

PLAIN

1 55.055 (1) ~~A person~~ An individual who is legally and actually capable of  
 2 consenting may consent to enter a group home, foster home, community-based  
 3 residential facility, as defined under s. 50.01 (1g), adult family home, as defined in  
 4 s. 50.01 (1), or nursing home, as defined in s. 50.01 (3), without an order for protective  
 5 placement under s. ~~55.06~~ 55.12.

**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.


\*\*\*\*NOTE: Have I amended this subsection as you wish? Should "group home" and "foster home" be defined? This statute appears to be completely unnecessary; moreover, it is misleading, because an individual who is legally and actually capable of consenting may consent to enter *any* regulated residential, medical, or treatment facility, not just those specified. Should it be repealed?

6 **SECTION 71.** 55.05 (5) (b) 1. of the statutes is renumbered 55.055 (2) (a) and  
7 amended to read:

8 55.055 (2) (a) ~~Guardians of persons~~ The guardian of an individual who have  
 9 has been found incompetent under s. 880.33 may consent to the individual's  
 10 admission to a foster home, group home, or community-based residential facility, as  
 11 defined under s. 50.01 (1g), without a protective placement order under s. ~~55.06~~ 55.12  
 12 if the home or facility is licensed for fewer than 16 beds. Prior to providing that  
 13 consent, and annually thereafter, the guardian shall review the ward's right to the  
 14 least restrictive residential environment and may consent only to admission to a  
 15 home or facility that implements those rights that right.

**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.

**INSERT 39-4**

\*\*\*\*NOTE: Shouldn't the last two sentences of this paragraph refer to "admission," rather than "placement," as in ". . . the admission may be extended" and "Admission under this paragraph . . ."? 

**INSERT 39-13**

16 **SECTION 72.** 55.05 (5) (c) 1. of the statutes is renumbered 55.055 (5) (a) and  
17 amended to read:

1 55.055 (5) (a) Determine whether the protest persists or has been voluntarily  
2 withdrawn and consult with the person's individual's guardian regarding the  
3 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.

**INSERT 40-3**

\*\*\*\*NOTE: What does the term "facility" mean under this renumbered subsection?  
Please also seem my \*\*\*\*NOTE under s. 55.055 (3). ✓

**INSERT 40-11**

4 (a) In this subsection, "facility" means any of the following:

- 5 1. A group home.
- 6 2. A foster home. ✓
- 7 3. A community-based residential facility, as defined in s. 50.01 (1g).
- 8 4. An adult family home, as defined in s. 50.01 (1). ✓
- 9 5. A nursing home, as defined in s. 50.01 (3). ✓

10 (b)

**INSERT 40-17**

\*\*\*\*NOTE: Because the word "facility" is not defined, I have specified that this subsection applies to foster homes, group homes, community-based residential facilities, adult family homes, and nursing homes. Is that your intent? ✓

**INSERT 41-18**

11 **SECTION 73.** 55.06 (title) of the statutes is amended to read:

12 **55.06 (title) Protective services and protective placement; eligibility.**

**History:** 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

13 **SECTION 74.** 55.06 (1) (intro.) of the statutes is renumbered 55.06 and amended

14 to read:

15 **55.06** ~~A protective placement under this section is a placement of a ward for~~  
16 ~~the primary purpose of providing care and custody.~~ To be eligible for protective  
17 placement or court-ordered protective services, an individual shall be a resident of  
18 the state, or shall be present in the state and have a need for protective placement

Protective

protective

under

only

only

1 or services ~~until such time as appropriate protective services are established in the~~  
 2 ~~individual's place of residence.~~ The individual shall have attained the age of 18, but  
 3 an individual who is alleged to be developmentally disabled may receive protective  
 4 placement or protective services upon attaining the age of 14. No protective  
 5 placement under this section or protective services may be ordered unless under this  
 6 chapter there is a determination of incompetency ~~except~~ for an individual who is  
 7 determined to be incompetent in accordance with ch. 880, ~~except in the case of or for~~  
 8 a minor who is alleged to be developmentally disabled, ~~and for whom~~ there is a  
 9 finding of a need for protective placement in accordance with sub. (2) except as  
 10 provided in subs. (11) and (12) s. 55.12, and for whom ss. 55.055 (7), 55.13, and 55.135  
 11 are inappropriate or do not apply. A procedure for adult protective placement or  
 12 court-ordered protective services may be initiated 6 months prior to an individual's  
 13 birthday at which he or she first becomes eligible for placement before a minor  
 14 attains age 18.

RESTORE TO PLAIN

or  
omit  
DAK

**History:** 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

\*\*\*\*NOTE: Please check this section carefully; the third sentence is drafted to avoid an exception within an exception. The last sentence only makes sense if "adult" protective placement or protective services is retained; does my amendment capture your intent, or is the sentence to apply to 14-year-olds? If the latter is the case, "adult" should be stricken.

I eliminated the "until" phrase in the first sentence because it implies one is no longer eligible when services are provided; and

, but the problem is that I don't know what "adult" protective placement or protective services means

entire

file a

15 **SECTION 75.** 55.06 (1) (a) of the statutes is renumbered 55.075 (1) ~~(a)~~ and  
 16 amended to read:  
 17 55.075 (1) ~~(a)~~ The board designated under s. 55.02 department, the county  
 18 department or an agency designated by it with which ~~the county department~~  
 19 contracts, a guardian, or an interested person may petition for appointment of a  
 20 guardian and for protective services or protective placement for an individual. The  
 21 department shall provide for a schedule of reimbursement for the cost of such the

under s. 55.02 (2)

1 proceedings based upon the ability to pay of the proposed ward or ~~person~~ individual  
2 to be protected.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

3 **SECTION 76.** 55.06 (1) (b) of the statutes is renumbered 55.075 (4) (b) and  
4 amended to read:

5 55.075 (4) (b) If a person seeking to be the guardian of a proposed ward requests  
6 the assistance of a ~~board designated under s. 55.02~~ county department or an agency  
7 ~~designated by it with which a county department contracts~~ in petitioning for  
8 guardianship or for protective ~~service or placement, such~~ services or protective  
9 placement, the assistance may be considered a service and may be charged for based  
10 upon the ability of ~~such~~ the person to pay for the service.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

INSERT  
36A

11 **SECTION 77.** 55.06 (1) (c) of the statutes is renumbered 55.02 (3) and amended  
12 to read:

13 55.02 (3) CORPORATION COUNSEL. ~~If requested by the court, the~~ The corporation  
14 counsel of the county in which the petition is brought may or, if requested by the  
15 court, shall assist in conducting proceedings under this chapter.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

\*\*\*\*NOTE: Is my amendment concerning the county of the corporation counsel correct?

16 **SECTION 78.** 55.06 (1) (d) of the statutes is renumbered 55.03 (4) ~~55.075 (1) (b)~~ and  
17 amended to read:

18 ~~55.075 (1) (b)~~ No guardian or temporary guardian may make a permanent  
19 protective placement of his or her ward unless ordered by a court under ~~this section~~

55.03 (4) GUARDIAN AUTHORITY FOR MAKING PROTECTIVE PLACEMENT.

a guardian or temporary guardian

1 s. 55.12 but may admit a ward to certain residential facilities under s. 55.05 (5)  
2 55.055 or make an emergency protective placement under s. 55.06 (11) 55.135.

INSERT  
37A

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

3 SECTION 79. 55.06 (2) (intro.) of the statutes is repealed.

4 SECTION 80. 55.06 (2) (a) of the statutes is renumbered 55.08 (1) (a).

5 SECTION 81. 55.06 (2) (b) of the statutes is renumbered 55.08 (1) (b).

INSERT  
37B

6 SECTION 82. 55.06 (2) (c) of the statutes is renumbered 55.08 (1) (c) and  
7 amended to read:

the individual

8 55.08 (1) (c) As a result of developmental disabilities, ~~infirmities of aging,~~  
9 ~~chronic degenerative brain disorder, serious and persistent mental illness,~~ or other  
10 like incapacities, is so totally incapable of providing for his or her own care or custody  
11 as to create a substantial risk of serious harm to ~~oneself~~ himself, herself, or others.  
12 Serious harm may be ~~occasioned~~ evidenced by overt acts or acts of omission; ~~and~~.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

13 SECTION 83. 55.06 (2) (d) of the statutes is renumbered 55.08 (1) (d) and  
14 amended to read:

The individual has

allege that the individual meets the standards specified in s. 55.08 (1) or (2) and

15 55.08 (1) (d) ~~Has~~ a disability which that is permanent or likely to be permanent.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

16 SECTION 84. 55.06 (3) (a) of the statutes is renumbered 55.075 (2) (a) and  
17 amended to read: A

Petitioner under sub. (1)

18 55.075 (2) (a) ~~The~~ petition shall state with particularity the factual basis for  
19 the allegations specified in sub. (2) ~~s. 55.08 (1) or (2)~~.

restore to plain text

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

20 SECTION 85. 55.06 (3) (b) of the statutes is renumbered 55.075 (2) (b) and  
21 amended to read:

1 55.075 (2) (b) The petition ~~under sub. (2)~~ shall be based on personal knowledge  
2 of the individual alleged to need protective placement or protective services.

**History:** 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

3 **SECTION 86.** 55.06 (3) (c) of the statutes is renumbered 55.075 (5) (a) and  
4 amended to read:

5 55.075 (5) (a) The petition shall be filed in the county of residence of the person  
6 individual to be protected, except that the petition may be filed in the county in which  
7 the individual is physically present if extraordinary circumstances necessitate the  
8 prevention of harm to the individual or others or require medical care for the  
9 individual in that county. *keep plain period*

**History:** 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

\*\*\*\*NOTE: Please review this paragraph carefully; I'm not sure what you intended

here. *There is no definition of "county of residence" so the statute is unclear. Please see my Drafter's Note with respect to this paragraph.*

10 **SECTION 87.** 55.06 (4) of the statutes is renumbered 55.075 (3) and amended  
11 to read:

12 55.075 (3) A petition for guardianship if required submitted under sub. (2) (b)  
13 must the criteria specified in s. 55.08 (1) (b) or (2) (a) shall be heard prior to ordering  
14 protective placement under this section or protective services. If incompetency has  
15 been the individual is determined incompetent under s. 880.33 more than one year  
16 preceding 12 months before the filing of an application for protective placement or  
17 protective services is filed on his or her behalf, the court shall review the finding of  
18 incompetency.

**History:** 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

\*\*\*\*NOTE: Please review my change of the word "required" in this subsection; nowhere is a petition *required* to be brought. Secondly, please note that under the cross-references made under this subsection, s. 55.08 (1) (b) concerns an adult adjudicated incompetent or a minor for whom a guardianship petition is brought, *except* a developmentally disabled minor; and s. 55.08 (2) (a) concerns an adult adjudicated

or protective services

incompetent and *only* a minor for whom a guardianship petition is brought and who is developmentally disabled. Do these meet your intent? ✓

1 SECTION 88. 55.06 (5) of the statutes, ~~as affected by 2008 Wisconsin Act~~ is (CS)  
2 renumbered 55.09 (1) and amended to read: Individual

3 55.09 (1) ~~PERSON SOUGHT TO BE PROTECTED~~ Notice of a petition for protective  
4 placement shall be served upon the ~~person~~ individual sought to be placed ~~protected~~, (CS)

5 by personal service, at least 10 days ~~prior to~~ before the time set for a hearing. Upon  
6 service of the notice, the person sought to be protected shall be informed of the

7 complete contents of the notice. The person serving the notice shall inform the

8 individual sought to be protected of the complete contents of the notice and shall

9 return a certificate to the circuit judge verifying that the petition has been delivered

10 and notice given. The notice shall include the names of all petitioners. ~~Notice shall~~

11 ~~also be served personally or by mail upon the person's guardian ad litem, legal~~

12 ~~counsel, guardian, if any, presumptive adult heirs, and upon other persons who have~~

13 ~~physical custody of the person to be protected whose names and addresses are known~~

14 ~~to the petitioner or can with reasonable diligence be ascertained, to any~~

15 ~~governmental or private body or group from whom the person to be protected is~~

16 ~~known to be receiving aid, and to such other persons or entities as the court may~~

17 ~~require. Notice shall also be served personally or by mail upon the department at~~

18 ~~least 10 days prior to the time set for hearing if the person sought to be protected may~~

19 ~~be placed in a center for the developmentally disabled. Notice shall also be served~~

20 ~~personally or by mail, at least 10 days before the time set for hearing, upon the county~~

21 ~~department that is participating in the program under s. 46.278 of the county of~~

22 ~~residence of the person sought to be protected, if the person has a developmental~~

23 ~~disability and may be placed in an intermediate facility or a nursing facility, except~~

NOTICE TO INDIVIDUAL

score

1 that, for a person sought to be protected to whom s. 46.279 (4m) applies, this notice  
 2 shall instead be served on the department. The incompetent or proposed  
 3 incompetent is presumed able to attend the hearing unless, after a personal  
 4 interview, the guardian ad litem certifies to the court that the person is unable to  
 5 attend.

NOTE: NOTE: Sub. (5) is shown as amended eff. 1-1-05 by 2003 Wis. Act 33. Prior to 1-1-05 it reads:NOTE:

6 (5) Notice of a petition for placement shall be served upon the person sought to be placed by personal service at least 10 days prior to the time set for a hearing. Upon service of the notice the person sought to be protected shall be informed of the complete contents of the notice. The person serving the notice shall return a certificate to the circuit judge verifying that the petition has been delivered and notice given. The notice shall include the names of all petitioners. Notice shall also be served personally or by mail upon the person's guardian ad litem, legal counsel, guardian, if any, presumptive adult heirs, and upon other persons who have physical custody of the person to be protected whose names and addresses are known to the petitioner or can with reasonable diligence be ascertained, to any governmental or private body or group from whom the person to be protected is known to be receiving aid and to such other persons or entities as the court may require. Notice shall also be served personally or by mail upon the department at least 10 days prior to the time set for hearing if the person sought to be protected may be placed in a center for the developmentally disabled. The department shall be allowed to submit oral or written testimony regarding such a placement at the hearing. The incompetent or proposed incompetent is presumed able to attend the hearing unless, after a personal interview, the guardian ad litem certifies to the court that the person is unable to attend.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33, 326.

16 SECTION 89. 55.06 (5m) of the statutes is renumbered 55.10 (1) and amended

17 to read: ✓

18 55.10 (1) TIME LIMITS. A petition for protective placement of a person who has  
 19 been admitted to a nursing home or a community-based residential facility under  
 20 s. 50.06 or protective services shall be heard within 60 days after it is filed unless an  
 21 extension of this time is requested by the petitioner, the individual sought to be  
 22 protected or the individual's guardian ad litem, or the county department, in which  
 23 case the court may extend the date for hearing by up to 45 days. If an individual a  
 24 person under s. 50.06 (3) alleges that an individual another person is making a  
 25 health care decision under s. 50.06 (5) (a) that is not in the best interests of the  
 26 incapacitated individual or if the incapacitated individual verbally objects to or  
 27 otherwise actively protests the admission, the petition shall be heard as soon as  
 28 possible within the 60-day period.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.



1           **SECTION 90.** 55.06 (6) of the statutes is renumbered 55.10 (4) (b) and amended  
2 to read:

3           55.10 (4) (b) Guardian ad litem; costs. ~~Section 880.33 (2) applies to all hearings~~  
4 ~~under this chapter except for transfers of placement under sub. (9) (b), (c) and (e).~~  
5 ~~A person to be protected shall have a~~ The court shall in all cases require the  
6 appointment of an attorney as guardian ad litem who is an attorney appointed in  
7 accordance with s. 757.48 (1) present at all hearings under this chapter if the person  
8 does not have full legal counsel . The responsibilities and duties of a guardian ad  
9 litem on behalf of a proposed ward or individual who is alleged incompetent specified  
10 in s. 880.331 (4) apply to a guardian ad litem appointed in a proceeding for protective  
11 services or protective placement on behalf of an individual sought to be protected.  
12 The guardian ad litem shall be present at all hearings under this chapter if the  
13 individual sought to be protected does not have full legal counsel. The court may,  
14 however, excuse a personal appearance by a guardian ad litem based on information  
15 contained in a written report by the guardian ad litem to the court. If the person  
16 individual sought to be protected is an adult who is indigent, the county of legal  
17 settlement shall be liable for any fees due the guardian ad litem fees. If the person  
18 individual sought to be protected is a child, the person's minor, the minor's parents  
19 or the county of legal settlement in which the hearing is held shall be liable for any  
20 fees due the guardian ad litem fees as provided in s. 48.235 (8). ~~The subject~~  
21 ~~individual, attorney or guardian ad litem shall have the right to present and~~  
22 ~~cross-examine witnesses, including any person making an evaluation or review~~  
23 ~~under sub. (8) (e).~~

**History:** 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

standards

LPS: please fix quotation mark

\*\*\*\*NOTE: Because the wording of s. 55.06 (1), as affected by this draft, seems to assume that a determination of incompetency under ch. 880 has already been made (No protective placement or protective services may be ordered in this chapter except for an individual who is determined to be incompetent under ch. 880 . . .), I believe it's unnecessary and confusing for ss. 880.331 (4) (a), (b), (d), and (e) to be amended to include reference to an individual who is subject to a petition for protective placement or protective services. I have amended this paragraph to clarify that the duties under s. 880.331 (4) apply. Please review.

1 SECTION 91. 55.06 (7) of the statutes is renumbered 55.10 (4) (d) and amended

2 to read:

because he or she meets all of the criteria ~~under~~ under

is in need of

3 55.10 (4) (d) Standard of proof. Except for emergency placement or temporary  
4 placement under subs. (11) and (12), before Before protective placement or protective  
5 services may be ordered under this chapter s. 55.12, the court or jury must find by  
6 clear and convincing evidence that the individual to be placed protected is in need  
7 of protective placement as provided in sub. (2) s. 55.08 (1) or protective services as

8 provided in s. 55.08 (2).

because he or she meets all of the criteria ~~under~~ under

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

9 SECTION 92. 55.06 (8) (intro.) of the statutes, as affected by 2003 Wisconsin Act

10 33, is renumbered 55.11 (1) (intro.) and amended to read:

11 55.11 (1) (intro.) Before ordering the protective placement of or protective  
12 services for any individual, the court shall direct require a comprehensive evaluation  
13 of the ~~person in need of placement~~ individual sought to be protected, if such an  
14 evaluation has not already been made. The court may utilize available  
15 multidisciplinary resources in the community in determining the need for protective  
16 placement or protective services. The ~~board designated under s. 55.02 or an agency~~  
17 designated by it county department or an agency with which it contracts shall  
18 cooperate with the court in securing available resources. ~~Where applicable by reason~~  
19 ~~of the particular disability, the appropriate board designated under s. 55.02 or an~~  
20 ~~agency designated by it having responsibility for the place of legal residence of the~~

under s. 55.02(2)

1 individual as provided in s. 49.001 (6) shall make a recommendation for placement.  
 2 If the court is considering placement of the individual in a center for the  
 3 developmentally disabled, the court shall request a statement or testimony from the  
 4 department regarding whether the placement is appropriate for the person's needs  
 5 and whether it is consistent with the purpose of the center under s. 51.06 (1). If the  
 6 individual has a developmental disability and the court is considering placement of  
 7 the individual in an intermediate facility or a nursing facility, the court shall request  
 8 a statement or testimony from the county department of the individual's county of  
 9 residence that is participating in the program under s. 46.278 as to whether the  
 10 individual's needs could be met in a noninstitutional setting, except that, if s. 46.279  
 11 (4m) applies to the individual, the court shall request the statement or testimony  
 12 from the department, rather than the county department. A copy of the  
 13 comprehensive evaluation shall be provided to the guardian, the guardian ad litem,  
 14 and to the individual or attorney at least 96 hours in advance of the hearing to  
 15 determine placement. The court or the cooperating agency obtaining the evaluation  
 16 shall request appropriate information which shall include at least the following:

NOTE: NOTE: Sub. (8)(intro.) is shown as amended eff. 1-1-05 by 2003 Wis. Act 33. Prior to 1-1-05 it reads:NOTE:

17 (8) Before ordering the protective placement of any individual, the court shall direct a comprehensive evaluation of the person in need of placement, if such an  
 18 evaluation has not already been made. The court may utilize available multidisciplinary resources in the community in determining the need for placement. The board  
 19 designated under s. 55.02 or an agency designated by it shall cooperate with the court in securing available resources. Where applicable by reason of the particular  
 20 disability, the appropriate board designated under s. 55.02 or an agency designated by it having responsibility for the place of legal residence of the individual as provided  
 21 in s. 49.001 (6) shall make a recommendation for placement. If the court is considering placement of the individual in a center for the developmentally disabled, the  
 22 court shall request a statement from the department regarding whether the placement is appropriate for the person's needs and whether it is consistent with the purpose  
 23 of the center under s. 51.06 (1) unless testimony was provided by the department under sub. (5). A copy of the comprehensive evaluation shall be provided to the  
 24 guardian, the guardian ad litem, and to the individual or attorney at least 96 hours in advance of the hearing to determine placement. The court or the cooperating  
 25 agency obtaining the evaluation shall request appropriate information which shall include at least the following:

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979  
 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366;  
 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

26 SECTION 93. 55.06 (8) (a) of the statutes is renumbered 55.11 (1) (a) and

27 amended to read:

1 55.11 (1) (a) The address of the place where the ~~person~~ individual is residing  
2 and the person or agency who is providing services at present, if any.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

3 **SECTION 94.** 55.06 (8) (b) of the statutes is renumbered 55.11 (1) (b) and  
4 amended to read:

5 55.11 (1) (b) A resume of any professional treatment and services provided to  
6 the ~~person~~ individual by the department or agency, ~~if any~~, in connection with the  
7 problem creating the need for protective placement or protective services.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

8 **SECTION 95.** 55.06 (8) (c) of the statutes is renumbered 55.11 (1) (c) and  
9 amended to read:

10 55.11 (1) (c) A medical, psychological, social, vocational, and educational  
11 evaluation and review, ~~where~~ if necessary, and any recommendations for or against  
12 maintenance of partial legal rights as provided in s. 880.33. ~~Such~~ The evaluation and  
13 review shall include recommendations for placement that are consistent with the  
14 least restrictive environment required.

*requirements of s. 55.12 (3), (4), and (5)*

*the individual's*

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

INSERT 44 A

15 **SECTION 96.** 55.06 (9) (a) of the statutes, as affected by 2003 Wisconsin Act 33,  
16 is renumbered 55.12 (1) and amended to read:

17 55.12 (1) ~~The court may order protective services under s. 55.05 (2) (d) as an~~  
18 ~~alternative to placement.~~ When ordering protective placement or protective  
19 services, the court, on the basis of the evaluation and other relevant evidence, shall  
20 order the ~~appropriate board specified under s. 55.02~~ or an agency designated by it  
21 ~~county department or agency with which the county department contracts~~ to  
22 ~~protectively place~~ or provide protective services to the individual.

*under the standards specified in s. 55.08(2)*

*protective placement or*

*County department or agency with which it contracts under 55.02(2) to*

*under the standards specified in s. 55.08(2)*

*marked material from top of next page goes here*

move to bottom of previous page as indicated

under s. 55.02 (2)

1           (3) ~~Placement by the appropriate board or designated agency is~~ Protective  
 2 placement or protective services provided by a county department or an agency with  
 3 which it contracts are subject to s. 46.279 and shall be ~~made~~ provided in the least  
 4 restrictive environment, and in the least restrictive manner ← score consistent with the needs of the ~~person~~ individual to be  
 5 placed protected and with the ~~placement~~ resources of the ~~appropriate board~~ specified  
 6 under s. 55.02 county department.

INSERT 45A

that a county department shall consider

7           (4) Factors ~~to be considered~~ in ~~making~~ providing protective placement or  
 8 protective services shall include the needs of the ~~person~~ individual to be protected  
 9 for health, social, or rehabilitative services; the level of supervision needed; the  
 10 reasonableness of the placement or services given the cost and the actual benefits in  
 11 the level of functioning to be realized by the individual; the limits of available state  
 12 and federal funds and of county funds required to be appropriated to match state  
 13 funds; and the reasonableness of the protective placement or protective services  
 14 given the number or projected number of individuals who will need protective  
 15 placement or protective services and given the limited funds available.

INSERT 45B

16           (5) Except as provided in s. 49.45 (30m), the county may not be required to  
 17 provide funding, in addition to its funds that are required to be appropriated to  
 18 match state funds, in order to ~~protectively place or protectively serve~~ an individual.  
 19 ~~Placement~~ Protective placement under this section does not replace commitment of  
 20 a ~~person~~ an individual in need of acute psychiatric treatment under s. 51.20 or 51.45  
 21 (13).

provide protective placement or protective services to

22           (2) Subject to s. 46.279, protective placement may be made to ~~such facilities as~~  
 23 nursing homes, public medical institutions, centers for the developmentally disabled  
 24 under the requirements of s. 51.06 (3), foster care services ~~and~~ or other home  
 25 placements, or to other appropriate facilities, but may not be made to units for the

1 acutely mentally ill. An individual who is subject to an order for protective  
 2 placement or protective services may be detained on an emergency basis under s.  
 3 51.15 or involuntarily committed under s. 51.20 or may be voluntarily admitted to  
 4 a treatment facility for inpatient care under s. 51.10 (8). No individual who is subject  
 5 to an order for protective placement or services may be involuntarily transferred to,  
 6 detained in, or committed to a psychiatric facility for care except under s. 51.15 or  
 7 51.20. Protective placement in a locked unit shall require a specific finding of the  
 8 court as to the need for the action.

\*\*\*\*NOTE: In the third sentence, I <sup>we</sup> have changed the term "psychiatric facility" (which is not defined) to "treatment facility" (which is defined). Does this meet your intent?

9 (6) If the ~~appropriate board or designated county department or agency~~ <sup>it</sup> with  
 10 which ~~the county department~~ contracts proposes to ~~protectively~~ <sup>provide protective placement to</sup> place an individual  
 11 who has a developmental disability in an intermediate facility or a nursing facility  
 12 under an order under this paragraph section, the county department, or, if s. 46.279 <sup>or agency</sup>  
 13 (4m) applies to the individual, the department or the department's contractor shall  
 14 develop a plan under s. 46.279 (4) and furnish the plan to the ~~board~~ county  
 15 department or agency with which ~~the county department~~ contracts and to the  
 16 individual's guardian. The ~~board~~ county department or agency with which ~~the~~  
 17 ~~county department~~ <sup>it</sup> contracts shall ~~protectively~~ place the individual in a  
 18 noninstitutional community setting in accord with the plan unless the court finds  
 19 that protective placement in the intermediate facility or nursing facility is the most  
 20 integrated setting, as defined in s. 46.279 (1) (bm), that is appropriate to the needs  
 21 of the individual, taking into account information presented by all affected parties.  
 22 ~~The prohibition of placements in units for the acutely mentally ill does not prevent~~  
 23 ~~placement by a court for short-term diagnostic procedures under par. (d). Placement~~

*Is it appropriate, in the first sentence, to refer to the agency with which the county department contracts as developing a plan (4); or should the county department do that?*

1 in a locked unit shall require a specific finding of the court as to the need for such  
2 action. A placement facility may transfer a patient from a locked unit to a less  
3 restrictive environment without court approval.

NOTE: NOTE: Par. (a) is shown as amended eff. 1-1-05 by 2003 Wis. Act 33. Prior to 1-1-05 it reads:NOTE:

(a) The court may order protective services under s. 55.05 (2) (d) as an alternative to placement. When ordering placement, the court, on the basis of the evaluation and other relevant evidence shall order the appropriate board specified under s. 55.02 or an agency designated by it to protectively place the individual. Placement by the appropriate board or designated agency shall be made in the least restrictive environment consistent with the needs of the person to be placed and with the placement resources of the appropriate board specified under s. 55.02. Factors to be considered in making protective placement shall include the needs of the person to be protected for health, social or rehabilitative services; the level of supervision needed; the reasonableness of the placement given the cost and the actual benefits in the level of functioning to be realized by the individual; the limits of available state and federal funds and of county funds required to be appropriated to match state funds; and the reasonableness of the placement given the number or projected number of individuals who will need protective placement and given the limited funds available. The county may not be required to provide funding, in addition to its funds that are required to be appropriated to match state funds, in order to protectively place an individual. Placement under this section does not replace commitment of a person in need of acute psychiatric treatment under s. 51.20 or 51.28 (13). Placement may be made to such facilities as nursing homes, public medical institutions, centers for the developmentally disabled under the requirements of s. 51.06 (3), foster care services and other home placements, or to other appropriate facilities but may not be made to units for the acutely mentally ill. The prohibition of placements in units for the acutely mentally ill does not prevent placement by a court for short-term diagnostic procedures under par. (d). Placement in a locked unit shall require a specific finding of the court as to the need for such action. A placement facility may transfer a patient from a locked unit to a less restrictive environment without court approval.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

\*\*\*\*NOTE: Was the repeal of the last sentence in sub. (6) intentional?

17 SECTION 97. 55.06 (9) (b) of the statutes, as affected by 2003 Wisconsin Act 33,  
18 is repealed.

19 SECTION 98. 55.06 (9) (c) of the statutes, as affected by 2003 Wisconsin Act 33,  
20 is repealed.

21 SECTION 99. 55.06 (9) (d) of the statutes is repealed.

22 SECTION 100. 55.06 (9) (e) of the statutes is repealed.

23 SECTION 101. 55.06 (10) (a) 1. of the statutes, as affected by 2003 Wisconsin Act  
24 33, is renumbered 55.18 (1) (a) (intro.) and amended to read:

25 55.18 (1) (a) (intro.) The county department or any agency which is responsible  
26 for a protective placement of the individual's county of residence shall, except as  
27 provided in ~~parts (b) and (bm)~~ <sup>and sub. (1m)</sup>, annually review the status of each person placed at  
28 least once every 12 months from the date of admission. The court in its order of  
29 placement may, however, require that such review be conducted more frequently  
30 individual who has been ~~protectively placed~~. The review shall include in writing an  
31 a written evaluation of the physical, mental and social condition of each such person,  
32 and the individual and the service needs of the individual. The review shall be made

*provided protective placement*

*a visit to the individual and*



1 a part of the permanent record of such person. ~~The review shall include~~  
 2 ~~recommendations for discharge or placement in services which place less restrictions~~  
 3 ~~on personal freedom, where appropriate. The results of the review shall be furnished~~  
 4 ~~to the department in such form as the department may require and shall be~~  
 5 ~~furnished to the court that ordered the placement and to the person's guardian. the~~  
 6 individual. The county department shall inform the guardian of the individual of the  
 7 review at the time the review is made and shall, before completing a report of the  
 8 review, invite the individual and the guardian to submit comments or information  
 9 concerning the individual's need for protective placement or protective services. Not  
 10 later than the first day of the 11th month after the initial order is made for protective  
 11 placement for an individual and, except as provided in par. (b), annually thereafter,  
 12 the county department shall: *do all of the following*

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

INSERT  
48A

**INSERT 41-20**

\*\*\*NOTE: I cannot ascertain what your intent is with regard to s. 55.06 (10) (a) 2. and consequently have not changed it. No s. 55.065 is created in the proposal. Note that there are cross-references to s. 55.06 (10) (a) 2. in ss. 46.279 (2) and (4) (d) and 49.45 (30m) (c) 2., stats., that must be changed.

13 **SECTION 102.** 55.06 (10) (b) of the statutes is renumbered 55.17 (1) and  
 14 amended to read:

15 55.17 (1) PETITION. ~~The~~ An individual, the individual's guardian or guardian  
 16 ad litem, the department, an agency, a guardian or a ward a county department or  
 17 agency with which ~~the county department~~ contracts, or any other interested person  
 18 may file a petition at any time ~~petition the court for modification or for~~ termination  
 19 of a ~~an~~ order for protective placement or protective services. <sup>score</sup> A The petition shall be  
 20 served on the individual; the individual's guardian; the individual's attorney and  
 21 guardian ad litem, if any; and the county department. The petition to terminate a

*A* ← strike



1 protective placement shall allege that the conditions which warranted placement as  
 2 specified in sub. (2) are no longer present. A petition shall be heard if a hearing has  
 3 not been held within the previous 6 months but a hearing may be held at any time  
 4 in the discretion of the court. The petition shall be heard within 21 days of its receipt  
 5 by the court protective placement or court-ordered protective services order shall be  
 6 terminated because the individual no longer meets the standards under s. 55.08 (1)  
 7 for protective placement or under s. 55.08 (2) for court-ordered protective services.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (9); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

8 **SECTION 103.** 55.06 (10) (c) of the statutes is repealed.

9 **SECTION 104.** 55.06 (11) (a) of the statutes is renumbered 55.135 (1) and

10 amended to read:

11 55.135 (1) If, from personal observation of, or a reliable report made to, a

12 sheriff, police officer, fire fighter, guardian, if any, or authorized representative of a

13 board designated under s. 55.02 or an agency designated by it county department or

14 an agency with which a county department contracts, it appears probable that an

15 individual will suffer irreparable injury or death or will present is so totally

16 incapable of providing for his or her own care or custody as to create a substantial

17 risk of serious physical harm to himself or herself or others as a result of

18 developmental disabilities, infirmities of aging, chronic degenerative brain disorder,

19 serious and persistent mental illness, or other like incapacities if not immediately

20 placed, the person making the observation or to whom the report is made may take

21 into custody and transport the individual to an appropriate medical or protective

22 placement facility. The person making emergency protective placement shall

23 prepare a statement at the time of detention providing specific factual information

24 concerning the person's observations or reports made to the person and the basis for

it

under s. 55.02 (2)

PLAIN

1 emergency placement. The statement shall be filed with the director of the facility  
 2 and ~~shall also be filed~~ with any petition under ~~sub. (2)~~ s. 55.075. At the time of  
 3 emergency protective placement the individual shall be informed by the director of  
 4 the facility or the director's designee, ~~both~~ orally and in writing, of his or her right  
 5 to contact an attorney and a member of his or her immediate family and the right to  
 6 have an attorney provided at public expense, as provided under s. 967.06 and ch. 977,  
 7 if the individual is a ~~child~~ minor or is indigent. The director or designee shall also  
 8 provide the individual with a copy of the statement by the person making emergency  
 9 protective placement.

**History:** 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

\*\*\*\*NOTE: Please note that I added "or to whom the report is made" in the first sentence. Does this meet your intent? ✓

10 **SECTION 105.** 55.06 (11) (am) of the statutes as affected by 2001 Wisconsin Act  
 11 109, is renumbered 55.135 (2) and amended to read:

12 55.135 (2) Whoever signs a statement under ~~par. (a)~~ sub. (1) knowing the  
 13 information contained ~~therein~~ in the statement to be false is guilty of a Class H  
 14 felony.

**History:** 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

15 **SECTION 106.** 55.06 (11) (ar) of the statutes is renumbered 55.135 (3) and  
 16 amended to read:

17 55.135 (3) A person who acts in accordance with this subsection ~~section~~ section is not  
 18 liable for any actions performed in good faith.

**History:** 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

19 **SECTION 107.** 55.06 (11) (b) of the statutes is renumbered 55.135 (4) and  
 20 amended to read:

1           55.135 (4) ~~Upon detention~~ When an individual is detained under this section,  
 2 a petition shall be filed under ~~sub. (2)~~ s. 55.075 by the person making ~~such~~ the  
 3 emergency protective placement and a preliminary hearing shall be held within 72  
 4 hours, excluding Saturdays, Sundays and legal holidays, to establish probable cause  
 5 to believe the grounds for protective placement under ~~sub. (2)~~ s. 55.08 (1). The sheriff  
 6 or other person making emergency protective placement under ~~par. (a)~~ sub. (1) shall  
 7 provide the individual with written notice and orally inform him or her of the time  
 8 and place of the preliminary hearing. If the detainee is not under guardianship, a  
 9 petition for guardianship shall accompany the protective placement petition, except  
 10 in the case of a minor who is alleged to be developmentally disabled. In the event that  
 11 protective placement is not appropriate, the court may elect to treat a petition for  
 12 protective placement as a petition for commitment under s. 51.20 or 51.45 (13).

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

13 **SECTION 108.** 55.06 (11) (c) of the statutes, as affected by 2003 Wisconsin Act

14 33, is renumbered 55.135 (5) and amended to read:

*receive temporary protective placement*

15           55.135 (5) Upon a finding of probable cause under ~~par. (b)~~ sub. (4), the court  
 16 may order temporary protective placement up to 30 days pending the hearing for a  
 17 permanent protective placement, or the court may order such protective services as  
 18 may be required. If the court orders under this subsection an individual who has a  
 19 developmental disability ~~is ordered, under this paragraph, to be temporarily placed~~  
 20 in an intermediate facility or in a nursing facility, and if at the hearing for permanent  
 21 protective placement the court orders that the individual be protectively placed, the  
 22 court may, before commencement of permanent protective placement, extend the  
 23 temporary protective placement order for not more than 90 days if necessary for the  
 24 county department that is participating in the program under s. 46.278 or, if s. 46.279

*provided protective placement*

1 (4m) applies, the department's contractor to develop the plan required under s.  
2 46.279 (4).

NOTE: NOTE: Par. (c) is shown as amended eff. 1-1-05 by 2003 Wis. Act 33. Prior to 1-1-05 it reads:NOTE:

3 (c) Upon a finding of probable cause under par. (b), the court may order temporary placement up to 30 days pending the hearing for a permanent placement, or  
4 the court may order such protective services as may be required.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

5 SECTION 109. 55.06 (11) (d) of the statutes is renumbered 55.135 (6) and  
6 amended to read:

*county department*

7 55.135 (6) A law enforcement agency, fire department, or county department  
8 ~~designated under s. 55.02 or an agency designated by that or agency with which the~~  
9 ~~county department~~ *it* contracts *under s. 55.02(2)* shall designate at least one employee authorized to  
10 take an individual into custody under this ~~subsection~~ section who shall attend the  
11 in-service training on emergency detention and emergency protective placement  
12 offered by a county department of community programs under s. 51.42 (3) (ar) 4. d.,  
13 if the county department of community programs serving the designated employee's  
14 jurisdiction offers an in-service training program.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

15 SECTION 110. 55.06 (12) of the statutes is renumbered 55.055 (7) and amended  
16 to read:

17 55.055 (7) ~~When~~ If a ward lives with ~~the~~ his or her guardian, the guardian may  
18 make temporary protective placement of the ward. ~~Placement may be made,~~ to  
19 provide the guardian with a vacation or to ~~temporarily~~ release the guardian  
20 temporarily for a family emergency. ~~Such~~ The temporary protective placement may  
21 be made for not more than 30 days but the court may, upon application, grant an  
22 additional period not to exceed 60 days in all. The application shall include ~~such~~ the *any*  
23 information as that the court may reasonably deem necessary. When reviewing the

1 application, the court shall provide the least restrictive temporary protective  
2 placement ~~which~~ that is consistent with the needs of the ward.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

3 **SECTION 111.** 55.06 (14) of the statutes is renumbered 55.175 and amended to  
4 read: ✓

5 **55.175 Discharge from protective placement.** Prior to discharge from a  
6 protective placement, the ~~appropriate board which is responsible for placement~~  
7 county department shall review the need for provision of continuing protective  
8 services or for continuation of full or limited guardianship or provision for ~~such a~~  
9 guardianship if the individual has no guardian. ~~Recommendation shall be made~~ The  
10 county department shall make a recommendation to the court if the recommendation  
11 includes a course of action for which court approval would be required. Prior to  
12 discharge from any state institute or center for the developmentally disabled, the  
13 department shall make ~~such~~ the review under s. 51.35.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

\*\*\*NOTE: In the last sentence, is "county department," rather than "department," appropriate? ✓

14 **SECTION 112.** 55.06 (15) of the statutes is repealed. ✓

15 **SECTION 113.** 55.06 (16) of the statutes is renumbered 55.21 and amended to  
16 read: ✓

17 **55.21 Centers for the developmentally disabled.** ~~Placements~~ Protective  
18 placements to centers for the developmentally disabled and discharges from such  
19 institutions shall be in compliance with s. 51.35 (4).

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33.

20 **SECTION 114.** 55.06 (17) of the statutes is renumbered 55.22 and ~~55.22~~ (1)  
21 ~~(intro.) and (b) and (3), as renumbered,~~ are amended to read: ✓

Handwritten marks: a large arrow pointing to the left margin, circled numbers 20 and 21, and a circled number 5 with a checkmark.

Records  
BOLD  
PLAIN  
STET: leave as typed - 54 -  
No

1 **55.22** (1) (intro.) Any records of the court pertaining to protective services or  
2 protective placement proceedings, including evaluations, reviews and  
3 recommendation prepared under sub. (8) (e) s. 55.11 (1) (c), are not open to public  
4 inspection but are available to all of the following:

5 (b) The ~~subject's~~ subject individual's attorney or guardian ad litem, without the  
6 ~~subject's~~ individual's consent and without modification of the records, in order to  
7 prepare for any court proceedings relating to the subject's individual's protective  
8 services or protective placement or relating to the subject's individual's  
9 guardianship.

10 (3) All treatment and service records pertaining to a person an individual who  
11 is protected under this chapter or for whom application has been made for protection  
12 under this chapter are confidential and privileged to the subject. Section 51.30  
13 governs access to treatment and service records.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71. 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 100, 2002 a. 22

INSERT 42-5

\*\*\*NOTE: Is this section amended as you wish? ✓

14 **SECTION 115.** 55.07 of the statutes is renumbered 55.23 and amended to read:  
15 **55.23** (1) The rights and limitations upon rights, procedures for enforcement  
16 of rights, and penalties prescribed in s. 51.61 apply to persons individuals who  
17 receive services under this chapter, whether on a voluntary or involuntary basis.

18 (2) A parent who has been denied periods of physical placement under s. 767.24  
19 (4) (b) or 767.325 (4) may not have the rights of a parent or guardian with respect to  
20 access to a child's minor's records under this chapter.

History: 1977 c. 428; 1987 a. 355.

INSERT 54C

55.23 (1)  
and (2) ↑  
as renumbered ↑  
are

INSERT 54A

INSERT 54B

Fix component

PLAIN

STET: leave as typed

STET: leave as typed

STET

any record is

↑ of the individual sought to be protected

**INSERT 46-11**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

(2) OTHER NOTICE REQUIRED. In addition to the notice required under sub. (1), notice shall be served, personally or by mail, at least 10 days before the time set for a hearing, upon all of the following:

↑ of the individual sought to be protected

(a) The individual's guardian ad litem, legal counsel, and guardian, if any.

(b) The individual's agent under an activated power of attorney for health care, if any.

↑ of the individual sought to be protected

(c) The individual's presumptive adult heirs, if any.

(d) Other persons who have physical custody of the individual sought to be protected whose names and addresses are known to the petitioner or can with reasonable diligence be ascertained.

(e) The county department.

(f) Any governmental or private body or group from whom the individual sought to be protected is known to be receiving aid.

(g) Any other persons or entities that the court may require.

(h) The department, if the individual sought to be protected may be placed in a center for the developmentally disabled.

(i) The county department that is participating in the program under s. 46.278 of the county of residence of the individual sought to be protected, if the individual has a developmental disability and may be placed in an intermediate facility or a nursing facility, except <sup>e that</sup> the, for an individual sought to be protected to whom s. 46.279 (4m) applies, this notice shall instead be served on the department.

INSERT 56A

**INSERT 47-12**

\*\*\*\*NOTE: I know that "adversary counsel" is in current law (in s. 880.08 (1), stats.), but I don't understand the meaning. Is it counsel for the petitioner? For the individual sought to be protected?

**INSERT 47-17**

\*\*\*\*NOTE: I am confused by the term "persons in interest" used in the second sentence. This proposal defines "interested person" at s. 50.01 (4); it is unclear from the definition whether service providers, their representatives, and witnesses are included. Are they intended to be? If so, the term in the second sentence, rather than "persons in interest," should be "interested persons," and the definition should be revised to clearly include them, which would eliminate the necessity to specify them in this subsection. If they are not intended to be included in the definition of "interested person," the sentence should be revised to be "... only interested persons *and* representatives of ...".

INSERT 56AA

**INSERT 54-3**

\*\*\*\*NOTE: Please review my changes to sub. (3).

**INSERT 56-17**

\*\*\*\*NOTE: Shouldn't the definition of "protest" that is created under s. 880.38 (4) (a) also be created in s. 55.14 (1), because of use of the term in s. 55.14 (1) (a) 1.?

**INSERT 57-21**

\*\*\*\*NOTE: What if the individual's reasons for refusal cannot be ascertained? Would it be possible to require that the petition identify the reasons, *if known*, for the individual's refusal?

INSERT 56B

**INSERT 61-21**

\*\*\*\*NOTE: The term "psychiatric facility" is not defined, but "treatment facility" is; should the latter term be substituted for "psychiatric facility" in this subsection?

INSERT 56BB

**INSERT 63-18**

\*\*\*\*NOTE: Does the guardian ad litem also have this right?

INSERT 56BBB

**INSERT 64-8**

\*\*\*\*NOTE: Note that I changed "current ~~protective~~ placement" to "proposed protective placement."

INSERT 56C

**INSERT 78-15**

\*\*\*\*NOTE: Since this bill likely will be for the 2005-06 session, the date in this subsection should be changed. What would you like ~~for~~ it to be?

\*\*\*\*NOTE: Does the term "county protective services agency" serve any really useful purpose? As defined in s. 55.01 (1t), stats., it's the same as "county department," as defined in s. 55.01 (1r), stats.; the use of the two terms to mean the same entity seems confusing.

sub

Such

**INSERT 78-21**

\*\*\*\*NOTE: Would you like to establish a specific starting date for the requirement under this section, as "Beginning December 31, 2005, and annually thereafter, ... "?

**INSERT 80-19**

\*\*\*\*NOTE: I'm not sure that I understand what this subdivision is requiring; s. 55.14 (3) (c) specifies requirements for a petition for a court order requiring that psychotropic



medication be administered involuntarily to an individual. Is it your intent that this subdivision require that the report of the annual review provide all of the evidence that the petition is required to provide? Note that I also added "is not feasible," since s. 55.14 (3) (c) has that option.

**INSERT 81-19**

\*\*\*\*NOTE: Should sub. (2) (b) (intro.) indicate that the explanation must be oral (because par. (c) additionally requires that the information be provided in writing)?

**INSERT 81-23**

\*\*\*\*NOTE: This isn't actually a right, is it? Sub. (3) (a) 1. seems to leave it within the discretion of the court. Should this instead say, "That the court may under sub. (3) (a) 1. order performance of an evaluation."?

INSERT 57A

**INSERT 82-8**

\*\*\*\*NOTE: Please see the \*\*\*\*Note under sub. (2) (b) 3.

INSERT 57B

**INSERT 84-20**

\*\*\*\*NOTE: In the second sentence under this subdivision, did you mean that the court order shall include the information relied upon as a basis? Or that the court should include this information in some other document?

**INSERT 85-3**

\*\*\*\*NOTE: With respect to the third sentence, please see the \*\*\*\*Note under subd. 1.

**INSERT 85-20**

1           **SECTION 116.** 165.85 (4) (b) 1d. b. of the statutes is amended to read:  
2           165.85 (4) (b) 1d. b. Training on emergency detention standards and  
3           procedures under s. 51.15, emergency protective placement standards and  
4           procedures under s. ~~55.06 (11)~~ 55.135, and information on mental health and  
5           developmental disabilities agencies and other resources that may be available to  
6           assist the officer in interpreting the emergency detention and emergency protective  
7           placement standards, making emergency detentions and emergency protective  
8           placements, and locating appropriate facilities for the emergency detentions and  
9           emergency protective placements of persons.

**History:** 1973 c. 90, 333; 1975 c. 94 s. 91 (11); 1977 c. 29, 418; 1979 c. 111; 1981 c. 20; 1983 a. 27; 1985 a. 29, 260; 1987 a. 237, 366, 394; 1989 a. 31, 291; 1991 a. 39; 1993 a. 16, 167, 213, 399, 407, 460, 482, 491; 1995 a. 201, 225, 349; 1997 a. 27, 88, 191; 1999 a. 9; 2001 a. 16, 109.

\*\*\*\*NOTE: Should reference also be made to s. 55.13 under this subdivision unit?

10           **SECTION 117.** 165.86 (2) (b) of the statutes is amended to read:

1           165.86 (2) (b) Organize a program of training, which shall encourage  
 2           utilization of existing facilities and programs through cooperation with federal,  
 3           state, and local agencies and institutions presently active in this field. Priority shall  
 4           be given to the establishment of the statewide preparatory and recertification  
 5           training programs described in sub. (1), but the department shall cooperate in the  
 6           creation and operation of other advanced and special courses, including courses  
 7           relating to emergency detention of persons under s. 51.15 and emergency protective  
 8           placement under s. ~~55.06 (11)~~ <sup>✓</sup> 55.135, that meet the curriculum standards  
 9           recommended by the board. The department may satisfy the requirement for  
 10          cooperating in the development of special courses relating to emergency detention  
 11          and emergency protective placement by cooperating with county departments of  
 12          community programs in the development of these courses under s. 51.42 (3) (ar) 4.  
 13          d. The department shall keep appropriate records of all such training courses given  
 14          in the state and the results thereof in terms of persons attending, agencies  
 15          represented, and, where applicable, individual grades given.

History: 1985 a. 29; 1987 a. 366; 1989 a. 31; 1993 a. 460; 1997 a. 88.

\*\*\*NOTE: Should reference to s. 55.13 also be made under this paragraph?

2003

✓  
SECTION 118. 301.01 (2) (intro.) of the statutes is amended to read:

✓  
 301.01 (2) (intro.) "Prisoner" means any person who is either arrested,  
 incarcerated, imprisoned, or otherwise detained in excess of 12 hours by any law  
 enforcement agency of this state, except when detention is pursuant to s. 55.06 (11)  
 (a), 2001 stats., or s. 51.15, 51.20, 51.45 (11) (b), or ~~55.06 (11) (a)~~ <sup>✓</sup> 55.135 or ch. 980.

"Prisoner" does not include any of the following:

History: 1989 a. 31, 107; 1991 a. 39; 1993 a. 479; 1995 a. 27, 77; 1997 a. 27, 292; 1999 a. 9.

SECTION 119. 609.65 (1) (intro.) of the statutes is amended to read:

2003

1           609.65 (1) (intro.) If an enrollee of a limited service health organization,  
 2 preferred provider plan, or defined network plan is examined, evaluated, or treated  
 3 for a nervous or mental disorder pursuant to a court order under s. 880.33 (4m) or  
 4 (4r), 2001 stats., an emergency detention under s. 51.15, a commitment or a court  
 5 order under s. 51.20 ~~or 880.33 (4m) or (4r),~~ an order for protective placement or  
 6 protective services under s. 55.12, an order under s. 55.14 or 55.19 (3) (e), or an order  
 7 under ch. 980, then, notwithstanding the limitations regarding participating  
 8 providers, primary providers, and referrals under ss. 609.01 (2) to (4) and 609.05 (3),  
 9 the limited service health organization, preferred provider plan, or defined network  
 10 plan shall do all of the following:

History: 1987 a. 366; 1993 a. 316, 479; 1995 a. 27; 1997 a. 237; 2001 a. 16.

\*\*\*\*NOTE: Section 880.33 (4m) and (4r), stats., <sup>is</sup> ~~are~~ repealed in this bill. Is this provision amended as you intend? I have taken into account the fact that the reviewing court under s. 55.19 may just let the old orders under s. 880.33 (4m) and (4r), stats., stand.

11           **SECTION 120.** 757.69 (1) (h) of the statutes is amended to read:  
 12           757.69 (1) (h) Hear petitions for commitment and conduct probable cause  
 13 hearings under ss. 51.20, 51.45, and ~~55.06 (11)~~ 55.135, conduct reviews of  
 14 guardianships and protective placements and protective services under chs. 55 and  
 15 880, advise a person alleged to be mentally ill of his or her rights under the United  
 16 States and Wisconsin constitutions, and, if the person claims or appears to be unable  
 17 to afford counsel, refer the person to the authority for indigency determinations  
 18 specified under s. 977.07 (1) or, if the person is a child, refer that child to the state  
 19 public defender who shall appoint counsel for the child without a determination of  
 20 indigency, as provided in s. 48.23 (4).

History: 1977 c. 323, 449; 1979 c. 32; 1979 c. 89; 1979 c. 209 s. 4; 1979 c. 352, 356; 1983 a. 279; 1985 a. 126, 202, 234, 332; 1987 a. 3, 27, 71, 378, 398; 1989 a. 7, 12, 31, 246; Sup. Ct. Order, 158 Wis. 2d xxv (1990); 1991 a. 39, 269; 1993 a. 318, 451, 481; 1995 a. 77; 1997 a. 191, 192, 292; 1999 a. 32; 2001 a. 16; 2001 a. 61 ss. 93 to 109, 173, 175, 177, 180; 2001 a. 105.

\*\*\*\*NOTE: Should reference to s. 55.13 also be made under this paragraph?

21           **SECTION 121.** 767.24 (7) (b) of the statutes is amended to read:

55.23

1 767.24 (7) (b) A parent who has been denied periods of physical placement with  
2 a child under this section is subject to s. 118.125 (2) (m) with respect to that child's  
3 school records, s. 51.30 (5) (bm) with respect to the child's court or treatment records,  
4 s. ~~55.07 55.22~~ with respect to the child's records relating to protective services, and  
5 s. 146.835 with respect to the child's patient health care records.

**History:** 1971 c. 149, 157, 211; 1975 c. 39, 122, 200, 283; 1977 c. 105, 418; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.24; 1981 c. 391; 1985 a. 70, 176; 1987 a. 332 s. 64; 1987 a. 355, 364, 383, 403; 1989 a. 56 s. 259; 1989 a. 359; 1991 a. 32; 1993 a. 213, 446, 481; 1995 a. 77, 100, 275, 289, 343, 375; 1997 a. 35, 191; 1999 a. 9; 2001 a. 109; 2003 a. 130.

6 **SECTION 122.** 808.075 (4) (c) 1. of the statutes is amended to read:

7 808.075 (4) (c) 1. Review Protective placement review under s. 55.18,  
8 modification under s. 55.16, or termination of protective placement under s. 55.06  
9 (~~10~~) 55.17. *score comma*

**History:** Sup. Ct. Order, 146 Wis. 2d xiii (1988); 1989 a. 86; 1993 a. 16, 446, 479, 481; 1995 a. 38, 73, 77, 275; 1997 a. 35, 191, 292, 296, 334; 1999 a. 9; Sup. Ct. Order No. 00-02, 2001 WI 39, 242 Wis. 2d xxvii; 2001 a. 16.

\*\*\*NOTE: Is this subdivision amended as you wish?

10 **SECTION 123.** 808.075 (4) (c) 2. of the statutes is amended to read:

11 808.075 (4) (c) 2. Hearing required upon transfer under s. ~~55.06 (9)~~ 55.15.

**History:** Sup. Ct. Order, 146 Wis. 2d xiii (1988); 1989 a. 86; 1993 a. 16, 446, 479, 481; 1995 a. 38, 73, 77, 275; 1997 a. 35, 191, 292, 296, 334; 1999 a. 9; Sup. Ct. Order No. 00-02, 2001 WI 39, 242 Wis. 2d xxvii; 2001 a. 16.

12 **SECTION 124.** 808.075 (4) (c) 3. of the statutes is amended to read:

13 808.075 (4) (c) 3. Enforcement of patient's rights under s. ~~55.07~~ 55.23.

**History:** Sup. Ct. Order, 146 Wis. 2d xiii (1988); 1989 a. 86; 1993 a. 16, 446, 479, 481; 1995 a. 38, 73, 77, 275; 1997 a. 35, 191, 292, 296, 334; 1999 a. 9; Sup. Ct. Order No. 00-02, 2001 WI 39, 242 Wis. 2d xxvii; 2001 a. 16.

14 **SECTION 125.** 809.30 (1) (b) 5. of the statutes, as affected by Supreme Court

15 Order 02-01, is amended to read:

16 809.30 (1) (b) 5. Any other person who may appeal under ss. 51.13 (5), 51.20

17 (15), or ~~55.06 (18)~~ 55.20.

**History:** Sup. Ct. Order, 83 Wis. 2d xiii (1978); Sup. Ct. Order, 92 Wis. 2d xiii (1979); Sup. Ct. Order, 104 Wis. 2d xi (1981); 1981 c. 390 s. 252; Sup. Ct. Order, 112 Wis. 2d xvii (1985); Sup. Ct. Order, 123 Wis. 2d xi (1985); 1985 a. 332; Sup. Ct. Order, 136 Wis. 2d xxv (1987); Sup. Ct. Order, 161 Wis. 2d xiii (1991); Sup. Ct. Order No. 93-19, 179 Wis. 2d xxiii (1994); 1993 a. 16, 395, 451; 1995 a. 77; Sup. Ct. Order No. 00-02, 2001 WI 39, 242 Wis. 2d xxvii; 2001 a. 16; Sup. Ct. Order No. 02-01, 2002 WI 120, 255 Wis. 2d xiii.

18 **SECTION 126.** 809.30 (3) of the statutes, as affected by Supreme Court Order

19 02-01 is amended to read:

✓

1           809.30 (3) APPEALS BY STATE OR OTHER PARTY; APPOINTMENT OF COUNSEL. In a case  
 2 in which the state of Wisconsin, the representative of the public, any other party, or  
 3 any person who may appeal under s. 51.13 (5), 51.20 (15), or ~~55.06 (18)~~ 55.20 appeals  
 4 and the person who is the subject of the case or proceeding is a child or claims to be  
 5 indigent, the court shall refer the person who is the subject of the case or proceeding  
 6 to the state public defender for the determination of indigency and the appointment  
 7 of legal counsel under ch. 977.

**History:** Sup. Ct. Order, 83 Wis. 2d xiii (1978); Sup. Ct. Order, 92 Wis. 2d xiii (1979); Sup. Ct. Order, 104 Wis. 2d xi (1981); 1981 c. 390 s. 252; Sup. Ct. Order, 112 Wis. 2d xvii (1985); Sup. Ct. Order, 123 Wis. 2d xi (1985); 1985 a. 332; Sup. Ct. Order, 136 Wis. 2d xxv (1987); Sup. Ct. Order, 161 Wis. 2d xiii (1991); Sup. Ct. Order No. 93-19, 179 Wis. 2d xxiii (1994); 1993 a. 16, 395, 451; 1995 a. 77; Sup. Ct. Order No. 00-02, 2001 WI 39, 242 Wis. 2d xxvii; 2001 a. 16; Sup. Ct. Order No. 02-01, 2002 WI 120, 255 Wis. 2d xiii.

8           **SECTION 127.** 813.123 (4) (a) (intro.) of the statutes is amended to read:

9           813.123 (4) (a) (intro.) Unless the vulnerable adult, guardian or guardian ad  
 10 litem consents in writing and the judge or circuit court commissioner agrees that the  
 11 contact is in the best interests of the vulnerable adult, a judge or circuit court  
 12 commissioner shall issue a temporary restraining order ordering the respondent to  
 13 avoid interference with an investigation of the vulnerable adult under s. 55.043; or  
 14 the delivery of protective services to or a protective placement of the vulnerable adult  
 15 under s. 55.05 or a protective placement of the vulnerable adult under s. 55.06 ch.  
 16 55 if all of the following occur:

**History:** 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

17           **SECTION 128.** 813.123 (4) (a) 2. of the statutes is amended to read:

18           813.123 (4) (a) 2. The judge or circuit court commissioner finds reasonable  
 19 grounds to believe that the respondent has interfered with, or, based on prior conduct  
 20 of the respondent, may interfere with, an investigation of the vulnerable adult under  
 21 s. 55.043; or the delivery of protective services to or a protective placement of the

1 vulnerable adult under ~~s. 55.05 or a protective placement of the vulnerable adult~~  
2 ~~under s. 55.06 ch. 55.~~

3 History: 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

3 SECTION 129. 813.123 (5) (a) (intro.) of the statutes is amended to read:

4 813.123 (5) (a) (intro.) Unless the vulnerable adult, guardian or guardian ad  
5 litem consents to that contact in writing and the judge agrees that the contact is in  
6 the best interests of the vulnerable adult, a judge may grant an injunction ordering  
7 the respondent to avoid interference with an investigation of the vulnerable adult  
8 under s. 55.043, or the delivery of protective services to or a protective placement of  
9 the vulnerable adult under ~~s. 55.05 or a protective placement of the vulnerable adult~~  
10 ~~under s. 55.06 ch. 55~~ if all of the following occur:

11 History: 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

11 SECTION 130. 813.123 (5) (a) 3. b. of the statutes is amended to read:

12 813.123 (5) (a) 3. b. That the respondent has interfered with the delivery ~~to the~~  
13 ~~vulnerable adult~~ of protective services ~~under s. 55.05 to~~ or a protective placement of  
14 the vulnerable adult under ~~s. 55.06 ch. 55~~ after the offer of services or placement has  
15 been made and the vulnerable adult or his or her guardian, if any, has consented to  
16 receipt of the protective services or placement.

17 History: 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

17 SECTION 131. 813.123 (6) (c) of the statutes is amended to read:

18 813.123 (6) (c) That the respondent interfered with, or, based on prior conduct  
19 of the respondent, may interfere with, an investigation of the vulnerable adult under  
20 s. 55.043, or the delivery of protective services to ~~the vulnerable adult under s. 55.05~~  
21 or a protective placement of the vulnerable adult under ~~s. 55.06 ch. 55.~~

22 History: 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

22 SECTION 132. 813.123 (7) of the statutes is amended to read:

1           813.123 (7) INTERFERENCE ORDER. Any order under this section directing a  
 2 person to avoid interference with an investigation of a vulnerable adult under s.  
 3 55.043; or the delivery of protective services to ~~a vulnerable adult under s. 55.05~~ or  
 4 a protective placement of a vulnerable adult under s. ~~55.06~~ ch. 55 prohibits the  
 5 person from intentionally preventing a representative or employee of the county  
 6 protective services agency from meeting, communicating, or being in visual or audio  
 7 contact with the vulnerable adult, except as provided in the order. ✓

8 **History:** 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61. ✓

**SECTION 133.** 813.123 (11) of the statutes is amended to read:

9           813.123 (11) APPLICABILITY. This section does not apply to vulnerable adults  
 10 who are patients or residents of state-operated or county-operated inpatient  
 11 institutions unless the alleged interference with an investigation of the vulnerable  
 12 adult under s. 55.043 or with the delivery ~~to the vulnerable adult~~ of protective  
 13 services ~~under s. 55.05~~ to or a protective placement of the vulnerable adult under s.  
 14 ~~55.06~~ ch. 55 is alleged to have been done by a person other than an employee of the  
 15 inpatient institution.

**History:** 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

**INSERT 85-25**

16 **SECTION 134.** 880.01 (2) of the statutes is amended to read: ✓

17           880.01 (2) "Developmentally disabled person" means any individual having a  
 18 disability attributable to mental retardation, cerebral palsy, epilepsy, autism or  
 19 another neurological condition closely related to mental retardation or requiring  
 20 treatment similar to that required for mentally retarded individuals, which has  
 21 continued or can be expected to continue indefinitely, substantially impairs the  
 22 individual from adequately providing for his or her own care or custody, and  
 23 constitutes a substantial handicap to the afflicted individual. The term does not

1 include a person affected by senility which is primarily caused by the process of aging  
2 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.

3 **SECTION 135.** 880.01 (4) of the statutes is amended to read:

4 880.01 (4) "Incompetent" means a person adjudged by a court of record to be  
5 substantially incapable of managing his or her property or caring for himself or  
6 herself by reason of ~~infirmities of aging~~ degenerative brain disorder, developmental  
7 disabilities, or other like incapacities. Physical disability without mental incapacity  
8 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.

9 **SECTION 136.** 880.01 (5) of the statutes is renumbered 880.01 (1t) and amended

10 to read:

11 880.01 (1t) "~~Infirmities of aging~~ <sup>an</sup> Degenerative brain disorder" means ~~organic~~  
12 ~~brain damage caused by advanced age or other physical degeneration in connection~~  
13 ~~therewith to the extent that the person so afflicted~~ the loss or dysfunction of brain  
14 cells to the extent that the individual is substantially impaired in his or her ability  
15 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.

16 **SECTION 137.** 880.01 (7m) of the statutes is renumbered 55.14 (1) (b) and

17 amended to read:

18 55.14 (1) (b) "~~Not competent to refuse psychotropic medication~~" means that,  
19 ~~because of~~ as a result of developmental disabilities, degenerative brain disorder,  
20 serious and persistent mental illness, or other like incapacities, and after the  
21 advantages and disadvantages of and alternatives to accepting the particular  
22 psychotropic medication have been explained to an individual, one of the following  
23 is true:

WFS: PWF

~~chronic mental illness as defined in s. 51.01(3g)~~



LPS: PWF

1           1. The individual is incapable of expressing an understanding of the  
2 advantages and disadvantages of accepting treatment and the alternatives to  
3 accepting treatment.

4           2. The individual is substantially incapable of applying an understanding of  
5 the advantages, disadvantages and alternatives to his or her ~~chronic mental illness~~  
6 condition in order to make an informed choice as to whether to accept or refuse  
7 psychotropic medication. ✓

**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 86-19**

↓  
\*\*\*\*NOTE: Please note that I have changed the amending language to clarify that the court refers the issue; is that your intent? Review the \*\*\*\*NOTE under s. 55.075 (5) (b). Also, what petition does the first sentence refer to? Only the petition under s. 880.07? ✓

**INSERT 86-23**

\*\*\*\*NOTE: This provision, as repealed and recreated, now no longer addresses the issue of a guardian who moves to another county; is that intentional? Also, please note that the current wording of s. 51.40 (2) (f), stats., applies only to a guardian who is the parent or sibling of a ward and to a ward who is in a nursing home or state facility. Did you intend this narrow application, or did you want s. 51.40 (2) (f), stats., to be modified? ✓

INSERT GSA

**INSERT 88-12B**

\*\*\*\*NOTE: Please see the \*\*\*\*Note under s. 55.10 (2). Also, is the term "sought to be placed" correct? Would it not more appropriately be "proposed incompetent"? ✓

✓ **INSERT 89-4**

8           **SECTION 138.** 880.33 (1) of the statutes is amended to read:

9           880.33 (1) Whenever it is proposed to appoint a guardian on the ground of  
10 incompetency, a licensed physician or licensed psychologist, or both, shall furnish a  
11 written statement concerning the mental condition of the proposed ward, based upon  
12 examination. The privilege under s. 905.04 shall not apply to this statement. A copy  
13 of the statement shall be provided to the proposed ward, guardian ad litem, and  
14 attorney. Prior to the examination, under this subsection, of a person an individual  
15 alleged to be not competent to refuse psychotropic medication under s. 880.07 (1m),  
16 the ~~person~~ individual shall be informed that his or her statements may be used as

1 a basis for a finding of incompetency and an order for protective services, including  
 2 psychotropic medication. The ~~person~~ individual shall also be informed that he or she  
 3 has a right to remain silent and that the examiner is required to report to the court  
 4 even if the ~~person~~ individual remains silent. The issuance of such a warning to the  
 5 ~~person~~ individual prior to each examination establishes a presumption that the  
 6 ~~person~~ individual understands that he or she need not speak to the examiner.

History: 1973 c. 284; 1975 c. 393, 421; 1977 c. 29, 187; 1977 c. 203 s. 106; 1977 c. 299, 318, 394, 418, 447; 1979 c. 110, 356; 1981 c. 379; 1987 a. 366; Sup. Ct. Order, 151 Wis. 2d xxii, xxxiv; 1989 a. 200; Sup. Ct. Order, 153 Wis. 2d xxim xxv (1989); 1991 a. 32, 39; 1993 a. 16, 316; 1995 a. 27 s. 9126 (19); Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 237.

\*\*\*NOTE: Section 880.07 (1m), stats., is repealed in this bill; how do you want this subsection amended?

7 **SECTION 139.** 880.33 (2) (a) 1. of the statutes is amended to read:

8 880.33 (2) (a) 1. The proposed ward has the right to counsel whether or not  
 9 present at the hearing on determination of competency. The court shall in all cases  
 10 require the appointment of an attorney as guardian ad litem in accordance with s.  
 11 757.48 (1) and shall in addition require representation by full legal counsel whenever  
 12 the petition contains the allegations under s. 880.07 (1m) or if, at least 72 hours  
 13 before the hearing, the alleged incompetent requests; the guardian ad litem or any  
 14 other person states that the alleged incompetent is opposed to the guardianship  
 15 petition; or the court determines that the interests of justice require it. The proposed  
 16 ward has the right to a trial by a jury if demanded by the proposed ward, attorney,  
 17 or guardian ad litem, except that if the petition contains the allegations under s.  
 18 880.07 (1m) and if notice of the time set for the hearing has previously been provided  
 19 to the proposed ward and his or her counsel, a jury trial is deemed waived unless  
 20 demanded at least 48 hours prior to the time set for the hearing. The number of  
 21 jurors shall be determined under s. 756.06 (2) (b). The proposed ward, attorney, or  
 22 guardian ad litem shall have the right to present and cross-examine witnesses,  
 23 including the physician or psychologist reporting to the court under sub. (1). The

proposed ward

1 attorney or guardian ad litem for the proposed ward shall be provided with a copy  
2 of the report of the physician or psychologist at least 96 hours in advance of the  
3 hearing. Any final decision of the court is subject to the right of appeal.

**History:** 1973 c. 284; 1975 c. 393, 421; 1977 c. 29, 187; 1977 c. 203 s. 106; 1977 c. 299, 318, 394, 418, 447; 1979 c. 110, 356; 1981 c. 379; 1987 a. 366; Sup. Ct. Order, 151 Wis. 2d xxii, xxxiv; 1989 a. 200; Sup. Ct. Order, 153 Wis. 2d xxim xxv (1989); 1991 a. 32, 39; 1993 a. 16, 316; 1995 a. 27 s. 9126 (19); Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 237.

\*\*\*\*NOTE: Please see the \*\*\*\*Note under s. 880.33 (1), stats.

4 **SECTION 140.** 880.33 (2) (a) 2. of the statutes is amended to read:

5 880.33 (2) (a) 2. If the person ~~individual~~ requests but is unable to obtain legal  
6 counsel, the court shall appoint legal counsel. If the person ~~individual~~ is represented  
7 by counsel appointed under s. 977.08 in a proceeding ~~for~~ under a petition for  
8 protective placement brought under s. ~~55.06~~ 55.075 or for the appointment of a  
9 guardian under s. 880.07 (1m), the court shall order the counsel appointed under s.  
10 977.08 to represent the ~~person~~.

**History:** 1973 c. 284; 1975 c. 393, 421; 1977 c. 29, 187; 1977 c. 203 s. 106; 1977 c. 299, 318, 394, 418, 447; 1979 c. 110, 356; 1981 c. 379; 1987 a. 366; Sup. Ct. Order, 151 Wis. 2d xxii, xxxiv; 1989 a. 200; Sup. Ct. Order, 153 Wis. 2d xxim xxv (1989); 1991 a. 32, 39; 1993 a. 16, 316; 1995 a. 27 s. 9126 (19); Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 237.

\*\*\*\*NOTE: Please see the \*\*\*\*Note under s. 880.33 (1), stats.

11 **SECTION 141.** 880.33 (2) (d) of the statutes is amended to read:

12 880.33 (2) (d) The hearing on a petition which contains allegations under s.  
13 880.07 (1m) shall be held within 30 days after the date of filing of the petition, except  
14 that if a jury trial demand is filed the hearing shall be held within either 30 days after  
15 the date of filing of the petition or 14 days after the date of the demand for a jury trial,  
16 whichever is later. A finding by a court under s. 51.67 that there is probable cause  
17 to believe that the ~~person individual~~ is a proper subject for guardianship under s.  
18 880.33 (4m) has the effect of filing a petition under s. 880.07 (1m).

**History:** 1973 c. 284; 1975 c. 393, 421; 1977 c. 29, 187; 1977 c. 203 s. 106; 1977 c. 299, 318, 394, 418, 447; 1979 c. 110, 356; 1981 c. 379; 1987 a. 366; Sup. Ct. Order, 151 Wis. 2d xxii, xxxiv; 1989 a. 200; Sup. Ct. Order, 153 Wis. 2d xxim xxv (1989); 1991 a. 32, 39; 1993 a. 16, 316; 1995 a. 27 s. 9126 (19); Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 237.

\*\*\*\*NOTE: Please see the \*\*\*\*Note under s. 880.33 (1), stats. In addition, s. 880.33 (4m), stats., is repealed in this bill; I am unsure about what you want me to do with these cross-references..

19 **SECTION 142.** 880.33 (2) (e) of the statutes is amended to read:

1           880.33 (2) (e) Every hearing on a petition under s. 880.07 (1m) shall be open,  
 2 unless the proposed ward or his or her attorney acting with the proposed ward's  
 3 consent moves that it be closed. If the hearing is closed, only persons in interest,  
 4 including representatives of providers of service and their attorneys and witnesses,  
 5 may be present.

**History:** 1973 c. 284; 1975 c. 393, 421; 1977 c. 29, 187; 1977 c. 203 s. 106; 1977 c. 299, 318, 394, 418, 447; 1979 c. 110, 356; 1981 c. 379; 1987 a. 366; Sup. Ct. Order, 151 Wis. 2d xxii, xxxiv; 1989 a. 200; Sup. Ct. Order, 153 Wis. 2d xxim xxv (1989); 1991 a. 32, 39; 1993 a. 16, 316; 1995 a. 27 s. 9126 (19); Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 237.

\*\*\*\*NOTE: Please see the \*\*\*\*Note under s. 880.33 (1), stats. Also, somewhat similarly to the \*\*\*\*NOTE under s. 55.10 (3), I believe the term "persons in interest" should be changed to "interested persons," to fit the definition under s. 880.01 (6), stats.

✓           **INSERT 89-7**

6           **SECTION 143.** 880.33 (3) of the statutes is amended to read:

7           880.33 (3) In a finding of limited incompetency, guardianship of the person  
 8 shall be limited in accordance with the order of the court accompanying the finding  
 9 of incompetence. If the proposed incompetent has executed a power of attorney for  
 10 health care under ch. 155, the court shall give consideration to the appointment of  
 11 the health care agent for the individual as the individual's guardian. The court shall  
 12 make a specific finding as to which legal rights the person individual is competent  
 13 to exercise. Such rights include but are not limited to the right to vote, to marry, to  
 14 obtain a motor vehicle operator's license or other state license, to hold or convey  
 15 property, and the right to contract. The findings of incompetence must be based upon  
 16 clear and convincing evidence. The court shall determine if additional medical or  
 17 psychological testimony is necessary for the court to make an informed decision  
 18 respecting competency to exercise legal rights and may obtain assistance in the  
 19 manner provided in s. 55.06 (8) 55.11 whether or not protective placement is made.  
 20 The guardian, ward, or any interested person may at any time file a petition with the  
 21 court requesting a restoration of any such legal right, and specifying the reasons

1 therefor. ~~Such~~ The petition may request that a guardianship of the person be  
2 terminated and a guardianship of property be established.

**History:** 1973 c. 284; 1975 c. 393, 421; 1977 c. 29, 187; 1977 c. 203 s. 106; 1977 c. 299, 318, 394, 418, 447; 1979 c. 110, 356; 1981 c. 379; 1987 a. 366; Sup. Ct. Order, 151 Wis. 2d xxii, xxxiv; 1989 a. 200; Sup. Ct. Order, 153 Wis. 2d xxim xxv (1989); 1991 a. 32, 39; 1993 a. 16, 316; 1995 a. 27 s. 9126 (19); Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 237.

\*\*\*\*NOTE: In the reference to s. 55.11 in this subsection, does the term "may obtain assistance in the manner provided in s. 55.11" mean that a court may request a county department to provide an evaluation for the individual? If so, should this subsection be clarified to say that? Otherwise, it's not particularly clear what "assistance" means.

**INSERT 89-9**

\*\*\*\*NOTE: Please see the \*\*\*\*NOTE under s. 55.10 (4) (b) (renumbered from s. 55.06 (6), stats.)

3 **SECTION 144.** 880.33 (6) of the statutes is amended to read:

4 880.33 (6) All court records pertinent to the finding of incompetency are closed  
5 but subject to access as provided in s. ~~55.06 (17)~~ 55.22. The fact that a person an  
6 individual has been found incompetent is accessible to any person who demonstrates  
7 to the custodian of the records a need for that information.

**History:** 1973 c. 284; 1975 c. 393, 421; 1977 c. 29, 187; 1977 c. 203 s. 106; 1977 c. 299, 318, 394, 418, 447; 1979 c. 110, 356; 1981 c. 379; 1987 a. 366; Sup. Ct. Order, 151 Wis. 2d xxii, xxxiv; 1989 a. 200; Sup. Ct. Order, 153 Wis. 2d xxim xxv (1989); 1991 a. 32, 39; 1993 a. 16, 316; 1995 a. 27 s. 9126 (19); Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 237.

8 **SECTION 145.** 880.33 (7) of the statutes is amended to read:

9 880.33 (7) A finding of incompetency and appointment of a guardian under this  
10 subchapter is not grounds for involuntary protective placement. ~~Such placement~~ A  
11 protective placement may be made only in accordance with s. ~~55.06~~ ch. 55.

**History:** 1973 c. 284; 1975 c. 393, 421; 1977 c. 29, 187; 1977 c. 203 s. 106; 1977 c. 299, 318, 394, 418, 447; 1979 c. 110, 356; 1981 c. 379; 1987 a. 366; Sup. Ct. Order, 151 Wis. 2d xxii, xxxiv; 1989 a. 200; Sup. Ct. Order, 153 Wis. 2d xxim xxv (1989); 1991 a. 32, 39; 1993 a. 16, 316; 1995 a. 27 s. 9126 (19); Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 237.

12 **SECTION 146.** 880.331 (1) of the statutes is amended to read:

13 880.331 (1) APPOINTMENT. The court shall appoint a guardian ad litem  
14 whenever it is proposed that the court appoint a guardian on the ground of  
15 incompetency under s. 880.33, ~~protectively place a person~~ an individual or order  
16 protective services under s. ~~55.06~~ ch. 55, review any protective placement or  
17 protective service order under s. ~~55.06~~ 55.18, or terminate a protective placement  
18 under s. ~~55.06~~ 55.17.

**History:** Sup. Ct. Order, 151 Wis. 2d xxv (1989); 1993 a. 16; 1995 a. 27; 1997 a. 237.

*provide protective placement to*