 when
> it's ready (re: ct options after review of psych meds order) for your
> comments.

> thanks!

>
> Mary Matthias
> Senior Staff Attorney
> Legislative Council Staff
> ph.(608)266-0932;fax (608)266-3830
> mary.matthias@legis.state.wi.us

> > -----Original Message-----

> > From: Kennedy, Debora
> > Sent: Thursday, September 25, 2003 12:16 PM
> > To: Matthias, Mary
> > Subject: RE: ch. 55 drafting question

> > Mary--

> > Section 990.04, stats., applies to "rights of action" that accrue under

a
> > statute before it is repealed; I am not entirely sure if psych meds
> > orders

> > are "rights of action," so I think that what you need for the bill is a
> > "savings clause" in the nonstats that specifically addresses the statute
> > in question, such as:

> >
> > Nonstatutory provisions; transition. Notwithstanding the repeal of
> > section 880.33 (4r) of the statutes by this act, all orders issued under
> > section 880.33 (4r), 2001 statutes, remain in effect until modified or
> > terminated by court order under.....

> >
> > And here is a problem: do you want the standards under s. 880.33 (4r)
to

> > apply to modifications and terminations or the standards under s.
55.066?
> > That seems to me to be a policy decision that should be made. Also, if
> > you want s. 55.066 to apply, does s. 55.066 (presumably, in another
draft)
> > have provisions that permit modification or termination of orders? Will
> > s. 55.066 ultimately be in the same bill as a bill that is drafted to
> > include WLC 0125/4? Lastly, if you want s. 55.066 to apply it might
also
> > be helpful to add to it language that says review may be conducted of
> > orders initially issued under s. 880.33 (4r), 2001 stats.
> >
> > Hope this answers your question; if not, I'd be glad to meet with you or
> > with you and Dianne.
> >
> > Regards,
> >
> > Debora
> >
> >
> >
> > -----Original Message-----
> > From: Matthias, Mary
> > Sent: Thursday, September 25, 2003 9:24 AM
> > To: Kennedy, Debora
> > Subject: ch. 55 drafting question
> >
> > Hi Deb-
> >
> > I have a question about how to draft something for the ch. 55 Committee.
> > One of our drafts repeals s.880.33(4r), stats, which authorizes a court
> > to issue an order authorizing a guardian to consent to the involuntary
> > administration of psych meds to a ward. Our draft repeals that
provision
> > and replaces it with a new procedure (with different standards) in ch.
55,
> > for getting a psych meds order. My question is, what happens to the
> > people who are under psych meds orders under the existing stat. once we
> > repeal it? Dianne Greenley pointed out that we need something in our
> > draft stating that those orders are still valid- we don't want to
require
> > those people to go back into court to get a new order.
> >
> > Here is a link to the draft:
> >
> > http://www.legis.state.wi.us/lc/2002studies/CH55/0125_4.pdf
> >
> > I'm just not sure how to do that and I was wondering if you have an
> > example of language like that or any advice for me.
> >
> > thanks so much. If it would help for me (and/or Dianne) to come over to
> > discuss this, i'd be happy to arrange that.
> >
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