

1 **55.16 Modification of an order for protective placement or protective**
2 **services. (1) USE OF TRANSFER PROVISIONS.** If a petitioner is an entity authorized
3 under s. 55.15 (2) to transfer an individual under a protective placement and the
4 modification sought is a transfer of an individual between protective placement
5 units, between protective placement facilities, or from a protective placement unit
6 to a medical facility that is not a psychiatric facility, the petitioner may utilize the
7 procedure in s. 55.15 in lieu of the procedure under this subsection.

8 **(2) PETITION. (a) Filing; services.** An individual under protective placement
9 or receiving protective services, the individual's guardian, the individual's legal
10 counsel or guardian ad litem, if any, the department, the county department that
11 placed the individual or provided the protective services under an order of the court,
12 an agency with which the county department contracts under s. 55.02 (2), or any
13 interested person may file a petition at any time for modification of an order for
14 protective services or protective placement. The petition shall be served on the
15 individual, the individual's guardian, the individual's legal counsel and guardian ad
16 litem, if any, and the county department.

17 **(b) Modification of an order for protective placement; allegations.** A petition for
18 modification of an order for protective placement shall make one of the following
19 allegations:

20 1. That the protective placement is not in the least restrictive environment that
21 is consistent with the requirements of s. 55.12 (3), (4), and (5).

22 2. That a protective placement in a facility with a higher level of restrictiveness
23 would be more consistent with the requirements of s. 55.12 (3), (4), and (5).

24 3. That a protective placement in a different facility with the same level of
25 restrictiveness as the current placement would be more consistent with the

1 requirements of s. 55.12 ~~(3)~~, (4) and (5) for reasons unrelated to the level of
2 restrictiveness.

3 (c) *Modification of an order for protective services; allegations.* 1. A petition for
4 modification of an order for protective services, other than an order under s. 55.14,
5 shall allege that the protective services are not provided in the least restrictive
6 environment or manner that is consistent with the requirements of s. 55.12 (3), (4),
7 and (5).

8 2. A petition for modification of an order under s. 55.14 shall allege that
9 modification of the order or the treatment plan for the individual would be in his or
10 her best interests.

11 (3) HEARING. (a) The court shall order a hearing within 21 days after the filing
12 of a petition under sub. (2), except that the court is not required to order a hearing
13 if a hearing on a court-ordered protective placement for the individual or on a
14 petition for court-ordered protective services or transfer of protective placement
15 with respect to the individual has been held within the previous 6 months.

16 (b) The court may extend the 21-day limitation in par. (a) if requested by the
17 individual or the individual's guardian, guardian ad litem, or legal counsel.

18 (c) The hearing shall be subject to s. 55.10 (4).

19 (4) ORDER MODIFICATION FOR INDIVIDUAL UNDER PROTECTIVE PLACEMENT. After a
20 hearing under sub. (3) on a petition for modification of an order for protective
21 placement, the court shall make one of the following orders and shall include in the
22 order the information relied on as a basis for that order:

23 (a) If the court finds that the individual continues to meet the standards under
24 s. 55.08 (1) and the individual's protective placement is in the least restrictive
25 environment that is consistent with the requirements of s. 55.12 (3), (4), and (5), the

1 court shall order continuation of the protective placement in the facility in which the
2 individual resides at the time of the hearing.

3 (b) If the court finds that the individual continues to meet the standards under
4 s. 55.08 (1) and the protective placement of the individual is not in the least
5 restrictive environment that is consistent with the requirements of s. 55.12 (3), (4),
6 and (5), the court shall order transfer of the individual to a protective placement that
7 is in the least restrictive environment consistent with the requirements of s. 55.12
8 (3), (4), and (5). In lieu of ordering transfer of the individual to a specific facility, the
9 court may order the county department of the individual's residence to develop or
10 recommend a protective placement that is in the least restrictive environment
11 consistent with the requirements of s. 55.12 (3), (4), and (5), and arrange for the
12 individual's transfer to that protective placement within 60 days after the court's
13 order. The court may extend this time period to permit development of a protective
14 placement. The court may order protective services along with transfer of protective
15 placement.

16 (c) If the court finds that the individual no longer meets the standards under
17 s. 55.08 (1), the court shall terminate the protective placement, as provided in s.
18 55.17 (3) (c).

19 **(5) ORDER MODIFICATION FOR INDIVIDUAL RECEIVING COURT-ORDERED PROTECTIVE**
20 **SERVICES.** (a) After a hearing under sub. (3) on a petition for modification of an order
21 for protective services, other than an order under s. 55.14, the court shall make one
22 of the following orders and shall include in the order the information relied on as a
23 basis for that order:

24 1. If the court finds that the individual continues to meet the standards under
25 s. 55.08 (2) and the current protective services are provided in the least restrictive

1 manner that is consistent with the requirements of s. 55.12 (3), (4), and (5), the court
2 shall continue the order for protective services.

3 2. If the court finds that the individual continues to meet the standards under
4 s. 55.08 (2) and the protective services ordered for the individual are not provided in
5 the least restrictive manner that is consistent with the requirements of s. 55.12 (3),
6 (4), and (5), the court shall order protective services that are more consistent with
7 those requirements. The services shall be provided in the least restrictive manner
8 consistent with the requirements of s. 55.12 (3), (4), and (5).

9 3. If the court finds that the individual no longer meets the standards for
10 protective services under s. 55.08 (2), the court shall terminate the order for
11 protective services, as provided in s. 55.17 (4) (a) 3. , legal counsel,

12 (b) After a hearing under sub. (3) on a petition for modification of an order under ✓
13 s. 55.14, the court shall make one of the orders required under s. 55.19 (3) (e) and
14 shall include in the order the information relied on as a basis for that order.

NOTE: 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 the 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, if a hearing on a protective placement petition or transfer 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 continue the order or modify the order so that the placement or service 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.

1 **SECTION 167.** 55.17 of the statutes is created to read:

2 **55.17 Termination of an order for protective placement or protective**
3 **services.**

4 (2) HEARING. A hearing under this section shall comply with s. 55.16 (3).

5 (3) ORDER FOR INDIVIDUAL UNDER PROTECTIVE PLACEMENT. After a hearing under
6 sub. (2) on a petition for termination of an order for protective placement, the court
7 shall make one of the following orders and shall include in the order the information
8 relied on as a basis for that order:

9 (a) If the court finds that the individual continues to meet the standards under
10 s. 55.08 (1) and the individual's protective placement is in the least restrictive
11 environment that is consistent with the requirements of s. 55.12 (3), (4), and (5), the
12 court shall order continuation of the individual's protective placement in the facility
13 in which he or she resides at the time of the hearing.

14 (b) If the court finds that the individual continues to meet the standards under
15 s. 55.08 (1) and the protective placement of the individual is not in the least
16 restrictive environment that is consistent with the requirements of s. 55.12 (3), (4),
17 and (5), the court shall make an order specified in s. 55.16 (4) (b).

18 (c) If the individual no longer meets the standards under s. 55.08 (1), the court
19 shall terminate the protective placement. If the protective placement is terminated,
20 all of the following shall apply:

21 1. The court shall review the needs of the individual with respect to protective
22 services. If the court determines that the individual meets the standards for
23 protective services under s. 55.08 (2), the court may order protective services. The

1 services shall be provided in the least restrictive manner consistent with the
2 requirements of s. 55.12 (3), (4), and (5).

3 2. If the court determines that the individual does not meet the standards for
4 protective services under s. 55.08 (2), and the individual is being transferred or
5 discharged from his or her current residential facility, the county department shall
6 assist the residential facility with discharge planning for the individual, including
7 planning for a proper residential living arrangement and the necessary support
8 services for the individual.

9 3. Any individual whose protective placement is terminated under this
10 paragraph may reside in his or her current protective placement facility for up to 60
11 days after a determination under subd. 1. or 2. in order to arrange for an alternative
12 living arrangement. If the protective placement facility has fewer than 16 beds, the
13 individual may remain in the protective placement facility as long as the
14 requirements of s. 55.055 are met. Admission by the individual, if an adult, to
15 another residential facility shall be made under s. 55.055.

16 (4) ORDER FOR INDIVIDUAL RECEIVING COURT-ORDERED PROTECTIVE SERVICES. (a)
17 After a hearing under sub. (2) on a petition for termination of an order for protective
18 services, other than an order under s. 55.14, the court shall make one of the following
19 orders and shall include in the order the information relied on as a basis for that
20 order:

21 1. If the individual continues to meet the standards under s. 55.08 (2) and the
22 protective services ordered for the individual are provided in the least restrictive
23 manner that is consistent with the requirements of s. 55.12 (3), (4), and (5), the court
24 shall continue the order for protective services.

1 2. If the individual continues to meet the standards under s. 55.08 (2) and the
2 protective services ordered for the individual are not provided in the lease restrictive
3 manner that is consistent with the requirements of s. 55.12 (3), (4), and (5), the court
4 shall make an order for protective services as provided in s. 55.16 (5) (a) 2.

5 3. If the individual no longer meets the standards for protective services under
6 s. 55.08 (2), the court shall terminate the order for protective services.

7 (b) After a hearing under sub. (2) on a petition for termination of an order under
8 s. 55.14, the court shall make one of the orders required under s. 55.19 (3) (e) and
9 shall include in the order the information relied on as a basis for that order.

NOTE: 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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SECTION 168. 55.18 of the statutes is created to read:

55.18 Annual review of protective placement. All of the following shall be performed with respect to any individual who is subject to an order for protective

1 placement under s. 55.12 or to an order for protective placement initially issued
2 under s. 55.06 (9) (a), 2003 stats.:

3 (1) COUNTY DEPARTMENT PERFORMANCE OF REVIEW. (a) 1. File a report of the
4 review with the court that ordered the protective placement. The report shall include
5 information on all of the following:

6 a. The functional abilities and disabilities of the individual at the time the
7 review is made, including the needs of the individual for health, social, or
8 rehabilitation services, and the level of supervision needed.

9 b. The ability of community services to provide adequate support for the
10 individual's needs.

11 c. The ability of the individual to live in a less restrictive setting.

12 d. Whether sufficient services are available to support the individual and meet
13 the individual's needs in the community and if so, an estimate of the cost of the
14 services, including the use of county funds.

15 e. Whether the protective placement order should be terminated or whether the
16 individual should be placed in another facility with adequate support services that
17 places fewer restrictions on the individual's personal freedom, is closer to the
18 individual's home community, or more adequately meets the individual's needs,
19 including any recommendation that is made during the reporting period by the
20 county department with respect to termination of the protective placement or
21 placement of the individual in another facility.

22 f. The comments of the individual and the individual's guardian during the
23 performance of the review, as summarized by the county department, and the
24 response of the county department to the comments.

1 g. The comments, if any, of a staff member at the facility in which the individual
2 is placed that are relevant to the review of the individual's placement.

3 2. File with the court under subd. 1. a petition for annual review by the court
4 of the protective placement ordered for the individual.

5 3. Provide the report under subd. 1. to the individual and the guardian of the
6 individual, and to the individual's agent under an activated power of attorney for
7 health care, if any.

8 (b) If, following an annual review of an individual's status under par. (a), the
9 individual or the individual's guardian or guardian ad litem requests modification
10 or termination of the individual's protective placement and a hearing under the
11 requirements of s. 55.10 (4) is provided, or if a hearing under the requirements of s.
12 55.10 (4) is provided pursuant to a petition for modification or termination of the
13 protective placement, the county is not required to initiate a subsequent review of
14 the individual's status under par. (a) until the first day of the 11th month after the
15 date that the court issues a final order after the hearing.

16 (bm) If the individual is subject to an order for involuntary administration of
17 psychotropic medication under s. 55.14, the review under par. (a) shall be conducted
18 simultaneously with the review under s. 55.19.

19 (c) The review under par. (a) may not be conducted by a person who is an
20 employee of the facility in which the individual resides.

21 **(1m)** COUNTY AGREEMENT. The county of residence of an individual whose
22 placement is in a different county may enter into an agreement with that county
23 under which the county of the individual's placement performs all or part of the
24 duties of the county of residence under this section.

1 (2) GUARDIAN AD LITEM APPOINTMENT AND REPORT. After a county department has
2 filed a report with a court under sub. (1) (a) 1., the court shall appoint a guardian ad
3 litem in accordance with s. 757.48 (1). The guardian ad litem shall do all of the
4 following:

5 (a) Review the report filed under sub. (1) (a) 1., the report required under s.
6 880.38 (3), and any other relevant reports on the individual's condition and
7 placement.

8 (b) Meet with the individual and contact the individual's guardian and orally
9 explain to the individual and guardian all of the following:

10 1. The procedure for review of protective placement.

11 2. The right of the individual to appointment of legal counsel under sub. (3) (c).

12 3. The right to an evaluation under sub. (3) (b).

13 4. The contents of the report under sub. (1) (a) 1.

14 5. That a change in or termination of protective placement ~~or protective~~
15 ~~services~~ may be ordered by the court.

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

19 (c) Provide the information required under par. (b) to the individual and to the
20 individual's guardian in writing.

21 (d) Review the individual's condition, placement, and rights with the
22 individual's guardian.

23 (e) Ascertain whether the individual wishes to exercise any of his or her rights
24 under sub. (3) (b), (c), or (d)

1 (f) Within 30 days after appointment, file with the court a written report based
2 on information obtained under this subsection and any other evaluations or records
3 of the individual. The report shall discuss whether the individual appears to
4 continue to meet the standards for protective placement under s. 55.08 (1) and
5 whether the protective placement is in the least restrictive environment that is
6 consistent with the individual's needs. The report shall also state whether any of the
7 following apply:

8 1. An evaluation under sub. (3) (b) is requested by the individual or the
9 individual's guardian ad litem or guardian.

10 2. The individual or the individual's guardian requests modification or
11 termination of the protective placement.

12 3. The individual or the individual's guardian requests or the guardian ad litem
13 recommends that legal counsel be appointed for the individual.

14 4. The individual or the individual's guardian or guardian ad litem requests a
15 full due process hearing under this section for the individual.

16 (g) Certify to the court that he or she has complied with the requirements of
17 pars. (a) to (e).

18 **(3) COURT REVIEW OF REPORTS; HEARING; ORDER.** (a) The court that ordered
19 protective placement for an individual under s. 55.12 shall review the report of the
20 guardian ad litem under sub. (2) (f), the report filed under sub. (1) (a) 1., and the
21 report required under s. 880.38 (3).

22 (b) The court shall order an evaluation, by a person who is not an employee of
23 the county department of the physical, mental, and social condition of the individual
24 and the service needs of the individual that is independent of the review performed
25 under sub. (1) (a) if any of the following apply:

1 1. The report required under sub. (1) (a) 1. is not timely filed, or the court
2 determines that the report fails to meet the requirements of sub. (1) (c).

3 2. Following review of the guardian ad litem's report under sub. (2) (f), the court
4 determines that an independent evaluation for the individual is necessary.

5 3. The individual or the individual's guardian or guardian ad litem so requests.

6 (bm) If an evaluation is ordered under par. (b), it shall be performed at the
7 expense of the individual or, if the individual is indigent, at the expense of the county
8 under sub. (1) (a).

9 (br) The court shall order that the county department obtain any other
10 necessary information with respect to the individual.

11 (c) The court shall order legal counsel for an individual and, if the individual
12 appears to be indigent, refer him or her to the authority for indigency determinations
13 under s. 977.07 (1) if any of the following apply:

14 1. Following review of the guardian ad litem's report under sub. (2) (f), the court
15 determines that legal counsel for the individual is necessary.

16 2. The individual or the individual's guardian or guardian ad litem so requests.

17 (d) The court shall order either a summary hearing or a hearing under the
18 requirements of s. 55.10 (4). A summary hearing shall be held on the record, may
19 be held in court or by other means, including by telephone or videoconference, is not
20 an evidentiary hearing, and does not require attendance by the individual. The court
21 shall hold a hearing under the requirements of s. 55.10 (4) if any of the following
22 apply:

23 1. The individual or the individual's guardian or guardian ad litem so requests.

24 2. The report under sub. (2) (f) indicates that the individual no longer meets the
25 standards for protective placement under s. 55.08 (1).

1 3. The report under sub. (2) (f) indicates that the current protective placement
2 is not in the least restrictive environment consistent with the individual's needs.

3 4. The report under sub. (2) (f) indicates that the individual objects to the
4 current protective placement.

5 (e) Following the hearing under par. (d), the court shall do one of the following:

6 1. If the court finds that the individual continues to meet the standards under
7 s. 55.08 (1) and the protective placement of the individual is in the least restrictive
8 environment that is consistent with the requirements of s. 55.12 (3), (4), and (5), the
9 court shall order the continuation of the protective placement in the facility in which
10 the individual resides at the time of the hearing. The court shall include in the order
11 the information relied upon as a basis for the order and shall make findings based
12 on the standards under s. 55.08 (1) in support of the need for continuation of the
13 protective placement.

14 2. If the court finds that the individual continues to meet the standards under
15 s. 55.08 (1) and the protective placement of the individual is not in the least
16 restrictive environment that is consistent with the requirements of s. 55.12 (3), (4),
17 and (5), the court shall order transfer of the individual to a protective placement that
18 is in the least restrictive environment consistent with the requirements of s. 55.12
19 (3), (4), and (5). In lieu of ordering transfer of the individual to a specific facility, the
20 court may order the county department of residence to develop or recommend a
21 protective placement that is in the least restrictive environment consistent with the
22 requirements of s. 55.12 (3), (4), and (5) and arrange for the individual's transfer to
23 that protective placement within 60 days after the court's order. The court may
24 extend this period to permit development of a protective placement. The court may
25 order protective services as well as a transfer of protective placement. The court

1 shall include in the order the information relied upon as a basis for the order and
2 shall make findings based on the standards under s. 55.08 (1) in support of the need
3 for continued protective placement.

4 3. If the court finds that the individual no longer meets the standards under
5 s. 55.08 (1), the court shall terminate the protective placement. If the protective
6 placement is terminated, s. 55.17 (3) (c) 1. to 3. shall apply.

7 (f) The court shall provide a copy of the order made under par. (e) to all of the
8 following:

9 1. The individual.

10 2. The individual's guardian, guardian ad litem, and legal counsel, if any, and
11 the individual's agent under an activated power of attorney for health care, if any.

12 3. The facility in which the individual resided when the petition for annual
13 review was filed.

14 4. The county department under sub. (1) (a) and, if relevant, sub. (1m).

15 (4) ESTABLISHMENT OF COUNTY POLICY. The county department shall ensure that
16 no later than 180 days after the effective date of this subsection [revisor inserts
17 date], the county establishes a written policy that specifies procedures to be followed
18 in the county that are designed to ensure that annual reviews of all individuals who
19 are subject to orders for protective placement under s. 55.12 or to orders for protective
20 placement initially issued under s. 55.06 (9) (a), 2003 stats., residing in the county
21 are conducted as required by this section. The county department shall maintain a
22 copy of the written policy and shall make the policy available for public inspection.

23 (5) REPORT BY REGISTER IN PROBATE. By the first January 31 after the effective
24 date of this subsection [revisor inserts date], and by every January 31 thereafter,
25 the register in probate of each county shall file with the chief judge of the judicial

1 administrative district a statement indicating whether each report and petition
2 required to be filed by the county department under sub. (1) that year has been filed.
3 If the statement indicates that a required report or petition has not been filed, the
4 statement shall include an explanation of the reasons the report or petition has not
5 been filed.

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

for protective placement

6 **SECTION 169.** 55.19 of the statutes is created to read:

7 **55.19 Annual review of order authorizing involuntary administration**
8 **of psychotropic medication.** All of the following shall be performed with respect
9 to any individual who is subject to an order under s. 55.14 or an order initially issued
10 under s. 880.33 (4r), 2003 stats., authorizing involuntary administration of
11 psychotropic medication:

12 **(1) COUNTY DEPARTMENT PERFORMANCE OF REVIEW.** (a) The county department
13 of the individual's county of residence shall, except as provided in sub. (1m), review,
14 in compliance with the requirements of this section, the status of each individual who
15 is the subject of the order. The review shall include a visit to the individual and a
16 written evaluation of the physical, mental, and social condition of the individual that
17 is relevant to the issue of the continued need for the order. The review shall be made
18 a part of the permanent record of the individual. The county department shall inform
19 the guardian of the individual of the review at the time the review is made and shall,
20 before completing a report of the review invite the individual and the guardian to
21 submit comments or information concerning the individual's need for involuntary
22 administration of psychotropic medication or other protective services. Not later
23 than the first day of the 11th month after the initial order is made for an individual,

1 except as provided in par. (b), and at least annually thereafter, the county
2 department shall do all of the following:

3 1. File a report of the review with the court that issued the order. The report
4 of the review shall include information on all of the following:

5 a. Whether the individual continues to meet the standards for protective
6 services.

7 b. Whether the individual is not competent to refuse psychotropic medication,
8 as defined in s. 55.14 (1) (b).

9 c. Whether the individual continues to refuse to take psychotropic medication
10 voluntarily; and whether attempting to administer psychotropic medication to the
11 individual voluntarily is not feasible or is not in the best interests of the individual,
12 including all information required to be specified under s. 55.14 (3) (c).

13 d. Whether the individual's condition for which psychotropic medication has
14 been prescribed has been improved by psychotropic medication and the individual
15 has responded positively to psychotropic medication.

16 e. If the petitioner alleged under s. 55.14 (3) (e) 2. that the individual met one
17 of the dangerousness criteria set forth in s. 51.20 (1) (a) 2. a. to e., whether the
18 individual continues to meet the criterion.

19 f. The comments of the individual and the individual's guardian during the
20 performance of the review, as summarized by the county department, and the
21 response of the county department to the comments.

22 g. The comments, if any, of a staff member at the facility at which the individual
23 is placed or receives services or at which psychotropic medication is administered to
24 the individual that are relevant to the review of the continued need for the order.

1 2. File with the court under subd. 1. a petition for annual review by the court
2 of the order.

3 3. Provide the report under subd. 1. to the individual and the guardian of the
4 individual.

5 (b) If, following an annual review of an individual's status under par. (a), the
6 individual or the individual's guardian or guardian ad litem requests termination of
7 the order and a hearing under the requirements of s. 55.10 (4) is provided, or if a
8 hearing under the requirements of s. 55.10 (4) is provided pursuant to a petition for
9 modification or termination of the order, the county department is not required to
10 initiate a subsequent review under par. (a) until the first day of the 11th month after
11 the date that the court issues a final order after the hearing.

12 (bm) If the individual is subject to a protective placement order, the review
13 under par. (a) shall be conducted simultaneously with the review under s. 55:18 of
14 the individual's protective placement.

15 (c) The review under par. (a) may not be conducted by a person who is an
16 employee of a facility in which the individual resides or from which the individual
17 receives services.

18 **(1m) COUNTY AGREEMENT.** The county of residence of an individual who is
19 subject to an order under s. 55.14 and is provided protective placement in a different
20 county may enter into an agreement with that county under which the county of the
21 individual's placement performs all or part of the duties of the county of residence
22 under this section.

23 **(2) GUARDIAN AD LITEM APPOINTMENT AND REPORT.** After a county department has
24 filed a report with a court under sub. (1) (a) 1., the court shall appoint a guardian ad

1 litem in accordance with s. 757.48 (1). The guardian ad litem shall do all of the
2 following:

3 (a) Review the report filed under sub. (1) (a) 1., and any other relevant reports
4 on the individual's condition and continued need for the order under s. 55.14.

5 (b) Meet with the individual and contact the individual's guardian and orally
6 explain to the individual and guardian all of the following:

7 1. The procedure for review of an order for involuntary administration of
8 psychotropic medication.

9 2. The right of the individual to appointment of legal counsel under sub. (3) (c).

10 3. The right to an evaluation under sub. (3) (b).

11 4. The contents of the report under sub. (1) (a) 1.

12 5. That a termination or modification of the order or modification of the
13 treatment plan for involuntary administration of psychotropic medication may be
14 ordered by the court.

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

18 (c) Provide the information required under par. (b) to the individual and to the
19 individual's guardian in writing.

20 (d) Review the individual's condition and rights with the individual's guardian.

21 (e) Ascertain whether the individual wishes to exercise any of his or her rights
22 under sub. (3) (b), (c), or (d).

23 (f) Within 30 days after appointment, file with the court a written report based
24 on information obtained under this subsection and any other evaluations or records
25 of the individual. The report shall discuss whether the individual appears to

1 continue to meet the standards for an order under s. 55.14. The report shall also state
2 whether any of the following apply:

3 1. An evaluation under sub. (3) (b) is requested by the guardian ad litem, the
4 individual, or the individual's guardian.

5 2. The individual or the individual's guardian requests termination of the order
6 under s. 55.14.

7 3. The individual or the individual's guardian requests or the guardian ad litem
8 recommends that legal counsel be appointed for the individual.

9 4. The individual or the individual's guardian or guardian ad litem requests a
10 full due process hearing under this section for the individual.

11 (g) Certify to the court that he or she has complied with the requirements of
12 pars. (a) to (e).

13 **(3) COURT REVIEW OF REPORTS; HEARING; ORDER.** (a) The court that issued the
14 order under s. 55.14 shall review the report of the guardian ad litem under sub. (2)
15 (f) and the report filed under sub. (1) (a) 1.

16 (b) The court shall order an evaluation, by a person who is not an employee of
17 the county department, of the physical, mental, and social condition of the individual
18 that is relevant to the issue of the continued need for the order under s. 55.14 and
19 that is independent of the review performed under sub. (1) (a) if any of the following
20 apply:

21 1. The report required under sub. (1) (a) 1. is not timely filed, or the court
22 determines that the report fails to meet the requirements of sub. (1) (c).

23 2. Following review of the guardian ad litem's report under sub. (2) (f), the court
24 determines that an independent evaluation for the individual is necessary.

25 3. The individual or the individual's guardian or guardian ad litem so requests.

1 (bm) If an evaluation is ordered under par. (b), it shall be performed at the
2 expense of the individual or, if the individual is indigent, at the expense of the county
3 under sub. (1) (a).

4 (br) The court shall order that the county department obtain any other
5 necessary information with respect to the individual.

6 (c) The court shall order legal counsel for an individual and, if the individual
7 appears to be indigent, refer him or her to the authority for indigency determinations
8 under s. 977.07 (1) if any of the following apply:

9 1. Following review of the guardian ad litem's report under sub. (2) (f), the court
10 determines that legal counsel for the individual is necessary.

11 2. The individual or the individual's guardian or guardian ad litem so requests.

12 (d) The court shall order either a summary hearing or a hearing under the
13 requirements of s. 55.10 (4). A summary hearing shall be held on the record, may
14 be held in court or by other means, including by telephone or videoconference, is not
15 an evidentiary hearing, and does not require attendance by the individual. The court
16 shall hold a hearing under the requirements of s. 55.10 (4) if any of the following
17 apply:

18 1. The individual or the individual's guardian or guardian ad litem so requests.

19 2. The report under sub. (2) (f) indicates that the individual no longer meets the
20 standards for an order under s. 55.14 (8).

21 3. The report under sub. (2) (f) indicates that the individual objects to the order.

22 (e) Following the hearing under par. (d), the court shall do one of the following:

23 1. If the court finds that the individual continues to meet the standards for an
24 order under s. 55.14 (8), the court shall order the continuation of the order. The court
25 shall include in the order the information relied upon as a basis for the order and

1 shall make findings based on the requirements for allegations of a petition under s.
2 55.14 (3) in support of the need for continuation of the order.

3 2. If the court finds that the individual continues to meet the standards for an
4 order under s. 55.14 (8) but that modification of the order or the treatment plan would
5 be in the best interests of the individual, the court shall modify the order, order
6 modifications to the individual's treatment plan, or both. Any modifications to the
7 treatment plan are subject to the approval of the guardian. The court shall include
8 in the order the information relied upon as a basis for its order and shall make
9 findings based on the requirements for allegations of a petition under s. 55.14 (3) in
10 support of the need for authorizing the guardian to consent to involuntary
11 administration of psychotropic medication.

12 3. If the court finds that the individual no longer meets the standards for an
13 order under s. 55.14 (8), the court shall terminate the order. If the order is
14 terminated, the court shall review the needs of the individual with respect to other
15 protective services. If the court determines that the individual meets the standards
16 for other protective services under s. 55.08 (2) that are not currently being provided
17 to the individual, the court may order those protective services for the individual.

18 (f) The court shall provide a copy of the order made under par. (e) to all of the
19 following:

- 20 1. The individual.
- 21 2. The individual's guardian, guardian ad litem, and legal counsel, if any.
- 22 3. The facility in which the individual resided, if any, when the petition for
23 annual review was filed.
- 24 4. The county department under sub. (1) (a) and, if relevant, sub. (1m).

authorizing involuntary administration of psychotropic medication

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

1 **SECTION 170.** 165.85 (4) (b) 1d. b. of the statutes is amended to read:

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

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

10 **SECTION 171.** 165.86 (2) (b) of the statutes is amended to read:

11 165.86 (2) (b) Organize a program of training, which shall encourage
12 utilization of existing facilities and programs through cooperation with federal,
13 state, and local agencies and institutions presently active in this field. Priority shall
14 be given to the establishment of the statewide preparatory and recertification
15 training programs described in sub. (1), but the department shall cooperate in the
16 creation and operation of other advanced and special courses, including courses
17 relating to emergency detention of persons under s. 51.15 and emergency protective
18 placement under s. ~~55.06–(11)~~ 55.135, that meet the curriculum standards
19 recommended by the board. The department may satisfy the requirement for
20 cooperating in the development of special courses relating to emergency detention
21 and emergency protective placement by cooperating with county departments of
22 community programs in the development of these courses under s. 51.42 (3) (ar) 4.

1 d. The department shall keep appropriate records of all such training courses given
2 in the state and the results thereof in terms of persons attending, agencies
3 represented, and, where applicable, individual grades given.

4 **SECTION 172.** 301.01 (2) (intro.) of the statutes is amended to read:

5 301.01 (2) (intro.) “Prisoner” means any person who is either arrested,
6 incarcerated, imprisoned, or otherwise detained in excess of 12 hours by any law
7 enforcement agency of this state, except when detention is pursuant to s. 55.06 (11)
8 (a), 2003 stats., or s. 51.15, 51.20, 51.45 (11) (b), or ~~55.06 (11) (a)~~ 55.135 or ch. 980.
9 “Prisoner” does not include any of the following:

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.

10 **SECTION 173.** 560.9811 (1) of the statutes, as affected by 2005 Wisconsin Act
11 25, is amended to read:

12 560.9811 (1) In this section, “~~chronic~~ chronic mental illness serious and persistent” has
13 the meaning given in s. 51.01 (~~3g~~) (14t).

14 **SECTION 174.** 560.9811 (2) of the statutes, as affected by 2005 Wisconsin Act
15 25, is amended to read:

16 560.9811 (2) From the appropriation under s. 20.143 (2) (fr), the department
17 may not award more than \$45,000 in each fiscal year to applying public or nonprofit
18 private entities for the costs of providing certain mental health services to homeless
19 individuals with ~~chronic~~ serious and persistent mental illness. Entities that receive
20 funds awarded by the department under this subsection shall provide the mental
21 health services required under 42 USC 290cc–24. The amount that the department
22 awards to an applying entity may not exceed 50% of the amount of matching funds
23 required under 42 USC 290cc–23.

NOTE: SECTIONS 173 and 174 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.

1 **SECTION 175.** 609.65 (1) (intro.) of the statutes is amended to read:

2 609.65 (1) (intro.) If an enrollee of a limited service health organization,
3 preferred provider plan, or defined network plan is examined, evaluated, or treated
4 for a nervous or mental disorder pursuant to a court order under s. 880.33 (4m) or
5 (4r), 2003 stats., an emergency detention under s. 51.15, a commitment or a court
6 order under s. 51.20 or 880.33 (4m) or (4r), an order under s. 55.14 or 55.19 (3) (e),
7 or an order under ch. 980, then, notwithstanding the limitations regarding
8 participating providers, primary providers, and referrals under ss. 609.01 (2) to (4)
9 and 609.05 (3), the limited service health organization, preferred provider plan, or
10 defined network plan shall do all of the following:

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.

11 **SECTION 176.** 757.69 (1) (h) of the statutes is amended to read:

12 757.69 (1) (h) Hear petitions for commitment and conduct probable cause
13 hearings under ss. 51.20, 51.45, 55.13, and 55.06 (11) 55.135, conduct reviews of
14 guardianships and protective placements and protective services under chs. 55 and
15 880, advise a person alleged to be mentally ill of his or her rights under the United
16 States and Wisconsin constitutions, and, if the person claims or appears to be unable
17 to afford counsel, refer the person to the authority for indigency determinations
18 specified under s. 977.07 (1) or, if the person is a child, refer that child to the state
19 public defender who shall appoint counsel for the child without a determination of
20 indigency, as provided in s. 48.23 (4).

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.

1 **SECTION 177.** 767.24 (7) (b) of the statutes is amended to read:

2 767.24 (7) (b) A parent who has been denied periods of physical placement with
3 a child under this section is subject to s. 118.125 (2) (m) with respect to that child's
4 school records, s. 51.30 (5) (bm) with respect to the child's court or treatment records,
5 s. ~~55.07~~ 55.23 with respect to the child's records relating to protective services, and
6 s. 146.835 with respect to the child's patient health care records.

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.

7 **SECTION 178.** 808.075 (4) (c) 1. of the statutes is amended to read:

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

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

11 **SECTION 179.** 808.075 (4) (c) 2. of the statutes is amended to read:

12 808.075 (4) (c) 2. Hearing required upon transfer under s. ~~55.06~~ ~~(9)~~ 55.15.

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

13 **SECTION 180.** 808.075 (4) (c) 3. of the statutes is amended to read:

14 808.075 (4) (c) 3. Enforcement of patient's rights under s. ~~55.07~~ 55.23.

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

15 **SECTION 181.** 809.30 (1) (b) 5. of the statutes is amended to read:

16 809.30 (1) (b) 5. Any other person who may appeal under ss. 51.13 (5), 51.20
17 (15), or ~~55.06~~ ~~(18)~~ 55.20.

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

1 **SECTION 182.** 809.30 (3) of the statutes is amended to read:

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

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

9 **SECTION 183.** 813.123 (4) (a) (intro.) of the statutes is amended to read:

10 813.123 (4) (a) (intro.) Unless the vulnerable adult, guardian or guardian ad
11 litem consents in writing and the judge or circuit court commissioner agrees that the
12 contact is in the best interests of the vulnerable adult, a judge or circuit court
13 commissioner shall issue a temporary restraining order ordering the respondent to
14 avoid interference with an investigation of the vulnerable adult under s. 55.043, or
15 the delivery of protective services to or a protective placement of the vulnerable adult
16 under s. ~~55.05~~ or a protective placement of the vulnerable adult under s. 55.06 ch.
17 55 if all of the following occur:

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

18 **SECTION 184.** 813.123 (4) (a) 2. of the statutes is amended to read:

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

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

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

3 **SECTION 185.** 813.123 (5) (a) (intro.) of the statutes is amended to read:

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

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

11 **SECTION 186.** 813.123 (5) (a) 3. b. of the statutes is amended to read:

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

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

17 **SECTION 187.** 813.123 (6) (c) of the statutes is amended to read:

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

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

1 **SECTION 188.** 813.123 (7) of the statutes is amended to read:

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

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

9 **SECTION 189.** 813.123 (11) of the statutes is amended to read:

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

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

17 **SECTION 190.** 851.72 (11) of the statutes is created to read:

18 851.72 (11) Annually submit to the chief judge of the judicial administrative
19 district the statement required under s. 55.18 (5) regarding the completion of annual
20 reviews of protective placement orders under s. 55.18 (1).

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.

1 **SECTION 191.** 880.01 (2) of the statutes is amended to read:

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

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

11 **SECTION 192.** 880.01 (4) of the statutes is amended to read:

12 880.01 (4) “Incompetent” means a person adjudged by a court of record to be
13 substantially incapable of managing his or her property or caring for himself or
14 herself by reason of ~~infirmities of aging~~ degenerative brain disorder, developmental
15 disabilities, or other like incapacities. Physical disability without mental incapacity
16 is not sufficient to establish incompetence.

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

17 **SECTION 193.** 880.01 (5) of the statutes is renumbered 880.01 (1t) and amended
18 to read:

19 880.01 (1t) “~~Infirmities of aging~~ Degenerative brain disorder” means ~~organic~~
20 ~~brain damage caused by advanced age or other physical degeneration in connection~~
21 ~~therewith to the extent that the person so afflicted~~ the loss or dysfunction of brain

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

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

3 **SECTION 194.** 880.01 (7m) of the statutes is renumbered 55.14 (1) (b) and
4 amended to read:

5 55.14 (1) (b) “Not competent to refuse psychotropic medication” means that,
6 ~~because of chronic mental illness, as defined in s. 51.01 (3g) as a result of~~
7 developmental disabilities, degenerative brain disorder, serious and persistent
8 mental illness, or other like incapacities, and after the advantages and
9 disadvantages of and alternatives to accepting the particular psychotropic
10 medication have been explained to an individual, one of the following is true:

11 1. The individual is incapable of expressing an understanding of the
12 advantages and disadvantages of accepting treatment and the alternatives to
13 accepting treatment.

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

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.

18 **SECTION 195.** 880.01 (8m) of the statutes is created to read:

19 880.01 (8m) “Psychotropic medication” means a prescription drug, as defined
20 in s. 450.01 (20), that is used to treat or manage a psychiatric symptom or challenging
21 behavior.