

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4212/P3dn

DAK...:ch

gjs

*LPS: please
add numbers
as shown.*



To Laura Rose and Mary Matthias:

1. Please note that I interspersed ****NOTES throughout the text of the draft, to explain my treatment of a statute or to raise issues that need clarification. Please also note that I added and amended numerous statutes to account for the changed term "serious and persistent mental illness" and the renumbering of s. 51.01 (3g) to s. 51.01 (14t); to account for the changed term "degenerative brain disorder," the repeal of s. 55.01 (3), and the creation of s. 55.01 (1v); and to account for cross-reference changes for renumbered statutes.
2. I eliminated s. 55.02 (1) (b) 2., as proposed; it's unnecessary, because ch. 227 independently grants agencies these powers, and DHFS, thus, has authority to promulgate these rules.
3. In the proposal, s. 55.06, stats., is both repealed and recreated and partially renumbered. Because the section as a whole may be treated only once, please note that I changed the repeal and recreation to a renumber and amend. Sections 55.06 (1) (a) to (10) (a) 1., stats., are not specifically treated in the proposal; many of these provisions are reproduced under newly-created other sections. In order to make the statutory treatment of these provisions clear, our drafting policy is to amend them (or, if unused elsewhere, repeal them) and renumber them to the numbers that the proposal indicates. That unfortunately makes the draft hard to read (a major problem with chapter rewrites such as this one), but it retains the legislative history for the printed statutes, allows people to "track" what has happened, and makes amended provisions less vulnerable to partial veto. *(Intro.)*
4. In the proposal, s. 55.07, stats., is both renumbered s. 55.23 and repealed and recreated. Because the section may be treated only once, please note that I changed the repeal and recreation to a creation of s. 55.075. *under s. 55.02 (2)*
5. Throughout the draft I replaced the phrase "county department or an agency designated by it" with "county department or an agency with which the county department contracts," to conform to the actual language of s. 55.02, as affected by the bill. I also struck the term "designated under s. 55.02" in instances in which it modifies "county department;" it is unnecessary because of the way "county department" is defined under s. 55.01 (1r), stats. *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 *lis*

indicates

“county department,” as defined in s. 55.01 (1r), stats.; the use of the two terms to mean the same entity is confusing. ✓

6. Also, throughout the draft I replaced “person” with “individual” when referring to the subject of a protective placement or protective services, in order to differentiate from other individuals or entities or phrases such as “guardian of the person.” This raises another point, however; would it be helpful to define “guardian” for purposes of ch. 55 as “guardian of the person of an individual who has been determined incompetent under ch. 880”? A guardian of the estate does not have the powers accorded a “guardian” under ch. 55. ✓

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INSERT
D-NOTE

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Debora A. Kennedy
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December 6, 2004

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8. Several different problems exist with respect to s. 55.075 (5):

a. There is no definition of “county of residence;” therefore, the exception to that term in s. 55.075 (5) (a) (renumbered and amended from s. 55.06 (3) (c), stats.) is unclear. Sections 49.001 (6) and (8), stats., define “residence” and “voluntary,” respectively, and these definitions are used as the underpinning for the definitions of “residence,” “legal residency,” and “county of residence” in s. 51.01 (14), stats., and for provisions concerning determination of residence and determination of county of responsibility under s. 51.40 (2), stats. Ch. 55, stats., and this draft have no corresponding definitions.

b. In the draft, s. 55.075 (5) (b) appears to require a court to refer an issue of venue to DHFS for determination under s. 51.40 (2) (g), stats. But DHFS does not determine venue under that statute; it determines the county of responsibility, based on the county of residence, as specified in s. 51.40 (2) (intro.), stats.

c. The draft, in s. 55.075 (5) (b), states that a court in which a subsequent petition is filed shall, upon being satisfied of an earlier filing in another court, summarily dismiss the petition; which petition is the court dismissing, the first or the subsequent one? Also, what standard is the court using to make the determination of venue?

d. Section 51.40 (2) (intro.), stats., provides for the determination of responsibility for funding for the provision of services under chs. 46, 51, and 55 *only* for individuals aged 18 or older with developmental disability or chronic mental illness in state facilities or nursing homes. Does this cover all individuals for whom a petition of protective placement might be brought under s. 55.075 (1) (a) and filed under s. 55.075 (5) (a) for whom a dispute may arise about “county of responsibility”?

To address these problems, I have done the following:

- a. Changed the title of s. 55.075 (5), because s. 55.075 (5) (a) is not just about venue, as such.
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SEC. 50 (p. 45-46)

✓ On pg 46, line 11, replace the reference to s. 880.07(1m)(c) and (cm) with a reference to s.55.14(3)(e).

WATTS PROVISIONS and ANNUAL REVIEW OF PSYCH MED ORDERS

SEC. 142-(p. 82)

- ✓ 1. Yes-adding lang. re: visit to individual is ok.
2. Add this new note after SEC. 142. (bottom of p. 82)

Note: Requires the county department of the county of residence of a protectively placed individual to annually review the status of the individual, as required by *State ex. rel. Watts and County of Dunn v. Goldie H.*, as described in the Prefatory note. Specifies the required elements of the review, including a visit to the individual and a written evaluation of the individual's condition.

SEC 143. 9 (p. 83)- I need more info and need to write NOTE after we figure out what to do here.

WLC 0054/7, the underlying Watts draft, repealed 55.06(10)(a) in its entirety and created 55.065, which contained all of the Watts provisions.

2003 WI Act 33 renumbered s. 55.06(10)(a) to 55.06(10)(a)1 and created 55.06(10)(a)2.

55.06(10)(a)2 pertains to a person with a dev. disability who is placed in certain types of facilities and is participating in a community integration program. It requires the agency to notify the county department of the individual's county of residence that the individual is participating in the program at least 120 before the county's annual review of the person's status. The county department must develop a plan for home or community-based care and requires the court to order the person to be transferred to a noninstitutional setting in accordance with the plan unless the court finds that the current placement is the most integrated setting. Does this apply only if the county or the particular individual is participating in the CIP program? Language in 55.06(10)(a)2 makes it sound like it applies to any person with DD who is in an intermediate or nursing facility. Maybe this underlying language needs to be clarified.

The next draft that the Watts provisions was in was 0220/1, in which the language re: 55.06(10)(a) 2 appears as "55.06 (10) (a) 2. of the statutes, as affected by 2003 Wisconsin Act 33, is renumbered 55.065 (1g)." So it appears that my intent was to incorporate 55.10(a)2 as affected by 2003 Act 33, in its entirety into the new Watts section (55.065).

In LRB 0026, the Watts provisions are set forth in s. 55.18 rather than 55.065, so to be consistent with 0220/1, 55.10(a)2 should be added in its entirety to 55.18, in the appropriate place or places.

SECS. 171 and 172. (pp 113-128)

1. Response to your question on pg. 115, after line 15 (and pg 123 after line 21).

Yes I think it would be good to indicate that the explanation must be oral. Please add that to 55.18 (2)(b)(intro) 55.19(2)(b)(intro)

2. Response to your question on pg 124 after line 7 (and pg. 115, after line 22).

I like the changes you made in terms of using a cross reference to 55.10(4) instead of the term 'full due process hearing' and utilizing the language of Goldie H. to expand on what a "summary hearing" is.

Re: what the GAL must explain-- I think the important thing is that the individual and guardian are told what the 2 hearing options are and that in order to get a more extensive hearing—the type that meets the requirements of 55.10(4)-- they may have to request it, or else they will get only a summary hearing. I guess that is why I drafted it as I did- to inform them of their right to request a more extensive hearing. Maybe 55.19(2)(b)6 [and 55.18(2)(b)6] could read as follows:

6. The right to a hearing under sub. (3)(d) and an explanation that the individual or the individual's guardian may request a hearing that meets the requirements under. 55.10(4).

3. Response to your question on pg 124 after line 9 (and pg. 116, after line 2).

YES! Thank you!!

4. Response to your comment on pg 116, line 23 and pg 125, after line 8:

I think it's ok you added pars. (a) and (e). But just to explain that maybe it's not as illogical as it appears--I think the Committee's rationale for not including them was that it would be evident to the court in reading the GAL's report whether he or she complied with (a) and (e) because that is really what the report is all about. But just by reading the report the court couldn't necessarily ascertain whether the GAL did the things required by (b) (c) and (d), so...they wanted the GAL to certify that they did those things.

5. Response to your comment on pg. 117, after line 18 and pg. 126, after line 5:

I like the change you made! (I stole that language from your earlier draft for Becky Young....)

6. Response to your comment on pg. 118, after line 16 and pg. 126, after line 17: ✓

I love these changes! Thanks!!

7. Response to your comments on pg. 118, after line 16.

Re: date for written policy. Let's go with Dec. 31, 2006 for now.

Re: I agree with you- I don't see what the difference between the 2 terms is. They discussed this provision at length and wanted that particular language in this provision My notes from the discussion (1/31/03 meeting) on this provision indicate that they wanted the county protective services "lead" agency, not the county in general, to be responsible for writing the policy. I think the term "county department" is sufficient to achieve this. Do you think we should repeal current 55.01(1t) and also eliminate the use of the term "county protective services agency" anywhere else it is used in the chapter? (If it used elsewhere- I am not sure if it is...)

8. Response to your question on pg. 120, after line 14.

Yes I think a stating date would be good. How about Dec. 31 2006 to build in some lead time.

9. Response to your question on the top of pg. 122.

Yes I think the intent is to require the annual review of a psych med order to provide all of the evidence that the petition must provide under 55.14(3)(c). This is similar to the requirement than an annual review of a placement must determine whether the individual continues to meet the standards for placement.

10. Response to your question on pg. 127, after line 9 and comment after line 18.

Yes I meant that the order should include the information relied upon as a basis. Please also add "in the order" at the end of line 14.

11. NOTE to be added at the end of SECTION 172 (pg. 128, after line 9)

NOTE: Requires annual court review of all orders for protective placement, as described in detail in the Prefatory Note.

11. NOTE to be added at the end of SECTION 171 (pg. 120, after line 14)

NOTE: Requires annual court review of all orders authorizing involuntary administration of psychotropic medication, as described in detail in the Prefatory Note.

SECTION 167- ORDER FOR INVOLUNTARY PSYCH MEDS (p. 97-103)

1. Response to your question on pg. 98, after line 4.

Yes you can add the definition of "protest" used in s. 880.38(4)(a).

2. Response to your question on pg. 99, after line 4.

Yes you are right. I think you should add "if known" as you suggested.

3. Response to your comment on pg. 102, after line 18.

I am uncomfortable changing “may” to “shall.” My notes indicate that the working group that developed the underlying psych med draft asked me to use the procedures used in secs. 51.20(8)(bm) – which provides that the counsel “**may**” file a statement of non-compliance with the court, and s. 51.20(13)(dm), which provides that the director of the facility that a person has been ordered to report to for admin of meds on an outpatient basis “**may**” request that the individual be taken into custody. Also, my notes state that the working group wanted the corp counsel to be involved so that facility (they said cbrf) isn’t “calling the cops all the time”. They said if it was necessary for the cbrf to be calling the cops all the time, then the cbrf wasn’t the correct facility for this person. They said they did NOT envision this procedure being used over and over on the same person- Therefore it appears they intentionally drafted the provision to give the corp counsel discretion over whether to file with the court in each circumstance.

The other change is fine.

4. NOTE to be added at the end of SECTION 167 (p. 103, after line 12)

Establishes a procedure by which a court may order involuntary administration of psychotropic medication, with consent of a guardian, as a protective service, as described in detail in the Prefatory Note.

SECTION 173 (p. 128)

1. Response to your question:

It does make sense to require training on emergency protective services as well as placement. But current law provides for emergency services (including forcible entry) yet training on that is not required under current law. In that regard, this change would be substantive, not just a cross-reference correction. More importantly, the committee did not ok this change. I think there has to be a limit to how much we go beyond what the committee actually approved even if it “makes sense”. This change feels like too far beyond what the committee actually approved- and would potentially have a fiscal impact, so I would say leave as is--unless LR has strong feelings the other way. Maybe we can save this to a list of good ideas that we could suggest as amendments to the bill.

2. Add the following note after SEC. 173:

NOTE: Changes a cross-reference in current law specifying required elements of law enforcement training programs to reflect renumbering and amending of ch. 55.

SECTION 174 (p. 128)

Add the following note after SEC 174:

NOTE: Changes a cross-reference in current law directing the department of justice to organize a program of law enforcement training programs to reflect renumbering and amending of ch. 55.

Response to your question:

See my response to your question following SEC. 173.

SECTION 175 (pg. 129)

NOTE: Changes a cross-reference in current law defining "prisoner" in chapter 301 of the statutes, pertaining to the department of corrections, to reflect renumbering and amending of ch. 55.

SECTION 176 (p. 129)

1. Response to your question on pg .130, after line 3:

I agree with adding the reference to court order under 880.33(4m) or (4r), 2003 stats., and adding cross-ref to s. 55.14 and 55.19(3)(e), since they replace the current 880.33 provisions. But I don't understand why you added of the cross-reference to "an order for protective placement or services under 55.12" – that doesn't seem to track any statutory reference that is currently in s. 609.65(1)(intro).

2. Add this note after SEC. 176, on pg. 130.

NOTE: Changes a cross-reference in current law regarding insurance coverage for court-ordered services for the mentally ill, to reflect renumbering and amending of ch. 55.

SECTION 177 (pg. 130)

1. Response to your question, pg 130, after line 13.

Yes- I think you should add a reference to s. 55.13 here. (Is there a probable cause hearing for emergency protective services under current law? I couldn't find language to that effect.)

2. Add the following note after SEC 177 (after line 13 on pg 130)

NOTE: Changes a cross-reference in current law authorizing circuit court commissioners to conduct probable cause hearings on emergency protective placements, to reflect renumbering and amending of ch. 55 and authorizes commissioners to conduct probable cause hearings for emergency protective services, which are created in the bill.

SECTION 178 (pg 130)

Add note following SEC. 17 (p. 130, after line 19)

NOTE: Changes a cross-reference in current law regarding access to a child's records relating to protective services by a parent who has been denied periods of physical placement with a child, to reflect renumbering and amending of ch. 55.

SECTION 179 (pg 130-131)

1. Response to your question on pg 131, after line 3:

Yes!

2. Add this NOTE after SEC 179 (pg 131, after line 3)

NOTE: Changes a cross-reference in current law regarding permitted court actions pending appeal, to reflect renumbering and amending of ch. 55.

SECTION 180 (pg 131)

NOTE: Changes a cross-reference in current law regarding permitted court actions pending appeal, to reflect renumbering and amending of ch. 55.

SECTION 181 (pg 131)

NOTE: Changes a cross-reference in current law regarding permitted court actions pending appeal, to reflect renumbering and amending of ch. 55.

SECTION 182 (pg 131)

NOTE: Changes a cross-reference in current law regarding appeal procedures in cases under ch. 55, to reflect renumbering and amending of ch. 55.

SECTION 183 (pg. 131)

NOTE: Changes a cross-reference in current law regarding appeal procedures in cases under ch. 55, to reflect renumbering and amending of ch. 55.

SECTION 184 (pg. 131-132)

NOTE: Changes a cross-reference in current law regarding vulnerable adult restraining orders, to reflect renumbering and amending of ch. 55.

SECTION 185 (pg132)

6

NOTE: Changes a cross-reference in current law regarding vulnerable adult restraining orders, to reflect renumbering and amending of ch. 55.

SECTION 186 (pg. 132)

NOTE: Changes a cross-reference in current law regarding vulnerable adult restraining orders, to reflect renumbering and amending of ch. 55.

SECTION 187 (pg. 132)

NOTE: Changes a cross-reference in current law regarding vulnerable adult restraining orders, to reflect renumbering and amending of ch. 55.

SECTION 188 (pg. 132-133)

NOTE: Changes a cross-reference in current law regarding vulnerable adult restraining orders, to reflect renumbering and amending of ch. 55.

SECTION 189 (pg. 133)

NOTE: Changes a cross-reference in current law regarding vulnerable adult restraining orders, to reflect renumbering and amending of ch. 55.

SECTION 190 (pg. 133)

NOTE: Changes a cross-reference in current law regarding vulnerable adult restraining orders, to reflect renumbering and amending of ch. 55.

SECTION 191 (pg. 133)

NOTE: Requires the register in probate of each county to submit a statement to the chief judge of the judicial administrative district indicating whether each report and petition for annual review of protective placement required to be filed by the county department that year has been filed.

SECTION 192 (pg 133-134)

NOTE: Replaces the term "infirmities of aging" with the term "degenerative brain disorder."

SECTION 193 (pg 134)

NOTE: Replaces the term "infirmities of aging" with the term "degenerative brain disorder."

SECTION 194 (pg 134)

NOTE: Replaces the term "infirmities of aging" with the term "degenerative brain disorder."

SECTION 195 (pg 134-135)

NOTE: Relocates a provision in ch. 880 that defines "not competent to refuse psychotropic medication" to the newly-created section of ch. 55 that establishes the procedure and requirements for a court order authorizing a guardian to consent to the involuntary administration of psychotropic medication to a ward. Also revises that definition to reflect terminology changes made elsewhere in the bill.

SECTION 197 (pg 135-136)

1. Response to your question:

I believe "petition" refers only to a petition under 880.07.

NOTE: This note should be same as NOTE after SEC.159. Should this entire subsection be identical to s. 55.075(5)(b)? Are we deleting the language re: DHFS? Should we add the language from 55.075(5)(b) re: what constitutes proper notice?

SEC. 198 (pg. 136)

1. Response to your question:

We amend s. 51.40(2)(f) in the "venue" draft- WLC 0254/ -- to allow for change of residence by any guardian, not just a parent or sibling, for any ward, not just those in a nursing home or state facility. -. Maybe we should take this provision out of this draft and put it in the 0254 draft...I bet what happened is when we "split up" the original big draft, 0220/1, to take the venue and residency stuff out for the second mail ballot, we missed this provision and we should have moved this provision to the other draft as well.

That doesn't answer the question about deleting the language about a guardian who moves to another county. I'll have to check my notes on that when we revies the venue draft.

SEC. 199 (pg. 136)

NOTE: Repeals a provision describing the required contents of a petition alleging that a proposed ward is incompetent to refuse psychotropic medications to reflect that the bill creates a new procedure for these types of petitions in s. 55.14.

SEC. 201 (pg. 137-138)

Response to your question, per Dianne Greenley:.

It would be counsel appointed to represent the ward when/if it is requested by the ward or GAL; it could also be counsel retained by the ward if he/she has money. It is the same term that is used in CH 51 - it generally means the counsel that represents the wishes of the ward as opposed to the GAL who represents the ward's best interests. Interestingly the term is not used in 880.33(2)(a).

Dianne

SEC 204, 205, 206,207 and 208-(pp. 139-141)

1. Response to your question: I guess we should repeal all the language that pertains to petitions alleging incompetency to refuse psych meds.
2. ***NOTE: Replaces the term "person "with individual (check wording of other NOTES describing this change)(***Revise NOTE to reflect repeal of language pertaining to petitions alleging incompetency to refuse psych meds if that is what we decide to do) ***

SEC 210 (pg. 142)

NOTE: Replaces the term "person "with individual and amends a cross-reference to reflect renumbering if ch. 55 in the bill.

SEC. 211 (pg. 142)

NOTE: Repeals provisions in ch. 880 authorizing a court to appoint a guardian to consent to or refuse psychotropic medications on behalf of a ward to reflect that the bill creates a new procedure in s. 55.14 authorizing a guardian to make these decisions.

SEC 212 (pg. 142)

Response to your comment after SEC 212: good idea. Thanks!

NOTE: Repeals provisions in ch. 880 under which a court may authorize a guardian to consent to forcible administration of psychotropic medications to a ward under certain circumstances, to reflect that the bill creates a new procedure in s. 55.14 for a court to provide this authorization.

SEC.213 (pg. 142)

NOTE: Amends a cross-reference to reflect renumbering and amendment of ch. 55 in a provision of current law pertaining to guardianship.

SEC. 214 (pg 143)

NOTE: Amends a cross-reference to reflect renumbering and amendment of ch. 55 in a provision of current law pertaining to guardianship.

SEC. 215 (pg. 143)

NOTE: Amends a cross-reference to reflect renumbering and amendment of ch. 55 in a provision in current law that requires the court to appoint a guardian ad litem in incompetency cases.

SEC. 216 (pg. 143)

NOTE: Adds two items to the list of duties of a guardian ad litem in incompetency cases: The duty to interview the proposed guardian and any other person seeking appointment as a guardian and the duty to make a recommendation to the court regarding the fitness of the proposed guardian.

Response to your comment after line 16: Re:880.331 (4)(as) that we had in our draft: (top of pg 98 of our draft:

880.331(4) (as) Interview the guardian of an individual who is the subject of a petition for protective placement or court-ordered protective services, if one has already been appointed.

It seems like we still need that provision for cases in which a person already has a guardian at the time of the placement petition. 880.331(4)(am) requires GAL to interview proposed guardian and other person seeking appt. I think the committee wanted the GAL to interview the existing guardian, if any, on the topic of placement.

Actually maybe we need to add the requirement to interview existing guardian, if any, to s. 55.10(4)(b) since it doesn't make any sense to have that in 880 proceeding to appoint guardian. Maybe we should instead replicate all the GAL duties in ch. 55, since the wording of the GAL duties in ch. 880 doesn't really correspond to the duties in a ch. 55 proceeding. Or is that a bad idea since most 55's occur simultaneously with an 880?

SEC. 217 (pg. 143-144)

Question: why aren't SEC. 216 and 217 all one section?

NOTE: Adds three items to the list of duties of a guardian ad litem in incompetency cases: The duty to inform the court and the petitioner or his or her counsel that the proposed ward requests representation by counsel; the duty to attend all court proceedings relating to the guardianship; and the duty to notify the guardian of certain rights of the guardian.

SEC. 218 (pg 144)

NOTE: Amends cross-references to reflect renumbering and amendment of ch. 55 in a provision in current law that sets forth the duties of a guardian ad litem in incompetency cases.

Question: Should this section also have a cross reference to review of psych med orders under s. 55.19? Alternatively, should we repeal this section since we spell out the GAL duties in the newly-created sections on annual review on in s. 55.18(2) (on pg. 115-116) and in the parallel provisions on the psych med review? Is it redundant or confusing to have 2 sections that set forth requirements, yet requirements are different? If we repeal, we have to deal with the reference to reviews of protective services orders under 55.12.

SEC. 219 (pg. 144)

Repeals provisions in current law pertaining to annual review of an order authorizing a guardian to consent to forcible administration of psychotropic medications to a ward under certain circumstances, to reflect that the bill creates a new annual review procedure of that type of authorization. in s. 55.19.

SEC. 220 (pg. 144)

Response to your question after line 20: I don't think we need to add reference to 55.13, since it doesn't seem that a guardian is involved in emergency services the way they are involved in emergency placement. For placement, a guardian can actually take the ward to a facility and have them checked in. For emergency placements, it looks like guardian doesn't do anything like that. (see pgs 64 and 97 for emerg. services provisions)

NOTE: Amends cross-references to reflect renumbering and amendment of ch. 55 in a provision of current law that sets forth the rights and duties of guardians.

SEC. 221 (pg 144-145)

NOTE: Authorizes a guardian to consent, without further court involvement, to involuntary administration of medication, other than psychotropic medication, and involuntary medical treatment that is in the ward's best interest. In determining whether medication or medical treatment is in the ward's best interest, the guardian shall consider the invasiveness of the medication or treatment and the likely benefits and side effects of the medication or treatment. A guardian may not consent to involuntary administration of psychotropic medication unless the guardian has been authorized to do so under s. 55.06 (9) (am).

SEC. 222 (pg 145)

NOTE: Amends cross-references to reflect renumbering and amendment of ch. 55 in a provision of current law that requires a guardian to make an annual report on the condition of the ward to the court and the county.

Response to your comment after line 22;

The reference under current law, in the last sentence of 880.38(3), to “the report required to be filed under s. 55.06(10)” doesn’t make any sense. Current 55.06(10) doesn’t require a “report” by a guardian, it requires a review by the county. Your replacement of the reference to 55.06(10) with the reference to 55.18(1)(a)1 (which requires county to conduct a review and file a report) is correct in that it parallels current law, but the current law doesn’t make sense.

Maybe we should repeal the last sentence of s.880.38(3). And amend 880.38(3) to harmonize it with the new annual review requirements under 55.18 and amend 55.18 (1)(a)(intro) (pg 82) to clarify that the guardian has to provide the info specified in s.880.39(3) at that point in the process.

Also note that pg 117 of draft states that in conducting an annual review of a placement, the court is required to review “the report required under 880.38(3)”.

SEC 225 (pg 146)

NOTE: Replaces the term “infirmities of aging” with the term “degenerative brain disorder” and amends cross-references to reflect renumbering and amendment of ch. 55, in the statute that establishes certain crimes related to the maltreatment of vulnerable adults.

SEC. 226 (PG. 146)

NOTE: Replaces the term “infirmities of aging” with the term “degenerative brain disorder” and amends cross-references to reflect renumbering and amendment of ch. 55, in the statute that establishes crimes related to the maltreatment of vulnerable adults.

SEC. 227 (pg. 146)

NOTE: Replaces the term “infirmities of aging” with the term “degenerative brain disorder” and amends a cross-reference to reflect renumbering and amendment of ch. 55, in the statute that establishes crimes related to the abuse and neglect of patients and residents of certain facilities.

SEC. 228 (pg 147)

NOTE: Replaces the term “infirmities of aging” with the term “degenerative brain disorder” in the statute that establishes crimes related to the abuse and neglect of patients and residents of certain facilities.

SEC. 229 (pg 147-148)

NOTE: Amends cross-references to reflect renumbering and amendment of ch. 55 in a provision of current law pertaining to detention of a criminal defendant found to be incompetent.

Response to your question after line 23: Yes I think it is amended correctly. Are you saying that an "except for" should be placed in . 55.075? I think that would be fine.

SEC. 230 (pg 148)

NOTE: Requires the state public defender to provide legal services in cases involving individuals who are subject to petitions for protective placement.

7/25/05 Additional review of 0026/P1 Laura Roset Mary Madri

- ① p. 29, l. 20 - add or 55.18 (1)(ar) delete ref to 55.06(10)(a) 2. [46.279(2)]
- ② p. 30, l. 5 - shd. be 55.12(6) [46.279(4)(c)]
- ③ p. 30, l. 9 - change 55.06(10)(a) 2. to 55.18 (1)(ar) [46.279(4)(d)]
- ④ p. 30, after l. 17 - NOTE: ok [46.279(5)]
- ⑤ p. 33 l. 16 - add ref to 55.13 [49.001(5m)]
- ⑥ p. 34, after l. 2 - NOTE ok [49.001(8)]
- ⑦ pp 34 + 35 - NOTE: yes, add ref to 55.13 + 55.055(7) [49.45(30m)(b)]
- ⑧ p. 35, after l. 5 [49.45(30m)(c) 2.] change ref to 55.18 (1)(ar)
- ⑨ p. 36, after l. 18 [50.06(2)(d) - ok
- ⑩ p. 38, after l. 20 [51.03(3)(a) 6.] add 55.14
- ⑪ p. 39, after l. 9 [51.10(3)] does not apply to both; my kno. ok
- ⑫ p. 40, after l. 14 [51.15(1)(a) 4.] add post services
- ⑬ p. 42, after l. 3 [51.20(1)(a) 2.c.] " " "
- ⑭ " " 23 [51.20(1)(a) 2.d.] " " "
- ⑮ p. 44 " 3 [51.20(1)(a) 2.e.] " " "
- ⑯ p. 45 " 4 [51.20(1)(am)] " " "
- ⑰ p. 45 " 22 [51.20(1m)] " " "
- ⑱ p. 46, after l. 18 [51.20(7)(d) 1.(intro.) replace 880.07 (1m)(c) + (d) w/ 55.14(3)(e)
- ⑲ p. 48, after l. 14 [51.40(2)(a) 2.] add ref to 55.13
- ⑳ p. 49 x NOTE [51.40(2)(g) 1.] ok
- ㉑ p. 50, after l. 9 [51.42(3)(ar) 4.d.] - add ref to 55.13
- ㉒ p. 55, after l. 17 [55.01(2)] ok
- ㉓ p. 56, after l. 9 [55.01(4g)] ok
- ㉔ " " l. 11 [55.01(4t)] ok
- ㉕ p. 56 after l. 14 [55.01(6) - NOTE ok; requires changes to 55.06(1)(intro.), 55.06(10)(b), 55.16(3)(a)
- ㉖ p. 57 after l. 5 [55.06(6m), (6p) - ok

- 27 p. 59, ll. 4-10 - see changes by Laura Rose [55.02(2)(a)]
- 28 p. 59, after l. 17 - NOTE ok [55.02(2)(b)3.]
- 29 p. 60, 1st NOTE [55.02(2)(b)4.] - ok; NOTE changes by M Matthias
- 30 p. 62, after l. 8 - [55.043(4)(b)] - ok
- 31 p. 63, after l. 14 [55.05(2)(c)] - ok
- 32 p. 64 [55.05(5)(title)] - ok
- 33 p. 65 - repeal 55.05(5)(a); retain wording of *NOTE for NOTE - checked X refs + changed rest of 55.055 numbering
- 34 p. 66 [55.05(b)2.] - NOTE ok
- 35 p. 68 [55.05(5)(d)] - amend to change "facility" to "hc facility, as defined in s. 155.01(6)".
- * NOTE 36 p. 68 [55.055(i)(d)] - DAK check re Jane E.P. decision of 7/7/05
- 37 p. 69 [55.055(2)] - *NOTE ok
- 38 p. 70 [55.06(i)(intro)] - strike "adult"; rest ok
- * NOTE 39 p. 71, after line 2 [55.06(i)(b)] - M. Matthias to review
- 40 p. 71 [55.06(i)(c)] - *NOTE ok
- 41 p. 71 [55.06(i)(d)] - *NOTE ok
- 42 p. 73 [55.06(3)(c)] - add, as an option, lang from s. 51.22(4), stats.: or if the individual has been committed to a facil. that is not w/in the co. of residence (as specified in s. 51.22(4))
- 43 p. 73, after line 18 [55.06(4)] ; *NOTE: Yes
- 44 p. 76 [55.06(6)] *NOTE: ok
- 45 p. 78 [55.06(8)(c)] *NOTE: ok
- 46 p. 79, l. 17 [55.06(9)(a)] *NOTE: ok
- 47 p. 80, after l. 3 [55.06(9)(a)] *NOTE: ok
- 48 p. 80, after l. 21 [55.06(9)(a)] *NOTE: ok; "psychiatric" changed
- 49 p. 81, after l. 18 [55.06(9)(a)] 2d quest. of *NOTE: ok; 1st quest. of *NOTE: L. Rose says repeal of last sentence is intentional
- 50 p. 82 [55.06(10)(a)1.] *NOTE ok

- (51) p. 83 [55.06(10)(a)2.] - Ren and amend to 55.18(1)(a)
- (52) p. 84 [55.06(11)(a)] - *NOTE ok
- (53) p. 87 [55.06(14)] - LR to review if last sent. is correct - ok; refers to s. 51.35(7).
- (54) p. 89 [55.06(18)] - *NOTE ok
- (55) pp. 90+91 [55.075(5)(b)]
 (a) Delete 6th sentence
 (b) Move last sentence to be 3^d sentence
- (56) p. 91, after l. 9 [55.08(1)] *NOTE ok
- (57) p. 93 [55.10(2)] - *NOTES ok; change "adversary" to "the individual's"
- (58) p. 93 [55.10(3)] - Do not change term; see D-NOTE
- (59) p. 94 [55.10(4)] - *NOTE ok
- (60) p. 95 [55.11(4)] - *NOTE ok, except keep reference to "legal" residence - see D-NOTE
- (61) p. 97 [55.13(3)] *NOTE ok
- (62) p. 98 [55.14(1)(a)1.] *NOTE: create definition of "protect"
- (63) p. 98, l. 19 - use: "shall identify the reasons for the individual's refusal to take psychotropic..."
 [55.14(3)(c)] if known,
- (64) p. 102, l. 5 - [55.14(9)] - 1st sentence change "shall" to "may";
 *NOTE 2^d sent. is ok
- (65) p. 103 [55.15(1)] change "if the medical facility is not a psychiatric facility" to ". The individual may not be transferred to any facility for which commitment procedures are required under ch. 51.
- (66) p. 104 [55.15(5)] - *NOTE ok
- (67) p. 105 [55.15(6)] - *NOTE ok
- (68) p. 105 [55.15(7)(d)] - *NOTE: add CAL.
- (69) p. 106 [55.15(8)(a)] - *NOTE ok
- (70) p. 106 [55.15(9)(a)] - Both *NOTES ok
- (71) p. 109 [55.16(4)(intro.)] - *NOTE ok

- (72) p. 109 [55.16(4)(a)] - *NOTE refers to changes to 55.16 (2)(b) 1. to 3. to add in reqmts. of s. 55.12(3), (4), + (5); changes made; see D-NOTE
- (73) p. 114 [55.18(1)(a) i.g.] *NOTE ok
- (74) p. 115 [55.18(2)(b) (intro.)] *NOTE - add "orally"
- (75) p. 115 [55.18(2)(b) 6.] *NOTE: add (from M. Matthias' Notes p. 2 " and an explanation that the individual or the individual's guardian may request a hearing that meets the requirements under s. 55.10(4) "
- (76) p. 116 [55.18(2)(c)] *NOTE ok
- (77) p. 116 [55.18(2)(g)] *NOTE ok
- (78) p. 117 [55.18(3)(br)] *NOTE ok
- (79) p. 118 [55.18(3)(d)] *NOTE ok
- (80) p. 120 [55.18(4)]
 a. change date to 6 mo after passage
 b. Change county protective services agency to co dept throughout
- (81) p. 120 [55.18(5)] - change "Dec 31 of each year"; use "Beginning on the first Jan 31 after bill passage and on every Jan 31 thereafter"
- (82) p. 122 [55.19(1)(a) i.c.] *NOTE: add reqmts for petition under s. 55.14(3)
- (83) p. 123 [55.19(2)(b)] *NOTE: add "orally"
- (84) p. 124 [55.19(2)(b) 6.] *NOTE: add (from M. Matthias' notes p. 2) - same as for 55.18(2)(b) 6.
- (85) p. 124 [55.19(2)(c)] *NOTE ok
- (86) p. 125 [55.19(2)(g)] *NOTE ok
- (87) p. 126 [55.19(3)(br)] *NOTE ok
- (88) p. 126 [55.19(3)(d) (intro.)] *NOTE ok
- (89) p. 127, e. 9 [55.19(3)(e) 1.] *NOTE yes
- (90) p. 127 [55.19(3)(e) 2.] *NOTE - add "in the order" to 3d sentence

- (91) p. 128 [165.85(4)(b) Id. b.] * NOTE: Do not add ref to s. 55.13
- (92) p. 129 [165.86(2)(b)] * NOTE: Do not add ref. to 55.13
- (93) p. 130 [609.65(1)(intro.)] * NOTE: - Remove ref. to prot. plan or prot. serv under 55.12; rest of * NOTE ok
- (94) p. 130 [757.69(1)(h)] * NOTE: add ref. to 55.13
- (95) p. 131 [808.075(4)(c) i.] * NOTE ok
- (96) p. 135 [880.01(8m)] * NOTE ok
- (97) p. 136 [880.06(1)] * NOTE
 a. "petition" in 1st sent. refers to 880.07
 b. Make changes as in 55.075(5)(b)
- * DNOTE (98) p. 136 [880.06(2)] - Delete treatment from title
- (99) p. 137 [880.08(1)] * NOTE:
 a. 1st * NOTE - ok
 b. 2d * NOTE - change "advisory" counsel to "counsel for the proposed ward or ward,"
- (100) p. 139 [880.33(1)] * NOTE: Repeal 3d sent that refers to petition for competency to refuse psychotrop. med
- (101) p. 140 [880.33(2)(a) 1.] * NOTE: Repeal material relating to psychotrop med.
- (102) p. 140 [880.33(2)(a) 2.] * NOTE: Repeal material relating to psychotrop med
- (103) p. 141 [880.33(2)(d)] * NOTE: Repeal 880.33(2)(d)
- (104) p. 141 [880.33(2)(e)] * NOTE: Repeal 880.33(2)(e)
- (105) p. 142 [880.33(3)] * NOTE: Ignore
- (106) p. 142 [880.33(4r)] * NOTE ok
- (107) p. 143 [880.331(4)(ar)] * NOTE - amended s. 55.10(4)(b)
- (108) p. 144 [880.331(4)(ds)] * NOTE ok
- (109) p. 144 [880.331(5)(intro.)] - delete ref to ss. 55.18 + 55.06 - for prot services only
- (110) p. 144 [880.38(1)] - no ref. to 55.13
- (111) p. 145 [880.38(3)] * NOTE: repeal last sentence
- (112) p. 147 [971.14(b)(b)] * NOTE: make exception in s. 55.075

7/25/05 Laura Rose, Mary Matthias review of 0026/P1

✓ ① Delayed eff for psychiatric med staff (55.14) -
 Delay 1 yr. Require rules submission to Leg Council
 by 5 months 8/2/08 NO; make psychotrop eff now
 bec. rules can go back for previous year for info

DNOTE ✓ ② 55.18(1)(a) (renum from 55.06(10)(a)2.) -
 write D-Note for Committee re confusion w/ new
 standard under 55.18

✗ ③ Explain why s. 55.05(5)(a) is repealed [is in NOTE]

DNOTE ✓ ④ p. 71 Note after line 2 - Mary M. will look at

✓ ⑤ p. 81 - Laura to look at s. 17+18 + see if approp.
 to include in Petition (re refusal of guardian) under
 s. 55.15(6) 7/29/05: From Laura Rose; do not include

✓ ⑥ p. 87 - LR will look at

✓ ⑦ p. 93 - Do nothing w/ "persons in interest" - is
 in conf. / w/ 880, ^{as revised} needs to be revisited

✓ ⑧ p. 96 - Do nothing w/ "legal"

✓ ⑨ p. 103 - Consent of guard - needs to be revisited

DNOTE ✓ ⑩ p. 136, SEC 198 - delete + put in
 venue draft (with ***NOTE)

DNOTE ✓ ⑪ 880.331(5)(intro.) - Should be renumbered
 if committee wants to retain by audit



⑫ 880.38(3) - To be amended later, to tie in w/ ch. 55? For now, elim (repeal) last sentence.

~~DNONE~~ ⑬ p. 148, l. 17 Note - LR will get back to me



Kennedy, Debora

From: on behalf of Debora Kennedy
To: Rose, Laura
Subject: RE: Answers to ch. 55 questions: LRB 0026/P1

Thanks, Laura.

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

From: Rose, Laura
Sent: Thursday, July 28, 2005 2:29 PM
To: Kennedy, Debora
Cc: Matthias, Mary
Subject: Answers to ch. 55 questions: LRB 0026/P1

Hi Debora,

Here are the answers to the questions I looked into based on our meeting on Monday, July 25:

✓ Page 81: The repeal of the last sentence in sub. (6) was intentional.

✓ Page 87: In the last sentence, "department" is appropriate. The review referred to is made under s. 51.35(7).

That's it. Let me know if I need to do answer any further questions on this draft. Thanks for all your help!

Laura

2/3/05 VENUE - pp. 47, 48, 73, 90, 91

- 0026/P1

Mtg. : Laura Rose, Mary Matthias, Betty
Abramson, Gerard Gierl, D. Kennedy

Redraft

Venue discussion : to do

✓ ① Add venue + co. of responsibility to s. 55.075
(title)

② 55.075(5)(a) (renum from 55.06(3)(c))

x ② Remember (b) ?

✓✓ ③ Remove scored material - petition may
be filed where the indiv is physically present
due to circumstances including those
specified in s. 51.22(4)

✓ In
05-2339

✓ [④ Am s. 51.22(4) to add placement
authorized by co. dept under s. 51.437]

✓ ⑤ Add statement - Co of residence
is the co of responsibility

③ 55.075(5)(b)

x ③ Title - take out "Co of responsibility" ? Why?

✓✓ ④ Take out 5th sentence about determin.
of co. of responsibility by DHS

✓✓ ⑤ Last sentence : make 3rd sentence

✓ ⑥ 51.40(2)(g)1. - take out reference to
55.075(5)(b) (and 880.06(1))?

* ⑦ Expand 51.40 to cover everybody in resid.
setting subj. to licensure, etc. by DHS or a
co. dept. - call Gerard?

✓ In
05-2339