

****NOTE: Should reference to s. 55.13 also be made under this paragraph? Should reference be made to a temporary protective placement under s. 55.055 (7) under this paragraph? yes
- yes

INSERT
35-1

1 **SECTION 31.** 49.45 (30m) (c) 2. of the statutes is amended to read:
2 49.45 (30m) (c) 2. For an individual who was ~~protectively placed~~ provided
3 protective placement under ch. 55 at any time, any annual review that is conducted
4 under s. 55.06 (10) (a) 1. 55.18 (1) (a) (intro.) after April 30, 2005, complies with the
5 requirements of s. ~~55.06 (10) (a) 2.~~ 55.18 (1) (a) 2. ✓

INSERT
35-5

****NOTE: Please see the ****NOTE under s. 55.06 (10) (a) 2., stats., in this bill. ✓

6 **SECTION 32.** 50.02 (2) (ad) of the statutes is created to read:
7 50.02 (2) (ad) The department shall promulgate rules that require each facility
8 licensed under this subchapter to provide information necessary for the department ✓
9 to assess the facility's compliance with s. 55.14. , and residential care
apartment complexes

NOTE: Requires the DHFS to promulgate rules that require community-based residential facilities, nursing homes, and adult family homes to provide DHFS information necessary for DHFS to determine if those facilities are in compliance with the provisions relating to involuntary administration of psychotropic medication created by the bill.

****NOTE: Your NOTE indicates that the rules are to apply only to C-BRFs, nursing homes, and adult family homes, but using the phrase "each facility licensed under this subchapter" also sweeps in residential care apartment complexes. Do you intend to do that? Do you want a nonstatutory provision that would require submittal of proposed rules to the Legislative Council staff by a specific date? (Otherwise, the rules may not be promulgated anytime soon.) If so, by what date would you want them submitted? yes
Smo.

10 **SECTION 33.** 50.03 (5m) (c) of the statutes is amended to read:
11 50.03 (5m) (c) *Relocation.* The department shall offer removal and relocation
12 assistance to residents removed under this section, including information on
13 available alternative placements. Residents shall be involved in planning the
14 removal and shall choose among the available alternative placements, except that
15 where an emergency situation makes prior resident involvement impossible the
16 department may make a temporary placement until a final placement can be
17 arranged. Residents may choose their final alternative placement and shall be given

1 assistance in transferring to such place. No resident may be forced to remain in a
2 temporary or permanent placement except pursuant to ~~the procedures provided~~
3 under s. 55.06, 2003 stats., or an order under s. 55.12 for protective placement. Where
4 the department makes or participates in making the relocation decision,
5 consideration shall be given to proximity to residents' relatives and friends.

6 **SECTION 34.** 50.06 (2) (c) of the statutes is amended to read:

7 50.06 (2) (c) A petition for guardianship for the individual under s. 880.07 and
8 a petition under s. 55.075 for protective placement of the individual ~~under s. 55.06~~
9 ~~(2)~~ are filed prior to the proposed admission.

10 **SECTION 35.** 50.06 (2) (d) of the statutes is created to read:

11 50.06 (2) (d) The incapacitated individual does not verbally object to or
12 otherwise actively protest the admission. If he or she makes such an objection or
13 protest, he or she may be admitted to the facility, but the person in charge of the
14 facility shall immediately notify the county department under s. 55.02 (2) for the
15 county in which the individual is living or the agency with which the county
16 department contracts. Representatives of the county department or agency shall
17 visit the individual as soon as possible, but not later than 72 hours after notification,
18 and do all of the following:

****NOTE: Please review my changes to this paragraph. I changed "person admitted
under this subsection," because the first sentence is only one of the criteria that must be
satisfied for admission. For the second sentence, however, the language seems to assume
that admission is made notwithstanding objection or protest, so here I added
authorization to admit the incapacitated individual to the facility. ok

19 1. Determine whether the protest persists or has been voluntarily withdrawn
20 and consult with the person who consented to the admission regarding the reasons
21 for the admission.

1 2. Attempt to have the incapacitated individual released within 72 hours if the
2 protest is not withdrawn and the individual does not satisfy all of the criteria under
3 s. 55.08 (1) or 55.135 (1), and provide assistance in identifying appropriate
4 alternative living arrangements.

5 3. Comply with s. 55.135 if the requirements of s. 55.135 (1) are met and
6 emergency protective placement in that facility or another facility is necessary or file
7 a petition for protective placement under s. 55.075. The court, with the permission
8 of the facility, may order the incapacitated individual to remain in the facility
9 pending the outcome of the protective placement proceedings.

10 **SECTION 36.** 51.01 (2g) (b) of the statutes is amended to read:

11 51.01 (2g) (b) "Brain injury" does not include alcoholism, Alzheimer's disease
12 as specified under s. 46.87 (1) (a) or ~~the infirmities of aging degenerative brain~~
13 ~~disorder~~, as specified under s. 55.01 (3) defined in s. 55.01 (1v).

14 **SECTION 37.** 51.01 (3g) of the statutes is renumbered 51.01 (14t) and amended
15 to read:

16 51.01 (14t) "Chronic Serious and persistent mental illness" means a mental
17 illness ~~which~~ that is severe in degree and persistent in duration, ~~which~~ that causes
18 a substantially diminished level of functioning in the primary aspects of daily living
19 and an inability to cope with the ordinary demands of life, ~~which~~ that may lead to
20 an inability to maintain stable adjustment and independent functioning without
21 long-term treatment and support, and ~~which~~ that may be of lifelong duration.
22 "Chronic Serious and persistent mental illness" includes schizophrenia as well as a
23 wide spectrum of psychotic and other severely disabling psychiatric diagnostic
24 categories, but does not include ~~infirmities of aging degenerative brain disorder~~, as

1 defined in s. 55.01 (1v), or a primary diagnosis of ~~mental retardation~~ a developmental
2 disability or of alcohol or drug dependence.

3 SECTION 38. 51.01 (3s) of the statutes is amended to read:

4 51.01 (3s) "Community support program" means a coordinated care and
5 treatment system which that provides a network of services through an identified
6 treatment program and staff to ensure ongoing therapeutic involvement and
7 individualized treatment in the community for ~~persons~~ individuals with ~~chronic~~
8 serious and persistent mental illness. *create autoref N*

9 SECTION 39. 51.01 (5) (a) of the statutes is amended to read:

10 51.01 (5) (a) "Developmental disability" means a disability attributable to
11 brain injury, cerebral palsy, epilepsy, autism, Prader-Willi syndrome, mental
12 retardation, or another neurological condition closely related to mental retardation
13 or requiring treatment similar to that required for mental retardation, which has
14 continued or can be expected to continue indefinitely and constitutes a substantial
15 handicap to the afflicted individual. "Developmental disability" does not include
16 senility which that is primarily caused by the process of aging or ~~the infirmities of~~ ✓
17 aging degenerative brain disorder, as defined in s. 55.01 (1v).

INSERT 38-17

s. 55.14
or

18 SECTION 40. 51.03 (3) (a) 6. of the statutes is amended to read:

19 51.03 (3) (a) 6. The number of ~~persons~~ individuals for whom guardians are
20 appointed under s. 880.33 (4m), 2003 stats.

****NOTE: Do you want reference to s. 55.14 in this subdivision? Any other ch. 55
provision? *yes*

21 SECTION 41. 51.10 (4m) (a) (intro.) of the statutes is amended to read:

because of incompetency

1 51.10 (4m) (a) (intro.) An adult who meets the criteria for voluntary admission
2 under sub. (4) and whose admission is approved under sub. (1) or (2) may also be
3 admitted to an inpatient treatment facility if:

NOTE: Deletes the requirement that the voluntary admission of an adult to an inpatient treatment facility who does not indicate a desire to leave the facility be approved by the treatment director of the treatment facility or the director of a center for the developmentally disabled and the county department.

consents under the requirements of sub. (4m)(a) 1. or if the guardian

4 SECTION 42. 51.10 (8) of the statutes is amended to read:

5 51.10 (8) An adult for whom a guardian of the person has been appointed under
6 ch. 880 ~~because of the subject's incompetency~~ may be voluntarily admitted to an
7 inpatient treatment facility ~~under this section only~~ if the guardian and the ward
8 consent to such ~~the admission or if the guardian consents and the procedures under~~
9 ~~sub. (4m) are followed.~~ *under this section*

NOTE: Provides that the guardian of an incompetent adult may provide consent to the voluntary admission of the ward to an inpatient treatment facility, in cases where the ward does not indicate a desire to leave the facility, if the procedures for voluntary admission in ch. 51 are followed.

Does not apply to both

****NOTE: I'm not sure that I understand the amendment to s. 51.10 (8). First, it's not clear if "the procedures under sub. (4m) are followed" applies to both the situation in which the guardian and ward consent and to the situation in which only the guardian consents; if that is the case, it implies that an incompetent person may only be admitted under sub. (4m) and not under sub. (1) or (2). Second, the language seems to indicate that an adult adjudicated incompetent may be voluntarily admitted if the guardian and ward consent, if the guardian consents and the ward applies in writing (?), or if the guardian consents and a physician fulfills s. 51.10 (4m) (a) 1. Would the language better meet your intent if it read "...may be voluntarily admitted to an inpatient treatment facility under this section only if the guardian consents under the requirements of sub. (4m) (a) 1. or if the guardian and the ward consent to such the admission under this section"?

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ok

10 SECTION 43. 51.15 (1) (a) 4. of the statutes is amended to read:

11 51.15 (1) (a) 4. Behavior manifested by a recent act or omission that, due to
12 mental illness or drug dependency, he or she is unable to satisfy basic needs for
13 nourishment, medical care, shelter, or safety without prompt and adequate
14 treatment so that a substantial probability exists that death, serious physical injury,
15 serious physical debilitation, or serious physical disease will imminently ensue

or protective Services

1 unless the individual receives prompt and adequate treatment for this mental illness
 2 or drug dependency. No substantial probability of harm under this subdivision exists
 3 if reasonable provision for the individual's treatment and protection is available in
 4 the community and there is a reasonable probability that the individual will avail
 5 himself or herself of these services, if the individual ~~can receive protective placement~~
 6 under s. 55.06 may be provided protective placement under ch. 55, or, in the case of
 7 a minor, if the individual is appropriate for services or placement under s. 48.13 (4)
 8 or (11) or 938.13 (4). The individual's status as a minor does not automatically
 9 establish a substantial probability of death, serious physical injury, serious physical
 10 debilitation or serious disease under this subdivision. Food, shelter or other care
 11 provided to an individual who is substantially incapable of providing the care for
 12 himself or herself, by any person other than a treatment facility, does not constitute
 13 reasonable provision for the individual's treatment or protection available in the
 14 community under this subdivision.

****NOTE: Is this subdivision amended as you wish? Should reference also be made
 to receipt of protective services? *Yes*

15 SECTION 44. 51.15 (5) of the statutes is amended to read:

16 51.15 (5) DETENTION PROCEDURE; OTHER COUNTIES. In counties having a
 17 population of less than 500,000, the law enforcement officer or other person
 18 authorized to take a child into custody under ch. 48 or to take a juvenile into custody
 19 under ch. 938 shall sign a statement of emergency detention that shall provide
 20 detailed specific information concerning the recent overt act, attempt, or threat to
 21 act or omission on which the belief under sub. (1) is based and the names of persons
 22 observing or reporting the recent overt act, attempt, or threat to act or omission. The
 23 law enforcement officer or other person is not required to designate in the statement

1 whether the subject individual is mentally ill, developmentally disabled, or drug
2 dependent, but shall allege that he or she has cause to believe that the individual
3 evidences one or more of these conditions. The statement of emergency detention
4 shall be filed by the officer or other person with the detention facility at the time of
5 admission, and with the court immediately thereafter. The filing of the statement
6 has the same effect as a petition for commitment under s. 51.20. When, upon the
7 advice of the treatment staff, the director of a facility specified in sub. (2) determines
8 that the grounds for detention no longer exist, he or she shall discharge the
9 individual detained under this section. Unless a hearing is held under s. 51.20 (7)
10 or ~~55.06 (11) (b)~~ 55.135, the subject individual may not be detained by the law
11 enforcement officer or other person and the facility for more than a total of 72 hours,
12 exclusive of Saturdays, Sundays, and legal holidays.

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13 **SECTION 45.** 51.20 (1) (a) 2. c. of the statutes is amended to read:

14 51.20 (1) (a) 2. c. Evidences such impaired judgment, manifested by evidence
15 of a pattern of recent acts or omissions, that there is a substantial probability of
16 physical impairment or injury to himself or herself. The probability of physical
17 impairment or injury is not substantial under this subd. 2. c. if reasonable provision
18 for the subject individual's protection is available in the community and there is a
19 reasonable probability that the individual will avail himself or herself of these
20 services, if the individual is appropriate for protective placement under s. ~~55.06~~ may
21 be provided protective placement under ch. 55, or, in the case of a minor, if the
22 individual is appropriate for services or placement under s. 48.13 (4) or (11) or 938.13
23 (4). The subject individual's status as a minor does not automatically establish a
24 substantial probability of physical impairment or injury under this subd. 2. c. Food,
25 shelter or other care provided to an individual who is substantially incapable of

or protective services

1 obtaining the care for himself or herself, by a person other than a treatment facility,
2 does not constitute reasonable provision for the subject individual's protection
3 available in the community under this subd. 2. c.

****NOTE: Should reference also be made to receipt of protective services? *yes*

4 SECTION 46. 51.20 (1) (a) 2. d. of the statutes is amended to read:

5 51.20 (1) (a) 2. d. Evidences behavior manifested by recent acts or omissions
6 that, due to mental illness, he or she is unable to satisfy basic needs for nourishment,
7 medical care, shelter or safety without prompt and adequate treatment so that a
8 substantial probability exists that death, serious physical injury, serious physical
9 debilitation, or serious physical disease will imminently ensue unless the individual
10 receives prompt and adequate treatment for this mental illness. No substantial
11 probability of harm under this subd. 2. d. exists if reasonable provision for the
12 individual's treatment and protection is available in the community and there is a
13 reasonable probability that the individual will avail himself or herself of these
14 services, if the individual is appropriate for protective placement under s. 55.06 may
15 be provided protective placement under ch. 55, or, in the case of a minor, if the
16 individual is appropriate for services or placement under s. 48.13 (4) or (11) or 938.13
17 (4). The individual's status as a minor does not automatically establish a substantial
18 probability of death, serious physical injury, serious physical debilitation or serious
19 disease under this subd. 2. d. Food, shelter or other care provided to an individual
20 who is substantially incapable of obtaining the care for himself or herself, by any
21 person other than a treatment facility, does not constitute reasonable provision for
22 the individual's treatment or protection available in the community under this subd.
23 2. d.

****NOTE: Should reference also be made to receipt of protective services? *yes*

or protective services ✓

or protective services

1 **SECTION 47.** 51.20 (1) (a) 2. e. of the statutes is amended to read:

2 51.20 (1) (a) 2. e. For an individual, other than an individual who is alleged to
3 be drug dependent or developmentally disabled, after the advantages and
4 disadvantages of and alternatives to accepting a particular medication or treatment
5 have been explained to him or her and because of mental illness, evidences either
6 incapability of expressing an understanding of the advantages and disadvantages of
7 accepting medication or treatment and the alternatives, or substantial incapability
8 of applying an understanding of the advantages, disadvantages, and alternatives to
9 his or her mental illness in order to make an informed choice as to whether to accept
10 or refuse medication or treatment; and evidences a substantial probability, as
11 demonstrated by both the individual's treatment history and his or her recent acts
12 or omissions, that the individual needs care or treatment to prevent further
13 disability or deterioration and a substantial probability that he or she will, if left
14 untreated, lack services necessary for his or her health or safety and suffer severe
15 mental, emotional, or physical harm that will result in the loss of the individual's
16 ability to function independently in the community or the loss of cognitive or
17 volitional control over his or her thoughts or actions. The probability of suffering
18 severe mental, emotional, or physical harm is not substantial under this subd. 2. e.
19 if reasonable provision for the individual's care or treatment is available in the
20 community and there is a reasonable probability that the individual will avail
21 himself or herself of these services or if the individual is ~~appropriate for protective~~
22 placement under s. 55.06 may be provided protective placement under ch. 55. Food,
23 shelter, or other care that is provided to an individual who is substantially incapable
24 of obtaining food, shelter, or other care for himself or herself by any person other than
25 a treatment facility does not constitute reasonable provision for the individual's care

or protective services

1 or treatment in the community under this subd. 2. e. The individual's status as a
2 minor does not automatically establish a substantial probability of suffering severe
3 mental, emotional, or physical harm under this subd. 2. e.

****NOTE: Should reference also be made to receipt of protective services? *[initials]*

4 **SECTION 48.** 51.20 (1) (am) of the statutes is amended to read:

5 51.20 (1) (am) If the individual has been the subject of inpatient treatment for
6 mental illness, developmental disability, or drug dependency immediately prior to
7 commencement of the proceedings as a result of a voluntary admission ~~or~~, a
8 commitment or protective placement ordered by a court under this section or s. 55.06,
9 2003 stats., ~~or~~ s. 971.17, or ch. 975, or a protective placement ordered under s. 55.12,
10 or if the individual has been the subject of outpatient treatment for mental illness,
11 developmental disability, or drug dependency immediately prior to commencement
12 of the proceedings as a result of a commitment ordered by a court under this section
13 ~~or~~, s. 971.17, or ch. 975, the requirements of a recent overt act, attempt or threat to
14 act under par. (a) 2. a. or b., ~~a~~ pattern of recent acts or omissions under par. (a) 2.
15 c. or e., or recent behavior under par. (a) 2. d. may be satisfied by a showing that there
16 is a substantial likelihood, based on the subject individual's treatment record, that
17 the individual would be a proper subject for commitment if treatment were
18 withdrawn. If the individual has been admitted voluntarily to an inpatient
19 treatment facility for not more than 30 days prior to the commencement of the
20 proceedings and remains under voluntary admission at the time of commencement,
21 the requirements of a specific recent overt act, attempt or threat to act, or pattern
22 of recent acts or omissions may be satisfied by a showing of an act, attempt or threat
23 to act, or ~~a~~ pattern of acts or omissions which took place immediately previous to
24 the voluntary admission. If the individual is committed under s. 971.14 (2) or (5) at

or protective services

1 the time proceedings are commenced, or has been discharged from the commitment
2 immediately prior to the commencement of proceedings, acts, attempts, threats,
3 omissions, or behavior of the subject individual during or subsequent to the time of
4 the offense shall be deemed recent for purposes of par. (a) 2.

****NOTE: Should reference also be made to receipt of protective services? *Yes*

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5 **SECTION 49.** 51.20 (1m) of the statutes is amended to read:

6 51.20 (1m) ALTERNATE GROUNDS FOR COMMITMENT. For purposes of subs. (2) to
7 (9), the requirement of finding probable cause to believe the allegations in sub. (1)
8 (a) or (am) may be satisfied by finding probable cause to believe that the individual
9 satisfies sub. (1) (a) 1. and evidences such impaired judgment, manifested by
10 evidence of a recent act or omission, that there is a substantial probability of physical
11 impairment or injury to himself or herself. The probability of physical impairment
12 or injury may not be deemed substantial under this subsection if reasonable
13 provision for the individual's protection is available in the community and there is
14 a reasonable probability that the individual will avail himself or herself of the
15 services or if the individual is appropriate for protective placement under s. 55.06
16 may be provided protective placement under ch. 55. The individual's status as a
17 minor does not automatically establish a substantial probability of physical
18 impairment or injury under this subsection. Food, shelter or other care provided to
19 an individual who is substantially incapable of obtaining the care for himself or
20 herself, by any person other than a treatment facility, does not constitute reasonable
21 provision for the individual's protection available in the community under this
22 subsection.

INSERT 45-22

****NOTE: Should reference also be made to receipt of protective services? *Yes*

23

SECTION 50. 51.20 (7) (d) 1. (intro.) of the statutes is amended to read:

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55.14(3)(e)

1 51.20 (7) (d) 1. (intro.) If the court determines after hearing that there is
 2 probable cause to believe that the subject individual is a fit subject for guardianship
 3 and protective placement or services, the court may, without further notice, appoint
 4 a temporary guardian for the subject individual and order temporary protective
 5 placement or services under ch. 55 for a period not to exceed 30 days, and shall
 6 proceed as if petition had been made for guardianship and protective placement or
 7 services. If the court orders only temporary protective services for a subject
 8 individual under this paragraph, the individual shall be provided care only on an
 9 outpatient basis. The court may order psychotropic medication as a temporary
 10 protective service under this paragraph if it finds that there is probable cause to
 11 believe that the allegations under s. ~~880.07 (1m) (c) and (cm)~~ apply, that the
 12 individual is not competent to refuse psychotropic medication and that the
 13 medication ordered will have therapeutic value and will not unreasonably impair the
 14 ability of the individual to prepare for and participate in subsequent legal
 15 proceedings. An individual is not competent to refuse psychotropic medication if,
 16 because of ~~chronic~~ chronic serious and persistent mental illness, and after the advantages
 17 and disadvantages of and alternatives to accepting the particular psychotropic
 18 medication have been explained to the individual, one of the following is true:

****NOTE: How do you intend that the reference to s. 880.07 (1m) (c) and (cm), stats.,
 be handled?

55.14(3)(e) 3

SECTION 51. 51.20 (7) (d) 1. b. of the statutes is amended to read:

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

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1 SECTION 52. 51.35 (4m) (intro.) of the statutes is amended to read:

2 51.35 (4m) TRANSFER OR DISCHARGE OF PERSONS WITH ~~CHRONIC~~ SERIOUS AND
3 PERSISTENT MENTAL ILLNESS. (intro.) The department or county department under s.
4 51.42 or any person authorized to discharge or transfer patients under this section
5 shall, prior to the discharge of a patient with ~~chronic~~ serious and persistent mental
6 illness from an inpatient facility, or prior to the transfer of a patient with ~~chronic~~
7 serious and persistent mental illness from inpatient to outpatient status, with the
8 patient's permission if the patient is a voluntary patient, do all of the following:

INSERT
47-8

9 ✓ SECTION 53. 51.39 of the statutes is amended to read:

10 **51.39 Resident patients on unauthorized absence.** If any patient who is
11 admitted, transferred, or placed under s. 55.06, 2003 stats., or s. 51.13, 51.15, 51.20,
12 51.35 (3), 51.37, or 51.45 (11) (b), (12) or (13) ~~or 55.06 or ch. 55, 971, 975, or 980 or~~
13 ~~transferred under s. 51.35 (3) or 51.37~~ is on unauthorized absence from a treatment
14 facility, the sheriff or any other law enforcement agency in the county in which the
15 patient is found or in which it is believed the patient may be present, upon the
16 request of the director, shall take charge of and return the patient to the facility. The
17 costs incident to the return shall be paid out of the facility's operating funds and be
18 charged back to the patient's county of residence.

INSERT
47-18

19 SECTION 54. 51.40 (2) (intro.) of the statutes is amended to read:

20 51.40 (2) DETERMINATION OF RESIDENCE. (intro.) For purposes of determining
21 responsibility for funding the provision of services under chs. 46, 51 and 55, the
22 county of residence of individuals aged 18 or older with developmental disability or
23 chronic serious and persistent mental illness in state facilities or nursing homes
24 shall be determined as follows:

INSERT
47-24

25 SECTION 55. 51.40 (2) (a) 1. of the statutes is amended to read:

emergency protective services under s. 55.13

1 51.40 (2) (a) 1. 'Commitment or protection protective placement.' If an
2 individual is under a court order of commitment under this chapter or protective
3 placement under s. 55.06, 2003 stats., or s. 55.12, the individual remains a resident
4 of the county in which he or she has residence at the time the commitment or
5 protective placement is made. If the court makes no specific finding of a county of
6 residence, the individual is a resident of the county in which the court is located.

INSERT 48-6

7 SECTION 56. 51.40 (2) (a) 2. of the statutes is amended to read:

8 51.40 (2) (a) 2. 'Placement by a county.' Except for the provision of emergency
9 services under s. 51.15, 51.42 (1) (b), 51.437 (4) (c), or 51.45 (11) and (12) or ~~55.06 (11)~~
10 emergency protective placement under s. 55.135, if a county department or an
11 agency of a county department arranges or makes placement of the individual into
12 a state facility or nursing home, the individual is a resident of the county of that
13 county department. Any agency of the county department is deemed to be acting on
14 behalf of the county department in arranging or making placement.

INSERT 48-14

****NOTE: Should a reference to s. 55.13 be added to this subdivision?

[Handwritten signature]

15 SECTION 57. 51.40 (2) (g) 1. of the statutes is amended to read:

16 51.40 (2) (g) 1. An individual, an interested person on behalf of the individual,
17 ~~or any county, or a court acting under ~~s. 55.075 (5) (b) or~~ 880.06 (1)~~ may request that
18 the department make a determination of the county of responsibility of the
19 individual. Within 10 days after receiving the request, the department shall provide
20 written notice to the individual, to the individual's guardian, if any, and to all
21 potentially responsible counties that a determination of county of responsibility
22 shall be made and that written information and comments may be submitted within
23 30 days after the date on which the notice is sent.

****NOTE: The amendment to this subdivision seems necessary to permit referral by a court under s. 880.06 (1), stats., as affected by this bill. ok ✓

1 **SECTION 58.** 51.42 (1) (b) of the statutes is amended to read:

2 51.42 (1) (b) *County liability.* The county board of supervisors has the primary
3 responsibility for the well-being, treatment and care of the mentally ill,
4 developmentally disabled, alcoholic and other drug dependent citizens residing
5 within its county and for ensuring that those individuals in need of such emergency
6 services found within its county receive immediate emergency services. This
7 primary responsibility is limited to the programs, services and resources that the
8 county board of supervisors is reasonably able to provide within the limits of
9 available state and federal funds and of county funds required to be appropriated to
10 match state funds. County liability for care and services purchased through or
11 provided by a county department of community programs established under this
12 section shall be based upon the client's county of residence except for emergency
13 services for which liability shall be placed with the county in which the individual
14 is found. For the purpose of establishing county liability, "emergency services"
15 includes those services provided under the authority of s. 55.05 (4), 2003 stats., or
16 s. 55.06 (11) (a), 2003 stats., or s. 51.15, 51.45 (11) (a) or (b) or (12), ~~55.05 (4) or 55.06~~
17 (11) (a) 55.13, or 55.135 for not more than 72 hours. Nothing in this paragraph
18 prevents recovery of liability under s. 46.10 or any other statute creating liability
19 upon the individual receiving a service or any other designated responsible party, or
20 prevents reimbursement by the department of health and family services for the
21 actual cost of all care and services from the appropriation under s. 20.435 (7) (da),
22 as provided in s. 51.22 (3).

INSERT 49-22

23 **SECTION 59.** 51.42 (3) (ar) 4. d. of the statutes is amended to read:

emergency protective services under s. 55.13,

1 51.42 (3) (ar) 4. d. Related research and staff in-service training, including
2 periodic training on emergency detention procedures under s. 51.15 and emergency
3 protective placement procedures under s. 55.06 (11) 55.135, for individuals persons
4 within the jurisdiction of the county department of community programs who are
5 authorized to take persons individuals into custody under ss. 51.15 and ~~55.06 (11)~~
6 55.135. In developing in-service training on emergency detention and emergency
7 protective placement procedures, the county department of community programs
8 shall consult the county department of developmental disabilities services under s.
9 51.437 in counties where these departments are separate.

INSERT 50-9

***NOTE: Should a reference to s. 55.13 be added to this subdivision unit? Yes

10 SECTION 60. 51.42 (3) (e) of the statutes is amended to read:
11 51.42 (3) (e) *Exchange of information*. Notwithstanding ss. 46.2895 (9), 48.78
12 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), ~~55.06 (17) (e)~~ 55.22 (3), 146.82, 252.11
13 (7), 253.07 (3) (c) and 938.78 (2) (a), any subunit of a county department of community
14 programs acting under this section may exchange confidential information about a
15 client, without the informed consent of the client, with any other subunit of the same
16 county department of community programs, with a resource center, care
17 management organization or family care district, or with any person providing
18 services to the client under a purchase of services contract with the county
19 department of community programs or with a resource center, care management
20 organization or family care district, if necessary to enable an employee or service
21 provider to perform his or her duties, or to enable the county department of
22 community programs to coordinate the delivery of services to the client.

INSERT 50-22

23 SECTION 61. 51.421 (1) of the statutes is amended to read:

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

10 **SECTION 62.** 51.421 (2) of the statutes is amended to read:

11 51.421 (2) SERVICES. If funds are provided, and within the limits of the
12 availability of funds provided under s. 51.423 (2), each county department under s.
13 51.42 shall establish a community support program. Each community support
14 program shall use a coordinated case management system and shall provide or
15 assure access to services for persons with ~~chronic~~ serious and persistent mental
16 illness who reside within the community. Services provided or coordinated through
17 a community support program shall include assessment, diagnosis, identification of
18 persons in need of services, case management, crisis intervention, psychiatric
19 treatment including medication supervision, counseling and psychotherapy,
20 activities of daily living, psychosocial rehabilitation which may include services
21 provided by day treatment programs, client advocacy including assistance in
22 applying for any financial support for which the client may be eligible, residential
23 services and recreational activities. Services shall be provided to an individual based
24 upon his or her treatment and psychosocial rehabilitation needs.

25 **SECTION 63.** 51.421 (3) (c) of the statutes is amended to read:

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1 51.421 (3) (c) Monitor the establishment and the continuing operation of
2 community support programs and ensure that community support programs comply
3 with the standards promulgated by rule. The department shall ensure that the
4 persons monitoring community support programs to determine compliance with the
5 standards are persons who are knowledgeable about treatment programs for persons
6 with chronic serious and persistent mental illness.

7 **SECTION 64.** 51.437 (4) (c) of the statutes is amended to read:

8 51.437 (4) (c) County liability for care and services purchased through or
9 provided by a county department of developmental disabilities services established
10 under this section shall be based upon the client's county of residence except for
11 emergency services for which liability shall be placed with the county in which the
12 individual is found. For the purpose of establishing county liability, "emergency
13 services" means those services provided under the authority of s. 55.05 (4), 2003
14 stats., or s. 55.06 (11) (a), 2003 stats., or s. 51.15, 55.05 (4) or 55.06 (11) (a), 55.13, or
15 55.135. Nothing in this paragraph prevents recovery of liability under s. 46.10 or any
16 other statute creating liability upon the individual receiving a service or any other
17 designated responsible party.

18 **SECTION 65.** 51.437 (4r) (b) of the statutes is amended to read:

19 51.437 (4r) (b) Notwithstanding ss. 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83,
20 51.30, 51.45 (14) (a), ~~55.06 (17) (e)~~ 55.22 (3), 146.82, 252.11 (7), 253.07 (3) (c) and
21 938.78 (2) (a), any subunit of the county department of developmental disabilities
22 services acting under this section may exchange confidential information about a
23 client, without the informed consent of the client, with any other subunit of the same
24 county department of developmental disabilities services, with a resource center,
25 care management organization or family care district, or with any person providing

1 services to the client under a purchase of services contract with the county
2 department of developmental disabilities services or with a resource center, care
3 management organization or family care district, if necessary to enable an employee
4 or service provider to perform his or her duties, or to enable the county department
5 of developmental disabilities services to coordinate the delivery of services to the
6 client.

INSERT 53-6

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7 SECTION 66. 51.67 (intro.) of the statutes is amended to read:

8 **51.67 Alternate procedure; protective services.** (intro.) If, after a hearing
9 under s. 51.13 (4) or 51.20, the court finds that commitment under this chapter is not
10 warranted and that the subject individual is a fit subject for guardianship and
11 protective placement or services, the court may, without further notice, appoint a
12 temporary guardian for the subject individual and order temporary protective
13 placement or services under ch. 55 for a period not to exceed 30 days. Temporary
14 protective placement for an individual in a center for the developmentally disabled
15 is subject to s. 51.06 (3). Any interested party may then file a petition for permanent
16 guardianship or protective placement or services, including medication, under ch.
17 55. If the individual is in a treatment facility, the individual may remain in the
18 facility during the period of temporary protective placement if no other appropriate
19 facility is available. The court may order psychotropic medication as a temporary
20 protective service under this section if it finds that there is probable cause to believe
21 the individual is not competent to refuse psychotropic medication and that the
22 medication ordered will have therapeutic value and will not unreasonably impair the
23 ability of the individual to prepare for and participate in subsequent legal
24 proceedings. An individual is not competent to refuse psychotropic medication if,
25 because of ~~chronic~~ serious and persistent mental illness, and after the advantages

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

3 **SECTION 67.** 51.67 (2) of the statutes is amended to read:

4 51.67 (2) The individual is substantially incapable of applying an
5 understanding of the advantages, disadvantages and alternatives to his or her
6 chronic serious and persistent mental illness in order to make an informed choice as
7 to whether to accept or refuse psychotropic medication.

8 **SECTION 68.** 55.001 of the statutes is amended to read:

9 **55.001 Declaration of policy.** The legislature recognizes that many citizens
10 of the state, because of ~~the infirmities of aging, chronic serious and persistent~~ mental
11 illness, ~~mental retardation, other degenerative brain disorder,~~ developmental
12 disabilities, or other like incapacities ~~incurred at any age,~~ are in need of protective
13 services or protective placement. Except as provided in s. 49.45 (30m) (a), ~~these the~~
14 protective services or protective placement should, to the maximum degree of
15 feasibility under programs, services and resources that the county board of
16 supervisors is reasonably able to provide within the limits of available state and
17 federal funds and of county funds required to be appropriated to match state funds,
18 allow the individual the same rights as other citizens, and at the same time protect
19 the individual from exploitation, abuse, and degrading treatment. This chapter is
20 designed to establish those protective services and protective placements, to assure
21 their availability to all ~~persons~~ individuals when in need of them, and to place the
22 least possible restriction on personal liberty and exercise of constitutional rights
23 consistent with due process and protection from abuse, exploitation, and neglect.

NOTE: Inserts references to both protective services and protective placements.
Also, revises terminology to delete the terms "infirmities of aging" and "mental

retardation"; to insert a new term, "degenerative brain disorder" to replace "infirmities of aging"; and to replace the word "chronic" with the term "serious and persistent".

1 SECTION 69. 55.01 (1d) of the statutes is created to read:

2 55.01 (1d) "Activated power of attorney for health care" means a power of
3 attorney for health care that has taken effect in the manner specified in s. 155.05 (2).

INSERT
55-3

4 SECTION 70. 55.01 (1v) of the statutes is created to read:

← Create autoref X

5 55.01 (1v) "Degenerative brain disorder" means the loss or dysfunction of brain
6 cells to the extent that an individual is substantially impaired in his or her ability
7 to provide adequately for his or her own care or custody.

INSERT
55-7

8 SECTION 71. 55.01 (2) of the statutes is amended to read:

9 55.01 (2) "Developmentally disabled ~~person~~" means ~~any individual~~ having a
10 disability attributable to mental retardation, cerebral palsy, epilepsy, autism or
11 another neurological condition closely related to mental retardation or requiring
12 treatment similar to that required for mentally retarded individuals, which has
13 continued or can be expected to continue indefinitely, substantially impairs ~~the an~~
14 individual from adequately providing for his or her own care or custody, and
15 constitutes a substantial handicap to the afflicted individual. The term does not
16 include ~~a person affected by senility which that~~ is primarily caused by the process
17 of aging or the infirmities of aging degenerative brain disorder.

***NOTE: I have changed the definition of "developmentally disabled person" because, under this draft, it is used only once in ch. 55 (in s. 55.01 (1g), stats., which is not directly affected by this draft), whereas the terms "developmentally disabled" by itself and "individual alleged to be developmentally disabled" are used numerous times. Okay?

yes

INSERT
55-17

18 SECTION 72. 55.01 (3) of the statutes is repealed.

NOTE: SECTION 10 creates a new definition of "degenerative brain disorder", which is created to replace the repealed definition "infirmities of aging".

19 SECTION 73. 55.01 (4) of the statutes is renumbered 55.01 (4) (intro.) and
20 amended to read:

use autoref X (from this page, above)

1 55.01 (4) (intro.) “Interested person” means any adult of the following:

2 (a) An adult relative or friend of a person an individual sought to be protected
3 under this subchapter; or any chapter.

4 (b) Any official or representative of a public or private agency, corporation or
5 association concerned with the person’s individual’s welfare.

6 **SECTION 74.** 55.01 (4) (c) of the statutes is created to read:

7 55.01 (4) (c) A health care agent, as defined in s. 155.01 (4).

8 **SECTION 75.** 55.01 (4g) of the statutes is amended to read:

9 55.01 (4g) “Intermediate facility” has the meaning given in s. 46.279 (1) (a) (b).

***NOTE: I am amending this definition, because it was misnumbered in 2003 Wisconsin Act 33. This term and the term “nursing facility” are used in s. 55.06 (5), (8) (intro.), (9) (a) to (c), (10) (a) 2., and (11) (c), stats., which are renumbered and amended under this draft. *ole*

10 **SECTION 76.** 55.01 (4t) of the statutes is amended to read:

11 55.01 (4t) “Nursing facility” has the meaning given in s. 46.279 (1) (b) (c).

***NOTE: Please see the ***NOTE under the treatment of s. 55.01 (4g). *ole*

12 **SECTION 77.** 55.01 (6), (6m), (6p) and (6r) of the statutes are created to read:

13 55.01 (6) “Protective placement” means a placement that is made to provide for
14 the care and custody of an individual.

NOTE: Creates a definition of protective placement. This definition is derived from the first sentence of s. 55.06 (1).

***NOTE: I have changed this definition for the following reasons: (a) Many uses of the term “protective placement” in this draft refer to a placement, rather than to the process by which the placement is ordered; (b) the former wording (referring to an individual who is “determined incompetent under ch. 880”) is redundant of s. 55.06. More importantly, it is inconsistent with s. 55.06, because s. 55.06 refers to a minor who is alleged to be developmentally disabled for whom there has been no adjudication of incompetency under ch. 880; (c) the former wording is inconsistent with emergency protective placements, which are made without court orders and may be made for persons who may not have been adjudicated incompetent under ch. 880. Please review. This definition would likely require adjustments; for instance, the draft refers in numerous places to “protective placement and [or] court-ordered protective services;” this phrase would have to be changed to “court-ordered protective placement and [or] protective services”. *ole*

1 **(6m)** “Protective placement facility” means a facility to which a court may
2 under s. 55.12 order an individual to be provided protective placement for the
3 primary purpose of residential care and custody.

4 **(6p)** “Protective placement unit” means a ward, wing, or other designated part
5 of a placement facility.

****NOTE: I added the word “protective” to the defined terms “placement facility”
and “placement unit,” because the proposal and current law both use the full terms in
provisions (see, for example, s. 55.06 (11) (a), stats., renumbered to s. 55.135 (1)).

6 **(6r)** “Protective services” includes any of the following:

7 (a) Outreach.

8 (b) Identification of individuals in need of services.

9 (c) Counseling and referral for services.

10 (d) Coordination of services for individuals.

11 (e) Tracking and follow-up.

12 (f) Social services.

13 (g) Case management.

14 (h) Legal counseling or referral.

15 (i) Guardianship referral.

16 (j) Diagnostic evaluation.

17 (k) Any services that, when provided to an individual with developmental
18 disabilities, degenerative brain disorder, serious and persistent mental illness, or
19 other like incapacity, keep the individual safe from abuse, neglect, or
20 misappropriation of property or prevent the individual from experiencing
21 deterioration or from inflicting harm on himself or herself or another person.

NOTE: Creates a definition of protective services. This definition incorporates the
noninclusive list of possible services from current s. 55.04 (1) (a), and specifies that
“protective services” includes any services that are intended to keep specified individuals

safe from abuse, neglect, or misappropriation of property, or prevent the individual from inflicting harm on himself or herself or another person.

1 **SECTION 78.** 55.01 (6t) of the statutes is created to read:

2 55.01 (6t) "Residence" means the voluntary concurrence of an individual's
3 physical presence with his or her intent to remain in a place of fixed habitation.

4 Physical presence is prima facie evidence of intent to remain.

INSERT 58-4

5 **SECTION 79.** 55.01 (6v) of the statutes is created to read:

6 55.01 (6v) "Serious and persistent mental illness" has the meaning given in s.

7 51.01 (14t).

INSERT 58-7

8 **SECTION 80.** 55.01 (6x) of the statutes is created to read:

9 55.01 (6x) "Treatment facility" has the meaning given in s. 51.01 (19).

NOTE: Provides that in ch. 55, "treatment facility" has the same definition as in ch. 51: "any publicly or privately operated facility or unit thereof providing treatment of alcoholic, drug dependent, mentally ill or developmentally disabled persons, including but not limited to inpatient and outpatient treatment programs, community support programs and rehabilitation programs".

10 **SECTION 81.** 55.01 (6y) of the statutes is created to read:

11 55.01 (6y) "Voluntary" means according to an individual's free choice, if
12 competent, or by choice of a guardian, if adjudicated incompetent.

INSERT 58-12

13 **SECTION 82.** 55.02 of the statutes is repealed and recreated to read:

14 **55.02 Protective services and protective placement: duties. (1)**

15 DEPARTMENT DUTIES. (a) The department shall do all of the following:

16 1. Cooperate with county departments to develop and operate a coordinated,
17 statewide system for protective services and protective placement.

18 2. Monitor and supervise the implementation and operation of the protective
19 services and protective placement system.

20 3. Provide technical assistance to county departments providing protective
21 services and protective placement.

with another

on its own

or county

through

1 4. Evaluate the protective services and protective placement system.

2 (b) The department may provide protective services and protective placement

3 directly or contract for the provision of protective services or protective placement.

4 (2) COUNTY DEPARTMENT DUTIES. (a) The chairperson of each county board of

5 supervisors shall designate a county department under s. 46.215, 46.22, 46.23, 51.42,

6 or 51.437 that is providing services in the county *or a joint mechanism of such a*

7 county department to have the responsibility for planning for the provision of

8 protective services and protective placement and for directly providing protective

9 services *or* protective placement *or entering into a contract* under s. 46.036 with a

10 responsible agency for the provision of protective services *or* protective placement.

****NOTE: I have simplified par. (a) and returned in part to current law because the wording concerning single-county departments and multicounty departments may create confusion; if, for instance, a county has some single-county departments and some multicounty departments, it is unclear how the designation would be made. Also, it is unclear what happens if a county board designates a particular multicounty department to have responsibility in its county, but the other county boards do not designate that department to have responsibility in their counties. Please give this a hard look and see if it does what you want.

or both

See about

11 (b) In addition to the responsibilities specified in par. (a), the county

12 department shall:

- 13 1. Monitor and evaluate protective services and protective placements.
- 14 2. Prepare and submit reports required by the department, or by a court if
- 15 protective services or protective placement are ordered by a court.
- 16 3. Develop requirements for submittal by guardians of the person of reports to
- 17 the county department under s. 880.38 (3).

****NOTE: Please see the ****NOTE under s. 880.38 (3) in this draft.

18 4. Designate at least one appropriate medical facility, *or* protective placement

19 facility as an intake facility for the purpose of emergency protective placements

20 under s. 55.135.

****NOTE: Please note my changes to this subdivision. I don't believe that a hospital is a "protective placement facility" as the term is defined in the proposal, so it seem inaccurate to use the phrase "or other protective placement facility." Also, I believe that "hospital" is a subset of "medical facility," so I used just the two terms. Please review.

NOTE: Creates a new requirement that each county department must designate an appropriate intake facility for emergency protective placements.

1 SECTION 83. 55.03 of the statutes is renumbered 55.03 (1) and amended to read:

2 55.03 (1) AGENCY AS GUARDIAN. No agency acting as a guardian appointed under
 3 ch. 880 shall may be a provider of protective services or protective placement for its
 4 ward under this chapter.

5 (2) TRANSFER OF GUARDIANSHIP AND LEGAL CUSTODY. Nothing in this chapter shall
 6 may be construed to prohibit the transfer of guardianship and legal custody under
 7 s. 48.427 or s. 48.43.

8 SECTION 84. 55.04 (title) and (1) to (3) of the statutes are repealed.

9 SECTION 85. 55.04 (4) of the statutes is renumbered 55.03 (3) and amended to
 10 read:

11 55.03 (3) GUARDIAN AUTHORITY AND RESPONSIBILITY APPLICABLE TO PARENT OF
 12 MINOR. Where any responsibility or authority is created under this chapter upon or
 13 in relation to a guardian, such the responsibility or authority is deemed to apply to
 14 a parent or person in the place of a parent in the case of a minor who is or who is
 15 alleged to be developmentally disabled.

NOTE: The program responsibilities formerly specified in s. 55.04 have been incorporated into newly created definitions of protective services and protective placement in s. 55.01 (6) and (6r), respectively, and into the repealed and recreated version of s. 55.02.

The bill incorporates the provisions of current ss. 55.02 and 55.04 into ss. 55.02 and 55.03. Also, the bill revises the duties of the DHFS and the county departments to more accurately reflect the actual role of each in the protective services and protective placement system. Also,

16 SECTION 86. 55.043 (1) (a) (intro.) of the statutes is amended to read:

1 55.043 (1) (a) (intro.) If a county protective services agency has probable cause
 2 to believe that there is misappropriation of property or neglect or abuse of a
 3 vulnerable adult, the county protective services agency may conduct an
 4 investigation ~~in Milwaukee County~~ to determine if the vulnerable adult in question
 5 is in need of protective services. The county protective services agency shall conduct
 6 the investigation in accordance with standards established by the department for
 7 conducting the investigations. The investigation shall include at least one of the
 8 following:

INSERT 61-8

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9 **SECTION 87.** 55.043 (1) (a) 1. and 3. of the statutes are amended to read:

10 55.043 (1) (a) 1. Observation of or an interview with the vulnerable adult, in
 11 private to the extent practicable, and with or without consent of his or her guardian
 12 or agent under an activated power of attorney for health care, if any.

13 3. An interview with the guardian or agent under an activated power of
 14 attorney for health care, if any, and with the caretaker, if any, of the vulnerable adult.

15 **SECTION 88.** 55.043 (1) (b) 1. of the statutes is amended to read:

16 55.043 (1) (b) 1. The vulnerable adult or his or her guardian or agent under an
 17 activated power of attorney for health care, if any, consents to the examination.

create autoref Z

18 **SECTION 89.** 55.043 (1) (b) 2. a. and b. of the statutes are amended to read:

19 55.043 (1) (b) 2. a. The vulnerable adult has no guardian or agent under an
 20 activated power of attorney for health care.

21 b. The vulnerable adult's guardian or agent under an activated power of
 22 attorney for health care refuses to consent to the examination, but the examination
 23 is authorized by order of a court.

INSERT 61-23 24

24 **SECTION 90.** 55.043 (4) (a) of the statutes is amended to read:

1 55.043 (4) (a) Offer services, including protective services ~~under s. 55.05, a,~~
2 protective placement ~~under s. 55.06,~~ relocation assistance, or other services.

3 SECTION 91. 55.043 (4) (b) of the statutes is amended to read:

4 55.043 (4) (b) Take appropriate emergency action, including provision of
5 emergency protective services under s. 55.13 or emergency protective placement
6 under s. ~~55.06~~ 55.135, if the county protective services agency considers that the
7 emergency action is in the vulnerable adult's best interests and the emergency action
8 is the least restrictive appropriate intervention.

INSERT 62-8 *****NOTE: Does my amendment under this paragraph meet your intent? Yes

9 SECTION 92. 55.045 of the statutes is amended to read:

10 **55.045 Funding.** Except as provided in s. 49.45 (30m) (a), the appropriate
11 county department ~~designated under s. 55.02~~ shall within the limits of available
12 state and federal funds and of county funds required to be appropriated to match
13 state funds, provide for the reasonable program needs of ~~persons~~ individuals who are
14 ~~protectively placed~~ provided protective placement or who receive protective services
15 under this chapter, including reasonable expenses for the evaluations required by s.
16 ~~55.06 (8)~~ 55.11. Payment and collections for protective placement or protective
17 services provided in public facilities specified in s. 46.10 shall be governed in
18 accordance with s. 46.10. The department may require that ~~a person~~ an individual
19 who is ~~protectively placed~~ provided protective placement or receives protective
20 services under this chapter provide reimbursement for services or care and custody
21 received, based on the ability of the ~~person~~ individual to pay for such costs.

22 SECTION 93. 55.05 (title) of the statutes is amended to read:

23 **55.05 (title) Protective Voluntary protective services.**

24 SECTION 94. 55.05 (2) (intro.) of the statutes is amended to read:

1 55.05 (2) (intro.) The department or ~~an~~ a county department or agency
2 providing with which the county department contracts under s. 55.02 (2) that
3 provides protective services under s. 55.04 may provide such the services under any
4 of the following conditions:

5 **SECTION 95.** 55.05 (2) (a) of the statutes is amended to read:

6 55.05 (2) (a) ~~The person~~ An individual who needs or believes he or she needs
7 protective ~~service may seek such service~~ services requests the services.

8 **SECTION 96.** 55.05 (2) (b) of the statutes is amended to read:

9 55.05 (2) (b) ~~Any~~ An interested person may ~~request~~ requests protective services
10 on behalf of ~~a person~~ an individual in need of services. A guardian may request and
11 consent to protective services on behalf of the guardian's ward. An agent under an
12 activated power of attorney for health care may request and consent to protective
13 services on behalf of the agent's principal.

14 **SECTION 97.** 55.05 (2) (c) of the statutes is repealed.

****NOTE: I have repealed s. 55.05 (2) (c) because it is redundant to s. 55.05 (2)
(intro.) *ok*

15 **SECTION 98.** 55.05 (2) (d) of the statutes is repealed.

16 **SECTION 99.** 55.05 (3) of the statutes is amended to read:

17 55.05 (3) VOLUNTARY PROTECTIVE SERVICES PREFERRED. An individual shall
18 receive protective services voluntarily unless ordered by the court under s. 55.12,
19 requested by ~~a~~ the individual's guardian or agent under an activated power of
20 attorney for health care, or provided on an emergency basis in accordance with sub.
21 (4) s. 55.13.

SECTION 100. 55.05 (4) (title) and (a) of the statutes are renumbered 55.13

23 (title) and (1) and amended to read:

INSERT
63-21

staff member

1 **55.13** (title) **Emergency protective services**. (1) Emergency protective
 2 services may be provided for not more than 72 hours ~~where~~ when there is reason to
 3 believe that, if the emergency protective services are not provided, the ~~person~~
 4 individual entitled to the services or others will incur a substantial risk of serious
 5 physical harm.

6 **SECTION 101.** 55.05 (4) (b) of the statutes is renumbered 55.13 (4) and amended
 7 to read:

department

RESTORE TO PLAIN TEXT

8 **55.13 (4)** ~~Where~~ If it is necessary to ~~forcibly~~ enter a premises forcibly to provide
 9 or investigate the need for emergency protective services, the representative of an
 10 agency ~~staff member of a county department or~~ ^{strike} of a county protective services agency
 11 shall obtain a court order authorizing entry and shall make the entry accompanied
 12 by a sheriff, police officer, or member of a fire department. When it appears probable
 13 that substantial physical harm, irreparable injury, or death may occur to an
 14 individual, the police officer, fire fighter, or sheriff may enter a premises without a
 15 court order if the time required to obtain such an order would result in greater risk
 16 of physical harm to the individual.

17 **SECTION 102.** 55.05 (4) (c) of the statutes is renumbered 55.13 (5) and amended
 18 to read:

19 **55.13 (5)** ~~Where~~ If a forcible entry is made under ~~par. (b)~~ sub. (4), a report of
 20 the exact circumstances, including the date, time, place, factual basis for the need
 21 of ~~such~~ the entry, and the exact services rendered, shall be made and forwarded to
 22 the court within 14 days of after entry by the person making ~~such~~ the entry.

23 **SECTION 103.** 55.05 (5) (title) of the statutes is renumbered 55.055 (title) and
 24 amended to read:

25 **55.055** (title) **Admissions initially made without court involvement**.

FIX COMPONENT

***NOTE: I have changed this title because some of the provisions do have court involvement; I think the point of the grouping of these provisions has to do with the fact that when the admissions were initially made there was no court involvement; correct? *yes*

1 ✓ SECTION 104. 55.05 (5) (a) of the statutes is renumbered 55.055 (1) and
2 amended to read: *repealed.*

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

Change from 4 star note to note:std

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?~~ *Yes*

8 ✓ SECTION 105. 55.05 (5) (b) 1. of the statutes is renumbered 55.055 (2) (a) and
9 amended to read:

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

INSERT GS-17

18 ✓ SECTION 106. 55.05 (5) (b) 2. of the statutes is renumbered 55.055 (2) (b) and
19 amended to read:

SECTION 106

the individual's

1 55.055 (2) (b) Guardians The guardian of persons an individual who have has
 2 been found incompetent under s. 880.33 may consent to admission to a nursing home
 3 if the person is admitted directly from a hospital inpatient unit for recuperative care
 4 or other facility not specified in par. (a) for which protective placement is otherwise
 5 required for a period not to exceed 3 months, unless the hospital admission was for
 6 psychiatric care 60 days. In order to be admitted under this paragraph, the
 7 individual must be in need of recuperative care or be unable to provide for his or her
 8 own care or safety so as to create a serious risk of substantial harm to himself or
 9 herself or others. Prior to providing that consent, the guardian shall review the
 10 ward's right to the least restrictive residential environment and consent only to
 11 admission to a nursing home or other facility that implements those rights that right.
 12 Following the 3-month 60-day period, the placement may be extended for an
 13 additional 60 days if a petition for protective placement proceeding under s. 55.06 is
 14 required 55.075 has been brought, or, if no petition for protective placement under
 15 s. 55.075 has been brought, for an additional 30 days for the purpose of allowing the
 16 initiation of discharge planning for the individual. Placement under this paragraph
 17 is not permitted for an individual with a primary diagnosis of mental illness or
 18 developmental disability.

admission

Admission

****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
66-18

19 SECTION 107. 55.05 (5) (c) (intro.) of the statutes is renumbered 55.055 (5)
 20 (intro.) and amended to read:

21 55.055 (5) (intro.) If a person an individual admitted under par. (b) sub. (2)
 22 verbally objects to or otherwise actively protests such an admission, the person in
 23 charge of the home, nursing home, or other facility shall immediately notify the

1 ~~agency designated under s. 55.02 county department~~ for the county in which the
2 ~~person individual~~ is living. Representatives of that ~~agency county department~~ shall
3 visit the ~~person individual~~ as soon as possible, but no later than 72 hours after
4 notification, and do the following:

5 ✓ SECTION 108. 55.05 (5) (c) 1. of the statutes is renumbered 55.055 (5) (a) and
6 amended to read:

7 55.055 (5) (a) Determine whether the protest persists or has been voluntarily
8 withdrawn and consult with the ~~person's individual's~~ guardian regarding the
9 reasons for the admission.

10 ✓ SECTION 109. 55.05 (5) (c) 2. of the statutes is renumbered 55.055 (5) (b) and
11 amended to read:

12 55.055 (5) (b) Attempt to have the ~~person individual~~ released within 72 hours
13 if the protest is not withdrawn and ~~necessary elements of s. 55.06 (2) or (11) are not~~
14 ~~present the individual does not satisfy all standards under s. 55.08 (1) or criteria~~
15 ~~under 55.135 (1) and provide assistance in identifying appropriate alternative living~~
16 arrangements.

INSERT
67-16

17 ✓ SECTION 110. 55.05 (5) (c) 3. of the statutes is renumbered 55.055 (5) (c) and
18 amended to read:

19 55.055 (5) (c) Comply with s. 55.06 (11) 55.135 if all elements are present the
20 individual satisfies all criteria under s. 55.135 (1) and emergency placement in that
21 home, nursing home, or other facility or another home, nursing home, or other
22 facility is necessary or file a petition for protective placement under s. 55.06 (2)
23 55.075. The court, with the permission of the home, nursing home, or facility, may
24 order the ~~person individual~~ to remain in the home, nursing home, or other facility
25 pending the outcome of the protective placement proceedings.

INSERT 67-25