

<u>Object Name</u>	<u>Modify Date</u>	<u>Modifier</u>	<u>Creator Nam</u>	<u>Creation Date</u>	<u>Owner Name</u>
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05-0026/?DAKins	11/17/2004 04:40:24 PM	dkennedy	dkennedy	11/03/2004 04:58:50 PM	lrb_docadmin
05-0026/P1dn	12/06/2004 12:15:40 PM	rschluet	rschluet	12/03/2004 03:30:21 PM	lrb_docadmin
05-0026/P2	09/22/2005 12:53:03 PM	csicilia	dkennedy	07/28/2005 02:22:43 PM	lrb_docadmin
05-0026/P2dn	08/10/2005 01:43:59 PM	dkennedy	dkennedy	07/29/2005 05:03:49 PM	lrb_docadmin
05-0026/P2ins	08/10/2005 01:51:42 PM	dkennedy	dkennedy	07/29/2005 05:03:04 PM	lrb_docadmin
05-0026/P2insCJS	09/22/2005 12:45:59 PM	csicilia	csicilia	09/22/2005 12:45:58 PM	csicilia

INSERTS

PLEASE REPLACE
SEC * :
THROUGHOUT
WITH NOTE:

SECTION NOTES to LRB: 0026/P1

NOTE:

INSERT 25-17

SEC. 2: Changes a cross-reference to emergency protective placement, the provisions of which are renumbered under this bill.

use note: std

NOTE

INSERT 26-23

SEC. 3: Changes cross references to protective placement, which is renumbered in this bill.

NOTE

INSERT 29-2

SEC. 7: SECTIONS 6 to 7 change a cross-reference to provisions relating to confidentiality of treatment and service records for persons who are protected under chapter 55. These provisions are renumbered in this bill.

use auto ref A (from bill pp. 26) & 28
use auto ref B

NOTE

INSERT 29-7

SEC. 8: Deletes a reference to the term "chronic mental illness", which is eliminated in this bill, and replaces it with the updated term "serious and persistent mental illness".

NOTE

INSERT 29-14

SEC. 9: Amends language in medical assistance waiver program language to reflect the bill's clarification that protective services, as well as protective placement, may be court ordered.

NOTE

INSERT 30-2

SEC. 10: Changes a cross-reference to the annual review of protective placements, the provisions of which are renumbered in this bill.

NOTE

INSERT 30-6

SEC. 11: Changes a cross-reference to orders for protective placement, the provisions of which are renumbered in this bill.

NOTE

INSERT 30-10

SEC. 12: Changes a cross-reference to the annual review of protective placement, the provisions of which are renumbered in this bill.

NOTE

INSERT 30-13

SEC. 13: Changes a cross-reference to temporary protective placement, the provisions of which are renumbered in this bill.

NOTE

INSERT 30-17

SEC. 14: Changes cross-references to emergency and temporary protective placements, the provisions of which are renumbered under this bill.

INSERT 31-15

NOTE: SEC. 15 and 16 Changes cross-references to records in protective placement and services proceedings, the provisions of which are renumbered in this bill.

NOTE

INSERT 32-24

SEC. 21, SECS. 17, 18, 21 and 22 delete the term "infirmities of aging" and replace it with the more up-to-date term "degenerative brain disorder".

use autoref C (from bill pp. 30+31)
use autoref D

Sections CS

INSERT 129-X

SEC. 23 and 24, SECS. 23 and 24 delete the word "chronic" and replace it with the term "serious and persistent" to modify the term "mental illness", which is more up-to-date terminology.

use autoref H

NOTE: Sections CS

use auto ref G

use autoref J
use autoref I

use autoref F

use auto ref E

LPS: all the notes in this packet should be note: std

NOTE
✓ SEC. 25: Changes a cross-reference to emergency detention, the provisions of which are renumbered in this bill. INSERT 33-18

NOTE (CS)
✓ SEC. 26: Amends the definition of "voluntary" in ch. 49. INSERT 34-2

NOTE (SECTIONS)
✓ SECs. 27 to 29: Changes the term "chronic mental illness" to "serious and persistent mental illness", which is the more up-to-date term. INSERT 34-16

use autoref K
use autoref L
NOTE
✓ SEC. 30: Changes cross-references to protective placement and emergency protective placement proceedings, the provisions of which are renumbered in the draft. INSERT 35-1

NOTE
✓ SEC. 31: Changes cross-references to annual review of protective placement the provisions of which are renumbered in the draft. INSERT 35-5

NOTE
✓ SEC. 34: Changes a cross-reference to the petition for protective placement, the provisions of which are renumbered in the draft. INSERT 36-9

NOTE
✓ SEC. 35: Creates a new provision in the statute relating to admissions of incapacitated persons to facilities such as nursing homes and community-based residential facilities. Currently, such admissions directly from a hospital to a facility may be made if certain specified persons consent to the admission, if the incapacitated person does not have a valid power of attorney for health care and has not been adjudicated incompetent under ch. 880, if certain conditions apply. This SECTION adds another condition, which requires that the incapacitated individual does not verbally object to or otherwise actively protest the admission. This SECTION also sets out what procedure must be followed if the person objects to or protests the admission. INSERT 37-9 (CS)

NOTE (CS)
✓ SEC. 39: SECTIONS 36 to 39 revise the terms "chronic mental illness", "mental retardation", and "infirmities of aging" to "serious and persistent mental illness", "developmental disability", and "degenerative brain disorder" respectively. INSERT 38-17

NOTE (CS) 45
use autoref O
use autoref P
use auto ref Q
✓ SEC. 49: SECTIONS 43 and 44 to 49 amend various standards in current law relating to emergency detention and involuntary commitment for treatment, by providing that a showing of a substantial probability of harm to the person does not exist if the person may be provided protective placement or protective services under ch. 55. INSERT 45-22

NOTE (CS)
✓ SEC. 52: SECTIONS 50 to 52 revise the term "chronic mental illness" to "serious and persistent mental illness". INSERT 47-8 use autoref R use autoref S

NOTE
✓ SEC. 53: Changes various cross-references regarding protective placement and transfer of a person who is protectively placed. INSERT 47-18

NOTE
✓ SEC. 54: Revises the term "chronic mental illness" to "serious and persistent mental illness". INSERT 47-24

INSERT 48-6

NOTE

SEC. 55: Changes a cross-reference to the procedure for protective placement, the provisions of which are renumbered in this bill.

NOTE

INSERT 48-14

SEC. 56: Changes a cross-reference to emergency protective placement, the provisions of which are renumbered in this bill.

NOTE

INSERT 48-23

SEC. 57: Provides that a court making a determination of venue under s. 55.075(5)(b), which is created in this draft, or s. 880.06(1), which is amended in this draft, may request the department of health and family services to determine the county of responsibility for the individual.

NOTE

INSERT 49-22

SEC. 58: Changes cross-references to emergency protective services, the provisions of which are renumbered in this bill.

and emergency and protective placement

NOTE

INSERT 50-9

SEC. 59: Changes cross-references to emergency protective services and emergency protective placement, the provisions of which are renumbered in this bill.

NOTE

INSERT 50-22

SEC. 60: Changes a cross-reference to access to records in protective placement and services cases, the provisions of which are renumbered in this bill.

NOTE

INSERT 52-6

NOTE SEC. 63: ^{CS} SECTIONS 61 to 63 revise the term "chronic mental illness" to "serious and persistent mental illness".

NOTE

INSERT 52-17

SEC. 64: Changes cross-references to emergency protective services and emergency protective placement, the provisions of which are renumbered in his bill.

NOTE

INSERT 53-6

SEC. 65: Changes a cross-reference to access to records in protective placement and services cases, the provisions of which are renumbered in this bill.

NOTE

INSERT 54-7

NOTE SEC. 67: SECTIONS 66 and 67 revise the term "chronic mental illness" to "serious and persistent mental illness". ^{use autoreb V} ^{use autoreb W}

NOTE

INSERT 55-3

SEC. 69: Creates a definition of "activated power of attorney for health care", a term which is used in this bill.

NOTE

INSERT 55-7

SEC. 70: Creates a definition of "degenerative brain disorder", which is a new term created in this bill to replace the outdated term "infirmities of aging".

NOTE

INSERT 55-17

SEC. 71: Revises the term "infirmities of aging" to "degenerative brain disorder".

NOTE

INSERT 56-5

SEC. 73: Revises the term "interested person".

NOTE

INSERT 56-7

SEC. 74: Includes a health care agent in the definition of "interested person".

NOTE

INSERT 58-4

SEC. 78: Creates a definition of "residence" for use in ch. 55. This definition is based on the definition of "residence" in s. 49.001.

use autoreb T
use autoreb U

in

INSERT 58-7

NOTE

SEC. 79: Creates a definition of "serious and persistent mental illness", which is used in this bill and replaces the outdated term "chronic mental illness". ✓

INSERT 58-12

NOTE

SEC. 81: Creates a definition of "voluntary", a term which is used in this bill. ✓

INSERT 61-8

NOTE

SEC. 86: Deletes a reference to Milwaukee County in the statute that confers authority on a county protective services agency to conduct an investigation into alleged abuse of a vulnerable adult. The effect of this amendment is to permit all counties in the state to exercise this authority. ✓

INSERT 61-23

NOTE

SEC. 89: ^(CS) ~~SECTIONS 887 to 89~~ inserts a reference to an agent under an activated power of attorney for health care, in the event that a vulnerable adult under ch. 55 has such an agent who may act on her or her behalf in protective services or protective placement proceedings. ✓

use autoreb Y
use autoreb Z

INSERT 62-8

NOTE

SEC. 91: Changes cross references to emergency protective services and emergency protective placement, the provisions of which are renumbered in this bill. ✓

INSERT 63-21

NOTE

SEC. 99: Amends current law relating to voluntary protective services, to provide a separate statutory section for voluntary protective services and to insert references to an agent under an activated power of attorney for health care, who may, in some situations, be authorized to request and consent to protective services for a principal. ✓

INSERT 65-17

NOTE

SEC. 105: Changes a cross-reference to the procedure for protective placement, the provisions of which are renumbered in this bill. ✓

INSERT 66-18

NOTE

SEC. 106: Renumbers and amends a provision in current law that permits a person to be admitted to a nursing home prior to a protective placement proceeding on a short term basis. This provision permits individuals to be admitted to a facility, ^{Obbt} only directly from a hospital inpatient unit, as under current law, but also in cases where the individual is in need of recuperative care or unable to provide for his or her own care or safety so as to create a serious risk of substantial harm to himself or herself or others. In addition, this provision is revised to permit a 60 day admission, rather than a 3 month admission; however, the provision permits the placement to be extended for an additional 60 days if a protective placement petition has been brought, or, if no petition has been brought, for an additional 30 days to allow the initiation of discharge planning. ✓

INSERT 67-16

NOTE

SEC. 109: Changes a cross-reference to the standards for protective placement and emergency protective placement, the provisions of which are renumbered in this bill. ✓

INSERT 67-25

NOTE

SEC. 110: Changes a cross-reference to emergency protective placement, the provisions of which are renumbered in this bill. ✓

INSERT 68-7

NOTE

SEC. 112: Provides that the procedure for admissions to facilities that are initially made without court involvement may be initiated by an out of state guardian if the ward is ✓



✓ currently a resident of this state, provided the petition for guardianship and protective placement is filed within 60 days after the ward's admission to the facility.

NOTE

INSERT 68-14

✓ SEC. 113: Provides that an in-state guardian of an out-of-state ward may consent to an admission to a facility that is initially made without court involvement if the guardian intends to move the ward to this state within 30 days after the consent to the admission, provided the petition for guardianship and protective placement is filed within 60 ^{days} after the ward's admission to the facility.

NOTE

INSERT 70-5

✓ SEC. 115: Amends the current provision on eligibility for protective placement to include eligibility for court-ordered protective services.

NOTE

INSERT 70-14

✓ SEC. 116: Renumbers provisions in current law relating to petitioning for protective services or placement and revises who may file a petition.

NOTE

INSERT 71-2

bill ✓ SEC. 117: Creates an exception to the requirement in s. 55.075(4)(a), created in this draft, that the court must, unless it is inequitable, award payment of the petitioner's costs from the assets of the person sought to be provided protective placement or services.

NOTE

INSERT 71-7

✓ SEC. 118: Amends current law to provide that the corporation counsel for the county in which the petition for protective placement or services is brought may assist in conducting proceedings under this chapter. The corporation counsel must assist if requested by the court, as under current law.

NOTE

INSERT 71-14

✓ SEC. 119: Renumbers and amends a provision in current law relating to a guardian's authority to make a protective placement of a ward, admit the ward to certain residential facilities, or make an emergency protective placement.

NOTE

INSERT 71-15

✓ SEC. 120. Repeals a provision in current law; this provision is recreated in a new section of the bill.

NOTE

INSERT 72-13

✓ SEC. 123: Revises the terms "infirmities of aging" and "chronic mental illness" to "degenerative brain disorder" and "serious and persistent mental illness", respectively.

NOTE

INSERT 73-9 B

✓ SEC. 127: Clarifies where the petition for protective placement or services shall be filed. The petition must be filed in the county of residence of the individual to be protected, or where the person is present due to circumstances specified in s. 51.22(4).

NOTE

INSERT 75-2

✓ SEC. 129: Deletes provision from current law relating to notice of petition and hearing for protective placement. These provisions are placed in a new statutory section 55.09, Notice of petition and hearing for protective services or placement, which is found in SECTION 161 of this bill.

NOTE

use auto ref AA (from p. 92 of bill)

INSERT 75-14

✓ SEC. 130: Allows certain parties to request an extension of up to 45 days of the 60-day time period within which a petition for protective placement or services must be heard.

INSERT 76-12

NOTE

SEC. 131: Clarifies that the responsibilities and duties of a guardian ad litem on behalf of an individual who is the subject of a protective placement or services proceeding are the same as those in a proceeding under ch. 880, relating to guardianship.

NOTE

INSERT 76-21

services

SEC. 132: Clarifies the standard of proof at protective placement or service shearing; provides that the person must meet the standards for protective placement or protective services before an order may be entered.

INSERT 78-21

NOTE

SEC. 136: SECTION 133 to 136 renumber and reorganize provisions regarding a comprehensive evaluation of an individual who is the subject of a protective placement or services petition.

NOTE

INSERT 81-18

SEC. 137: Renumbers and reorganizes the provisions relating to an order for protective placement or services; clarifies that an individual who is subject to an order for protective placement or services may be detained on an emergency basis under s. 51.15 or involuntarily committed under s. 51.20, or voluntarily admitted to a treatment facility for inpatient care under s. 51.10 (8).

NOTE

INSERT 81-20

SEC. 139: SEC. 138 and 139 repeal provisions that have been incorporated into other statutory sections.

NOTE

INSERT 81-22

SEC. 141: SECTIONS 140 and 141 repeal provisions that have been found unconstitutional.

NOTE

INSERT 82-23A

SEC. 142: Renumbers and amends provisions relating to annual review of protective placement. Provides that the individual's guardian must be notified of the review and invite the individual and the guardian to submit comments or information concerning the individual's need for protective placement or protective services.

NOTE

INSERT 83-16

SEC. 144: Revises the provisions relating to a petition for protective services or placement. These provisions expand who may petition, who must be served with the petition; and removes provisions regarding hearing on the petition, which are placed in a separate provision.

NOTE

INSERT 83-17

SEC. 145: Repeals a provision in current law that provides that termination of a guardianship or attainment of the age of majority by a minor terminates a protective placement order. (Is this recreated anywhere else? If not, why not? Oversight?)

STET: keep as typed

NOTE

INSERT 84-19

SEC. 146: Changes a provision in current law regarding emergency protective placement, by providing that, in addition to the personal observation of a law enforcement officer, firefighter, guardian or authorized representative of a county department, detention may be made based on a reliable report made to one of these persons.

use autoref BB

use autoref CC

CS Sections

use autoref DD

Handwritten scribble

NOTE

INSERT 87-19

SEC. 154: Repeals a provision regarding the responsibilities of a guardian to the ward, since these provisions are present in ch. 880, stats. (check section number). ✓

NOTE

INSERT 89-2

SEC. 156: Renumbers ^{and} provision in current law relating to records in protective placement ^{and} services proceedings and makes minor wording changes. ✓

NOTE

INSERT 91-5

SEC. 159: Renumbers and reorganizes provisions relating to a petition for protective placement or services. Adds to ch. 55 ^{similar} provisions similar to those in current s. 880.24 (3), stats., requiring the court to award payment of reasonable attorney fees and costs to a person who petitions for protective services or placement. Also, adds new provisions relating to venue in a protective placement or services proceeding. ✓

NOTE

INSERT 91-18

SEC. 160: Renumbers and reorganizes provisions relating to standards that a court must consider when determining whether an individual meets the standards for protective placement; adds standards that a court must consider when determining whether an individual meets the standards for court-ordered protective services. Although courts order protective services under current law, there are no specific statutory provisions for courts to follow when ordering protective services. ✓

NOTE

INSERT 93-3

SEC. 161: Creates a new section relating to notice of petition and hearing for protective services or placement, which incorporates and reorganizes provisions in current law regarding who must be served with notice of a hearing for protective services or placement. ✓

NOTE

INSERT 95-7

SEC. 162: Creates a new section on hearing on the petition for protective placement or services, which incorporates and reorganizes provisions in current law. Also, modifies provision regarding attendance of the individual to be protected at the hearing. Specifies the rights that apply to all hearings under ch. 55. These rights are present under current law, but are contained in ch. 880 and only cross-referenced currently in ch. 55. This provision specifies these rights within ch. 55 for easier reference. ✓

NOTE

INSERT 96-13

SEC. 163: Creates a new section relating to a comprehensive evaluation in a protective placement or services proceeding, which incorporates and reorganizes provisions in current law. Also, creates a right to request an independent evaluation by a person who is the subject of a protective placement proceeding that is parallel to the right to request an independent evaluation in s. 880.33 (2) (b) when a person is the subject of a guardianship proceeding. ✓

Ⓟ

This right to an independent evaluation applies when such an evaluation has not already been made. For example, ^{if} a person who is the subject of both a guardianship and protective placement proceeding requested an independent evaluation under s. 880.33 (2) (b), the person would not also be able to request an independent evaluation under s. 55.11. ✓

NOTE

INSERT 96-22

SEC. 164: Moves provisions in current s. 55.06(9)(a), relating to orders for protective services or protective placements, to a newly created statutory section, s. 55.12. Also, creates additional provisions that clarify courts orders relating to moving an individual

✓ who is a resident of a facility licensed for 16 or more beds; court orders for protective services as an alternative to placement; and court orders for psychotropic medication as a protective service.

NOTE

INSERT 97-15

✓ SEC. 165: Creates new provisions to provide direction to county departments ^a who are providing emergency protective services to permit the department to file a petition for protective services for an individual who is receiving emergency protective services. *that is*

NOTE

INSERT 97-17

✓ SEC. 166: Creates a title for new statutory section on emergency and temporary protective placement.

✓ SEC. 167: MM

INSERT 107-3

NOTE

bill
SEC. 168: Revises the provisions in current law regarding transfers of protective placements. Provides that transfers between placement units, between placement facilities, or from a placement facility to a medical facility (provided that the medical facility is not a psychiatric facility), may be made by a county or the Department of Health and Family Services (DHFS), in addition to a guardian or placement facility. However, if such a transfer is made, 10 days' prior written notice must be given by the transferring entity to the guardian, the county, the department, and the placement facility. Further, this draft requires that a county, the department, or a placement facility making such a transfer must obtain the prior written consent of the guardian. If an emergency precludes providing the required prior written notice, or precludes obtaining the guardian's prior written consent, written notice must be provided immediately upon transfer. Under the draft, if a guardian, ward or attorney, or other interested person files a petition specifying objections to a transfer, the court must order a hearing within 10 days after filing the petition, or within 96 hours after filing of the petition in the case of an emergency transfer made without the required prior written notice and prior written consent of the guardian.

PH
For nonemergency transfers, the purpose of the hearing is to determine whether the proposed placement meets the standards of s. 55.12(2) and (6) and is in the best interests of the ward. For emergency transfers made without the required prior written notice and without prior written consent of the guardian, the purpose of the hearing is to determine whether there is probable cause to believe that the transfer meets the standards and is necessary for the best interests of the ward.

NOTE

INSERT 110-21

✓ SEC. 169: Revises the limited provisions in current law regarding modification of an order for a protective placement. A petition for modification of an order for protective placement may be filed by an individual subject to a protective placement; the individual's guardian or guardian ad litem; the DHFS; the county department that placed the individual; a contractual agency; or any interested person. The petition must be served on the individual; the individual's guardian; the individual's legal counsel and guardian ad litem, if any; and the county department. The petition must contain specific allegations, depending on whether he individual is under a protective placement order or court-ordered protective services. A hearing on the petition must be held within 21 days after the filing of the petition, ^{the} a hearing on a protective placement petition or transfer

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has not been held within the previous 6 months. The order must contain specific findings regarding whether the person currently meets the standard for protective placement or court-ordered protective services. If the person continues to meet the standard for protective placement or court-ordered protective services, the court must either continue the order or modify the order so that the placement or services are consistent with the person's needs if the person's needs have changed. If the person does not currently meet the standard for protective placement or protective services, the order must require termination of the protective placement or court-ordered protective services. Notice of the order must be provided to the individual; the individual's guardian, guardian ad litem, and legal counsel, if any; and the residential facility, if the person receives services in such a facility. The transfer provisions may be used if the modification sought is transfer of an individual between placement units, between placement facilities, or from a placement unit to a medical facility, and if the petitioner is an entity authorized to initiate such a transfer.

NOTE

INSERT 113-3

SEC. 170: Establishes procedures for the termination of a protective placement or court order for protective services. The provisions pertaining to who may petition, the contents of the petition, service of the petition, and requirement for conducting the hearing for modification of protective placement or court-ordered protective services apply to petitions for termination of placement or services.

- ¶ The court may make one of the following orders after a hearing on a petition for termination of protective placement or services:
 - ¶ 1. If the individual continues to meet the statutory standards for protective placement and the placement is in the least restrictive environment consistent with the person's needs and with the statutory factors, order continuation of the person's protective placement in the same facility.
 - ¶ 2. If the individual continues to meet the statutory standards for protective placement but the placement is not in an environment consistent with the person's needs and with the statutory factors, the court shall transfer the person to a ~~facility~~ that is in the least restrictive environment consistent with the person's needs and with the factors. In addition to this option, the court may also order protective services.
 - ¶ 3. If the individual no longer meets the statutory standard for protective placement, the court shall terminate the protective placement. If the placement is terminated, the court must either order protective services or ensure the development of a proper living arrangement for the person if the individual is being transferred or discharged from his or her current residential facility. If the person who is the subject of the petition is under an order for protective services, the court may order continuation of the protective services order if the person continues to meet the statutory standard for court-ordered protective services; order that the protective services be provided in a manner more consistent with the person's needs; or terminate the order for protective services if the person no longer meets the standard.

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End of INSERT 113-3

<u>Object Name</u>	<u>Modify Date</u>	<u>Modifier</u>	<u>Creator Name</u>	<u>Creation Date</u>	<u>Owner Name</u>
-0026ins.	08/25/2004 04:44:58 PM	dkennedy	dkennedy	08/25/2004 04:44:58 PM	lrb_docadmin
05-0026/?DAKins	11/17/2004 04:40:24 PM	dkennedy	dkennedy	11/03/2004 04:58:50 PM	lrb_docadmin
05-0026/P1dn	12/06/2004 12:15:40 PM	rschluet	rschluet	12/03/2004 03:30:21 PM	lrb_docadmin
05-0026/P2	09/22/2005 12:53:03 PM	csicilia	dkennedy	07/28/2005 02:22:43 PM	lrb_docadmin
05-0026/P2dn	08/10/2005 01:43:59 PM	dkennedy	dkennedy	07/29/2005 05:03:49 PM	lrb_docadmin
05-0026/P2ins	08/10/2005 01:51:42 PM	dkennedy	dkennedy	07/29/2005 05:03:04 PM	lrb_docadmin
05-0026/P2insCJS	09/22/2005 12:45:59 PM	csicilia	csicilia	09/22/2005 12:45:58 PM	csicilia

Mary Matthias' Notes

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)

LPS:
ALL NOTES
IN
THIS
INSERT
SHOULD BE
Rendered by
note: std unless
otherwise
indicated.

INSERT 82-23 B

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.

End of INSERT 82-23 B

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 ins 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(1f) 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)

INSERT 129-16

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.

End of INSERT 129-16

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.

INSERT 130-3

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.

End of INSERT 130-3

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)

INSERT 130-13

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.

End of INSERT 130-13

SECTION 178 (pg 130)

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

INSERT 130-19

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)

INSERT 131-3

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)

INSERT 131-5

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)

INSERT 131-7

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)

INSERT 131-10

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)

INSERT 131-18

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)

INSERT 132-3

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

SECTION 185 (pg 132)

End of INSERT 132-3

INSERT 132-10

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)

INSERT 132-18

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)

INSERT 132-24

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)

INSERT 133-4

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)

INSERT 133-12

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)

INSERT 133-20

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)

INSERT 133-24

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)

INSERT 134-9

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

SECTION 193 (pg. 134)

End of INSERT 134-9

INSERT 134-15

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

SECTION 194 (pg 134)

INSERT 134-22

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

SECTION 195 (pg 134-135)

INSERT 135-13

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)

INSERT 136-11

1. Response to your question:

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

ed + LPS
Please see INSERT
91-5

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)

INSERT 136-16

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)

INSERT 141-13

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.

Sections 204 to 208 replace

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) ***

use autoref BLUE

use autoref RED

CS

SEC 210 (pg. 142)

INSERT 142-14

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)

INSERT 142-15

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!

INSERT 142-16

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)

INSERT 142-21

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

End of INSERT 142-21

INSERT 143-4

~~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. ✓

INSERT 143-11

~~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. ✓

INSERT 143-16

~~SEC. 216 (pg. 143)~~

NOTE: Adds two items to the list of duties of a guardian ad litem in incompetency cases: ^{d.c.} 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?

INSERT 144-2 ✓

~~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: ^{if} The duty to inform the court and the petitioner or his or her counsel ^{d.c.} 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)~~

End ?
INSERT 144-2

INSERT 144-6

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.

INSERT 144-7

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.

INSERT 144-20

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.

INSERT 145-11

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). ~ 55.14(8)

INSERT 145-22

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.

End of INSERT
145.22

11 ✓

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)".

INSERT 146-15

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. ✓

INSERT 146-19

STET: keep as typed ✓

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 certain crimes related to the maltreatment of vulnerable adults. ✓

INSERT 146-23

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. ✓

INSERT 147-4

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. ✓

End of INSERT 147-4 ✓

SEC. 229 (pg 147-148)

INSERT 148-1

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)

INSERT 148-3

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

End 3
INSERT 148-3

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0026/P2dn

DAK:cjs:rs ✓

stays

To Laura Rose and Mary Matthias:

1. Please note my revised amendment of s. 46.286 (3) (a) 3., stats.; the statute previously did not make sense. ✓

2. Please note that I deleted "and temporary" from the table of contents title for s. 55.13. That title differed from the actual title in the bill for s. 55.13, as renumbered from s. 55.05 (4) (title), stats. I believe it was my error. ✓

3. According to my notes of our July 25, 2005, meeting, the following issues should be revisited, possibly in a future amendment to or substitute amendment of this bill:

a. Section 55.10 (3), stats. (as created). The term "persons in interest" (which, as used here, specifically includes service providers, their representatives, and witnesses) is unclear. The bill defines "interested person" at s. 55.01 (4), and the terms are not congruent. Your decision was to not change this provision, as it was modeled on s. 880.33 (2) (e), stats. ✓

b. The reference to "legal" residence in s. 55.11 (4) (as created), which seems unnecessary and confusing. ✓

c. The required written consent of the guardian under s. 55.15 (3). ✓

d. ~~Adding reference to training on emergency protective services under s. 165.85 (4) (b) 1d. b., stats.~~ ✓

e. Clarifying what "assistance" means in s. 880.33 (3), stats., i.e., whether it may mean that a court may request a county department to provide an evaluation for an individual.

~~f. Adding reference to s. 55.13 in ss. 165.85 (4) (b) 1d. b., 165.86 (2) (b), and 880.38 (1), stats.~~ ✓

g. Renumbering s. 880.331 (5), stats., into ch. 55, if the Committee wants to retain these provisions. ✓

h. Amending s. 880.38 (3), stats., to tie into ch. 55; at your instruction, I have for now repealed the last sentence. Note that this subsection is referred to in s. 55.02 (2) (b) 3. ✓

4. I have included in this draft all of the NOTES that you have provided me, except for the NOTE for s. 51.40 (2) (g) 1., stats., which is removed from the bill, as explained later in this Drafter's Note. Not all the individual bill SECTIONS have NOTES. Also, some of the NOTES provided me are incomplete, and the numbers of the SECTIONS in this redraft change; I have attempted to correct wrong SECTION numbers referenced in the Notes, but please also check them. ✓

5. This redraft repeals s. 55.05 (5) (a), stats., rather than renumbering it s. 55.055 (1). In revising the numbers for s. 55.055, I discovered that I had skipped numbering s. 55.055 (4) in 05-0026/P1 and have fixed the numbers accordingly. ✓

6. Under the National Probate Court Standards referenced in *In the Matter of the Guardianship of Jane E. P. v. Unified Board of Grant and Iowa Counties*, Wis. Sup. Ct. (July 7, 2005), standards and procedures are provided for two situations: (1) the transfer of a guardianship to a foreign jurisdiction; and (2) the receipt and acceptance of a guardianship transferred from a foreign jurisdiction.

For receipt and acceptance of a transferred guardianship, the standards and procedures include all of the following:

- a. Court receives, for a transfer of a guardianship, a properly-executed petition that is certified by a foreign jurisdiction.
- b. Court accepts petition without a formal hearing unless requested by the court on its own motion or by motion of the ward or another interested person.
- c. Court notifies the foreign court of the receipt and acceptance of the petition.
- d. Court notifies the guardian of any administrative procedures necessary to bring the foreign guardianship into compliance with state law.
- e. Not later than 90 days after acceptance of the transfer, court conducts a hearing for review of the guardianship and, if necessary to bring into compliance with state law, modification.
- f. Unless a change in the ward's circumstances warrants otherwise, court gives effect to the foreign determination of incompetence and recognizes the appointment of the guardian.

At least these questions arise:

- a. Do you want these procedures to replace language in the bill under s. 55.055 (1) (c) or (d)? (Note that the *Jane E. P.* opinion seems to provide two different deadlines (60 days and 90 days) for conduct of a hearing for review of the guardianship.) ✓
- b. Note that the *Jane E. P.* opinion indicates that, if receipt and acceptance procedures are followed, it is unnecessary to file a petition for guardianship as required under s. 55.06 (3) (c), stats. (renumbered s. 55.075 (5) (a)); that provision would need an exception, if the opinion's standards are followed. ✓
- c. Should any provision be made under the *Watts* review language for review of a ward who is transferred from a foreign jurisdiction?

d. Do you want the standards and procedures set forth in *Jane E. P.* for transfer of a guardianship to a foreign jurisdiction?

e. Are these matters better addressed in the Legislative Council bill on residency and county of responsibility, under s. 51.40, stats.?

7. My notes from our July 25 meeting indicate that Mary would review the treatment of s. 55.06 (1) (b), stats. (renumbered s. 55.075 (4) (b) and amended) in light of my ****NOTE. I have left that ****NOTE in this redraft because this issue is not yet resolved.

8. Please review s. 55.06 (6), stats. (renumbered s. 55.10 (4) (b)) with regard to the issue of a required interview by a GAL of an existing guardian. Is this drafted as you want? Because I amended this subsection, I did not also create s. 880.331 (4) (as), as originally proposed; is that your intent?

9. At your instruction, I have renumbered s. 55.06 (10) (a) 2., stats., to be s. 55.18 (1) (ar) and have technically amended it. This provision concerns an individual with a developmental disability who is protectively placed in an intermediate facility for the mentally retarded or in a nursing home. The agency that is responsible for the protective placement must notify the county department of the individual's county of residence, if that county department is participating in the CIP IB MA waiver program under s. 46.278 at least 120 days before a court review of the placement (I am unsure if the "review" is the *Watts* review.). (If the individual resides in Jefferson County, DHFS must be notified.) The county department that is notified (or the DHFS contractor if DHFS is notified) must develop a plan under s. 46.279 (4), stats., to provide home or community-based care for the individual in a noninstitutional setting. Unless the court finds that placement in the ICFMR or nursing facility is the most integrated setting that is appropriate to the needs of the individual, taking into account information presented by all affected parties, the court must order that the individual be transferred to a noninstitutional community setting in accordance with the plan.

the requirements of s. 55.12(3), (4), and (5) → fix to be double quote cc

The problem with this provision is that the standard used ("the most integrated setting") is not the same as the standard specified in s. 55.18 (2) (e) ("least restrictive environment consistent with his or her needs").

3 → fix to point in right direction

The provision in question, s. 55.06 (10) (a) 2., stats., has three cross-references. Assuming that the "review" is a *Watts* review, I have included it and the cross references in the Initial Applicability SECTION 231 (8) concerning annual reviews.

provision

The Committee may wish to review this issue.

10. One of Laura's NOTES, for SECTION 145, addresses the repeal of s. 55.06 (10) (c), stats., which concerns the termination of a guardianship and revocation of a protective placement or protective services. So far as I can find in the draft, this provision is not elsewhere created, as in s. 55.17, where it would seem appropriate. Should it be renumbered?

11. Please recheck the treatment of s. 51.10 (8), stats. Does the language meet your intent?

12. Please review my changes to s. 55.16 (2) (b) 1. to 3.; are they what you intended? Should s. 55.16 (2) (b) 3. refer only to requirements of s. 55.12 (4) and (5)?

13. Your instructions from our meeting on July 25 with respect to use of the term "county protective services agency" in s. 55.18 (4) were to "change to county department throughout." This term is defined in ch. 55, stats., and used extensively in s. 55.043, stats., which is the subject of LRB-0025/1. I have changed ss. 55.05 (4) (b) (renumbered s. 55.13 (4)) and 55.18 (4), but have not otherwise changed s. 55.043 or other cross-references; do you want me to?

14. I have, as requested, removed the draft's treatment of s. 880.06 (2), stats. (which was repealed and recreated in 05-0026/P1), and I will place it, along with its accompanying ****NOTE, in 05-2339, which is the residency and venue bill.

15. I have conflicting notes on the ****Note under Section 231 (2) in 05-0026/P1. I had added reference to s. 880.33 (4m), stats., in SECTION 231 (1) and (2); one of my notes indicates that this action was okay, and another says that Laura will review it and get back to me. Please take a look at it.

16. One of the most difficult aspects of this bill concerns the initial applicability section. Please carefully review the provisions in SECTION 231, especially SECTION 231 (7), in relationship to the nonstatutory transition provisions and to the wording of s. 55.19 (intro.).

17. I discovered notes from our February 3, 2005, meeting with Betsy Abramson and Gerard Gierl. Those notes indicate all of the following, which I have done in this draft and for which I would appreciate review:

a. Remove underscored "extraordinary circumstances" language from s. 55.075 (5) (a) (renumbered from s. 55.06 (3) (c) and state "The county of residence, as determined by the court, under s. 51.40, or by the guardian, is the county of responsibility."

b. Change, in s. 55.075 (5) (a) the language referring to s. 51.22 (4) to "due to circumstances, including those specified in s. 51.22 (4)".

In addition, I believe that it is important to note that Gerard has specifically indicated to me the circumstances under which a court would determine the county of residence: if an individual has not received services under ch. 46, 51, or 55 or if an individual has received services under ch. 46, 51, or 55 that have been terminated and has established residence in a county other than that in which the individual resided when the services were received. I think it would improve the provision greatly to have these circumstances specified in it.

18. Please see my change to the language of s. 55.16 (2)(c), to align it with other provisions of that section.

Debora A. Kennedy
Managing Attorney
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E-mail: debora.kennedy@legis.state.wi.us

is important, because it indicates the possibility of circumstances such as those under s. 51.40 (2) (b), but it's also very broad.

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0026/P2insCJS
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INS CJS

PLAIN

1 SECTION 1. 560.9811 (1) of the statutes, as affected by 2005 Wisconsin Act 2005
2 Wisconsin Act 25, is amended to read:

3 560.9811 (1) In this section, "chronic mental illness" has the meaning given in
4 s. 51.01 (3g). (14t)

serious and persistent

History: 2005 a. 25 s. 908.

create auto ref J

6 SECTION 2. 560.9811 (2) of the statutes, as affected by 2005 Wisconsin Act 2005
7 Wisconsin Act 25, is amended to read:

8 560.9811 (2) From the appropriation under s. 20.143 (2) (fr), the department
9 may not award more than \$45,000 in each fiscal year to applying public or nonprofit
10 private entities for the costs of providing certain mental health services to homeless
11 individuals with chronic mental illness. Entities that receive funds awarded by the
12 department under this subsection shall provide the mental health services required
13 under 42 USC 290cc-24. The amount that the department awards to an applying
14 entity may not exceed 50% of the amount of matching funds required under 42 USC
15 290cc-23.

serious and persistent

History: 2005 a. 25 s. 908.

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0026/P2ins
DAK:cjs:rs

SA ✓
X-ref ✓

INSERT 68-1

1 SECTION 1. 55.05 (5) (d) of the statutes is renumbered 55.055 (4) and amended
2 to read:

3 55.055 (4) The admission to a facility, as defined in s. 155.01 (6), of a principal
4 by a health care agent under the terms of a power of attorney for health care
5 instrument and in accordance with ch. 155 or the admission of an individual to a
6 nursing home or community-based residential facility under the requirements of s.
7 50.06 is not a protective placement under this chapter.

health care

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

INSERT 73-9 A

8 due to circumstances, including those specified in s. 51.22 (4). The county of
9 residence, as determined by the court, under s. 51.40, or by the guardian, is the
10 county of responsibility.

MP

INSERT 83-1

11 SECTION 2. 55.06 (10) (a) 2. of the statutes is renumbered 55.18 (1) (ar) and
12 amended to read:

13 55.18 (1) (ar) If the ~~person~~ individual has a developmental disability and is
14 protectively placed in an intermediate facility or a nursing facility, the agency that
15 is responsible for the protective placement shall notify in writing the county
16 department of the county of residence of the ~~person~~ individual that is participating
17 in the program under s. 46.278 or, if s. 46.279 (4m) applies to the ~~person~~ individual,
18 the department, at least 120 days before the review. The county department so
19 notified or, if s. 46.279 (4m) applies, the department's contractor, shall develop a plan
20 under s. 46.279 (4) and furnish the plan to the court that ordered the protective
21 placement and to the ~~person's~~ individual's guardian. The court shall order that the

1 ~~person~~ individual be transferred to the noninstitutional community setting in
2 accordance with the plan unless the court finds that protective placement in the
3 intermediate facility or nursing facility is the most integrated setting, as defined in
4 s. 46.279 (1) (bm), that is appropriate to the needs of the ~~person~~ individual taking into
5 account information presented by all affected parties.

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

INSERT 98-4

6 (c) "Protest" means make more than one discernible negative response, other
7 than mere silence, to the offer of, recommendation for, or other proffering of
8 voluntary receipt of psychotropic medication. "Protest" does not mean a discernible
9 negative response to a proposed method of administration of the psychotropic
10 medication. ✓

INSERT 103-12

11 no 9 The individual may not be transferred, under the protective placement order,
12 to any facility for which commitment procedures are required under ch. 51. ✓

INSERT 115-22

13 no 9 and an explanation that the individual or the individual's guardian may
14 request a hearing that meets the requirements under s. 55.10 (4) ✓

INSERT 120-2

15 no 9 180 days after the effective date of this subsection [revisor inserts date] ✓

INSERT 120-9

16 no 9 By the first January 31 after the effective date of this subsection [revisor
17 inserts date] and by every January 31 thereafter, ✓

INSERT 124-7

18 no 9 and an explanation that the individual or the individual's guardian may
19 request a hearing that meets the requirements under s. 55.10 (4) ✓

#

INSERT 149-2

1 (4) RULES; INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC MEDICATION. The
2 department of health and family services shall submit in proposed form the rules
3 required under section 50.02 (2) (ad) of the statutes, as created by this act, to the
4 legislative council staff under section 227.15 (1) of the statutes no later than the first
5 day of the 6th month beginning after the effective date of this subsection. ✓

#

INSERT 152-14

6 (1/3) ADMISSIONS OF INCAPACITATED INDIVIDUALS. The treatment of sections 50.06
7 (2) (c) and (d) of the statutes first applies to an admission of an incapacitated
8 individual made on the effective date of this subsection. ✓

#

9 (1/4) INVESTIGATIONS BY COUNTY PROTECTIVE SERVICES AGENCIES. The treatment
10 of sections 55.043 (1) (a) (intro.), 1. and 3. and (b) 1. and 2. a. and b. and (4) (a) and
11 (b) and 813.123 (4) (a) (intro.) and 2., (5) (a) (intro.) and 3. b., (6) (c), (7) and (11) of
12 the statutes first applies to conduct of an investigation made on the effective date of
13 this subsection.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0026/P2dn

DAK:cjs:rs

September 26, 2005

To Laura Rose and Mary Matthias:

1. Please note my revised amendment of s. 46.286 (3) (a) 3., stats.; the statute previously did not make sense.
2. Please note that I deleted "and temporary" from the table of contents title for s. 55.13. That title differed from the actual title in the bill for s. 55.13, as renumbered from s. 55.05 (4) (title), stats. I believe it was my error.
3. According to my notes of our July 25, 2005, meeting, the following issues should be revisited, possibly in a future amendment to or substitute amendment of this bill:
 - a. Section 55.10 (3), stats. (as created). The term "persons in interest" (which, as used here, specifically includes service providers, their representatives, and witnesses) is unclear. The bill defines "interested person" at s. 55.01 (4), and the terms are not congruent. Your decision was to not change this provision, as it was modeled on s. 880.33 (2) (e), stats.
 - b. The reference to "legal" residence in s. 55.11 (4) (as created), which seems unnecessary and confusing.
 - c. The required written consent of the guardian under s. 55.15 (3).
 - d. Adding reference to s. 55.13 in ss. 165.85 (4) (b) 1d. b., 165.86 (2) (b), and 880.38 (1), stats.
 - e. Clarifying what "assistance" means in s. 880.33 (3), stats., i.e., whether it may mean that a court may request a county department to provide an evaluation for an individual.
 - f. Renumbering s. 880.331 (5), stats., into ch. 55, if the Committee wants to retain these provisions.
 - g. Amending s. 880.38 (3), stats., to tie into ch. 55; at your instruction, I have for now repealed the last sentence. Note that this subsection is referred to in s. 55.02 (2) (b) 3.
4. I have included in this draft all of the NOTES that you have provided me, except for the NOTE for s. 51.40 (2) (g) 1., stats., which is removed from the bill, as explained later

in this Drafter's Note. Not all the individual bill SECTIONS have NOTES. Also, some of the NOTES provided me are incomplete, and the numbers of the SECTIONS in this redraft change; I have attempted to correct wrong SECTION numbers referenced in the Notes, but please also check them.

5. This redraft repeals s. 55.05 (5) (a), stats., rather than renumbering it s. 55.055 (1). In revising the numbers for s. 55.055, I discovered that I had skipped numbering s. 55.055 (4) in 05-0026/P1 and have fixed the numbers accordingly.

6. Under the National Probate Court Standards referenced in *In the Matter of the Guardianship of Jane E. P. v. Unified Board of Grant and Iowa Counties*, Wis. Sup. Ct. (July 7, 2005), standards and procedures are provided for two situations: (1) the transfer of a guardianship to a foreign jurisdiction; and (2) the receipt and acceptance of a guardianship transferred from a foreign jurisdiction.

For receipt and acceptance of a transferred guardianship, the standards and procedures include all of the following:

- a. Court receives, for a transfer of a guardianship, a properly-executed petition that is certified by a foreign jurisdiction.
- b. Court accepts petition without a formal hearing unless requested by the court on its own motion or by motion of the ward or another interested person.
- c. Court notifies the foreign court of the receipt and acceptance of the petition.
- d. Court notifies the guardian of any administrative procedures necessary to bring the foreign guardianship into compliance with state law.
- e. Not later than 90 days after acceptance of the transfer, court conducts a hearing for review of the guardianship and, if necessary to bring into compliance with state law, modification.
- f. Unless a change in the ward's circumstances warrants otherwise, court gives effect to the foreign determination of incompetence and recognizes the appointment of the guardian.

At least these questions arise:

- a. Do you want these procedures to replace language in the bill under s. 55.055 (1) (c) or (d)? (Note that the *Jane E. P.* opinion seems to provide two different deadlines (60 days and 90 days) for conduct of a hearing for review of the guardianship.)
- b. Note that the *Jane E. P.* opinion indicates that, if receipt and acceptance procedures are followed, it is unnecessary to file a petition for guardianship as required under s. 55.06 (3) (c), stats. (renumbered s. 55.075 (5) (a)); that provision would need an exception, if the opinion's standards are followed.
- c. Should any provision be made under the *Watts* review language for review of a ward who is transferred from a foreign jurisdiction?
- d. Do you want the standards and procedures set forth in *Jane E. P.* for transfer of a guardianship to a foreign jurisdiction?

e. Are these matters better addressed in the Legislative Council bill on residency and county of responsibility, under s. 51.40, stats.?

7. My notes from our July 25 meeting indicate that Mary would review the treatment of s. 55.06 (1) (b), stats. (renumbered s. 55.075 (4) (b) and amended) in light of my ****NOTE. I have left that ****NOTE in this redraft because this issue is not yet resolved.

8. Please review s. 55.06 (6), stats. (renumbered s. 55.10 (4) (b)) with regard to the issue of a required interview by a GAL of an existing guardian. Is this drafted as you want? Because I amended this subsection, I did not also create s. 880.331 (4) (as), as originally proposed; is that your intent?

9. At your instruction, I have renumbered s. 55.06 (10) (a) 2., stats., to be s. 55.18 (1) (ar) and have technically amended it. This provision concerns an individual with a developmental disability who is protectively placed in an intermediate facility for the mentally retarded or in a nursing home. The agency that is responsible for the protective placement must notify the county department of the individual's county of residence, if that county department is participating in the CIP IB MA waiver program under s. 46.278 at least 120 days before a court review of the placement (I am unsure if the "review" is the *Watts* review.). (If the individual resides in Jefferson County, DHFS must be notified.) The county department that is notified (or the DHFS contractor if DHFS is notified) must develop a plan under s. 46.279 (4), stats., to provide home or community-based care for the individual in a noninstitutional setting. Unless the court finds that placement in the ICFMR or nursing facility is the most integrated setting that is appropriate to the needs of the individual, taking into account information presented by all affected parties, the court must order that the individual be transferred to a noninstitutional community setting in accordance with the plan.

The problem with this provision is that the standard used ("the most integrated setting") is not the same as the standard specified in s. 55.18 (3) (e) ("least restrictive environment consistent with the requirements of s. 55.12 (3), (4), and (5)").

The provision in question, s. 55.06 (10) (a) 2., stats., has three cross-references. Assuming that the "review" is a *Watts* review, I have included it and the cross-references in the Initial Applicability provision, concerning annual reviews.

The Committee may wish to review this issue.

10. One of Laura's NOTES, for SECTION 145, addresses the repeal of s. 55.06 (10) (c), stats., which concerns the termination of a guardianship and revocation of a protective placement or protective services. So far as I can find in the draft, this provision is not elsewhere created, as in s. 55.17, where it would seem appropriate. Should it be renumbered?

11. Please recheck the treatment of s. 51.10 (8), stats. Does the language meet your intent?

12. Please review my changes to s. 55.16 (2) (b) 1. to 3.; are they what you intended? Should s. 55.16 (2) (b) 3. refer only to requirements of s. 55.12 (4) and (5)?

13. Your instructions from our meeting on July 25 with respect to use of the term "county protective services agency" in s. 55.18 (4) were to "change to county department throughout." This term is defined in ch. 55, stats., and used extensively in s. 55.043, stats., which is the subject of LRB-0025/1. I have changed ss. 55.05 (4) (b) (renumbered s. 55.13 (4)) and 55.18 (4), but have not otherwise changed s. 55.043 or other cross-references; do you want me to?

14. I have, as requested, removed the draft's treatment of s. 880.06 (2), stats. (which was repealed and recreated in 05-0026/P1), and I will place it, along with its accompanying ****NOTE, in 05-2339, which is the residency and venue bill.

15. I have conflicting notes on the ****Note under SECTION 231 (2) in 05-0026/P1. I had added reference to s. 880.33 (4m), stats., in SECTION 231 (1) and (2); one of my notes indicates that this action was okay, and another says that Laura will review it and get back to me. Please take a look at it.

16. One of the most difficult aspects of this bill concerns the initial applicability section. Please carefully review the provisions in SECTION 231, especially SECTION 231 (7), relating to involuntary administration of psychotropic medication, in relationship to the nonstatutory transition provisions and to the wording of s. 55.19 (intro.).

17. I discovered notes from our February 3, 2005, meeting with Betsy Abramson and Gerard Gierl. Those notes indicate all of the following, which I have done in this draft and for which I would appreciate review:

a. Remove underscored "extraordinary circumstances" language from s. 55.075 (5) (a) (renumbered from s. 55.06 (3) (c) and state "The county of residence, as determined by the court, under s. 51.40, or by the guardian, is the county of responsibility."

b. Change, in s. 55.075 (5) (a) the language referring to s. 51.22 (4) to "due to circumstances, including those specified in s. 51.22 (4)". I think this language change is important, because it indicates the possibility of circumstances such as those under s. 51.40 (2) (b), but it's also very broad.

In addition, I believe that it is important to note that Gerard has specifically indicated to me the circumstances under which a court would determine the county of residence: if an individual has not received services under ch. 46, 51, or 55 or if an individual has received services under ch. 46, 51, or 55 that have been terminated and has established residence in a county other than that in which the individual resided when the services were received. I think it would improve the provision greatly to have these circumstances specified in it.

18. Please see my change to the language of s. 55.16 (2) (c), to align it with other provisions of that section.

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