



2005 SENATE BILL 731

May 16, 2006 – Introduced by COMMITTEE ON SENATE ORGANIZATION. Referred to
Committee on Senate Organization.

1 **AN ACT** *to renumber* 55.01 (4g), 55.01 (6), 55.01 (6d), 55.01 (6g) and 55.01 (6t);
2 *to renumber and amend* 55.06 (3) (d); *to amend* 46.90 (1) (eg) 1., 46.90 (1)
3 (eg) 2., 46.90 (5m) (a), 46.90 (5m) (br) 2., 46.90 (6) (bt) 8., 54.10 (3) (d), 54.25 (2)
4 (b) 4., 54.25 (2) (d) 2. n., 55.03 (1), 55.03 (3), 55.043 (4) (am), 55.043 (6) (bt) 8.,
5 55.055 (1) (a), 55.055 (1) (b), 55.10 (4) (a), 55.11 (1) (c), 55.13 (2), 55.15 (2), 55.18
6 (2) (a), 55.18 (3) (a), 813.123 (2) (b), 813.123 (3) (b), 813.123 (4) (ar) 1., 813.123
7 (5) (ar) 1. and 940.285 (1m); *to repeal and recreate* 46.286 (3) (a) 3., 49.001
8 (8), 51.01 (5) (a), 51.01 (14t), 51.03 (3) (a) 6., 51.20 (7) (d) 1., 54.01 (8), 54.25 (1)
9 (b) (intro.), 54.36 (1), 54.38 (2) (a), 54.40 (1), 54.42 (1) (c), 54.48, 54.75, 55.001,
10 55.01 (1v), 55.01 (2), 55.01 (6v), 55.02, 55.043 (1r) (b) 2., 55.043 (1r) (c) 2. c.,
11 55.06, 55.075 (3), 55.075 (5) (a), 55.08 (1) (b), 55.08 (2) (a), 55.09 (1), 55.10 (4)
12 (b), 55.135 (4), 55.14 (2), 55.14 (3) (c), 55.14 (3) (e) (intro.), 55.14 (3) (e) 1., 55.14
13 (5), 55.14 (7), 55.14 (8) (a), 55.14 (9), 55.14 (10), 55.14 (11), 55.175, 55.19 (intro.),
14 55.19 (1) (a) 1., 55.19 (1) (b), 55.19 (1) (bm), 55.19 (1) (c), 55.19 (1m), 55.19 (2)

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1 (b) 3., 55.19 (2) (b) 5., 55.19 (2) (b) 6., 55.19 (2) (c), 55.19 (2) (f) 4., 55.19 (2) (g),
2 55.19 (3) (b) (intro.), 55.19 (3) (bm), 55.19 (3) (br), 55.19 (3) (d) (intro.), 55.19 (3)
3 (e) 1., 55.19 (3) (e) 2., 55.19 (3) (e) 3., 55.22 (2), 609.65 (1) (intro.), 813.123 (4)
4 (a) (intro.), 813.123 (4) (a) 2. a., 813.123 (5) (a) (intro.), 813.123 (6) (c) and
5 813.123 (7); **to create** 54.36 (title), 940.295 (1) (cr) and 940.295 (1) (hr) of the
6 statutes; and **to affect** 2005 Wisconsin Act 387, section 585 (intro.), 2005
7 Wisconsin Act 387, section 585 (2) and 2005 Wisconsin Act 388, section 252m
8 (1); **relating to:** protective placements and protective services; involuntary
9 administration of psychotropic medication; guardianships, conservatorships,
10 and wards; and services for adults at risk and elder adults at risk.

Analysis by the Legislative Reference Bureau

With respect to the laws relating to protective placements and protective services, involuntary administration of psychotropic medication, guardianships, conservatorships, wards, and services for adults at risk and elder adults at risk, this bill reconciles three acts that cannot be reconciled by the revisor of statutes in preparing the statutes. The bill makes numerous and diverse minor changes to correct incorrect cross-references, to align inconsistent provisions, to give effect to certain provisions superceded by subsequent acts, and to make more uniform the definitions of “developmental disability,” “degenerative brain disorder,” and “serious and persistent mental illness.”

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

11 **SECTION 1.** 46.286 (3) (a) 3. of the statutes, as affected by 2005 Wisconsin Acts
12 264 and 388, is repealed and recreated to read:

13 46.286 (3) (a) 3. Is functionally eligible at the intermediate level and is
14 determined by an elder-adult-at-risk agency under s. 46.90 (2) or an adult-at-risk
15 agency designated under s. 55.02 to be in need of protective services or protective
16 placement under ch. 55.

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1 **SECTION 2.** 46.90 (1) (eg) 1. of the statutes, as created by 2005 Wisconsin Act
2 388, is amended to read:

3 46.90 (1) (eg) 1. A guardian of the estate appointed under s. ~~880.03~~ 54.10.

4 **SECTION 3.** 46.90 (1) (eg) 2. of the statutes, as created by 2005 Wisconsin Act
5 388, is amended to read:

6 46.90 (1) (eg) 2. A conservator appointed under s. ~~880.31~~ 54.76.

7 **SECTION 4.** 46.90 (5m) (a) of the statutes, as affected by 2005 Wisconsin Act 388,
8 is amended to read:

9 46.90 (5m) (a) Upon responding to a report, the elder-adult-at-risk agency or
10 the investigative agency shall determine whether the elder adult at risk or any other
11 individual involved in the alleged abuse, financial exploitation, neglect, or
12 self-neglect is in need of services under this chapter or ch. 47, 49, 51, 54, or 55 ~~or 880~~.
13 From the appropriation under s. 20.435 (7) (dh), the department shall allocate to
14 selected counties not less than \$25,000 in each fiscal year, and within the limits of
15 these funds and of available state and federal funds and of county funds appropriated
16 to match the state and federal funds, the elder-adult-at-risk agency shall provide
17 the necessary direct services to the elder adult at risk or other individual or arrange
18 for the provision of the direct services with other agencies or individuals. Those
19 direct services provided shall be rendered under the least restrictive conditions
20 necessary to achieve their objective.

21 **SECTION 5.** 46.90 (5m) (br) 2. of the statutes, as created by 2005 Wisconsin Act
22 388, is amended to read:

23 46.90 (5m) (br) 2. Take appropriate emergency action, including emergency
24 protective placement under s. ~~55.06~~ 55.135, if the elder-adult-at-risk agency

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1 determines that the emergency action is in the best interests of the elder adult at risk
2 and the emergency action is the least restrictive appropriate intervention.

3 **SECTION 6.** 46.90 (6) (bt) 8. of the statutes, as created by 2005 Wisconsin Act
4 388, is amended to read:

5 46.90 (6) (bt) 8. To the attorney or guardian ad litem for the elder adult at risk
6 who is the alleged victim named in the record, to assist in preparing for any
7 proceeding under ch. 48, 51, 54, 55, 813, 880, 971, or 975 pertaining to the alleged
8 victim.

9 **SECTION 7.** 49.001 (8) of the statutes, as affected by 2005 Wisconsin Acts 264
10 and 387, is repealed and recreated to read:

11 49.001 (8) "Voluntary" means according to an individual's free choice, if
12 competent, or, if adjudicated incompetent, by choice of his or her guardian, unless the
13 individual is subject to a court-ordered placement under ch. 55, is placed by an
14 agency having a court-ordered involuntary commitment of the individual under ch.
15 51, or is involuntarily committed to the department of corrections or to the
16 department under ch. 971 or 980.

17 **SECTION 8.** 51.01 (5) (a) of the statutes, as affected by 2005 Wisconsin Acts 264,
18 387 and 388, is repealed and recreated to read:

19 51.01 (5) (a) "Developmental disability" means a disability attributable to
20 brain injury, cerebral palsy, epilepsy, autism, Prader-Willi syndrome, mental
21 retardation, or another neurological condition closely related to mental retardation
22 or requiring treatment similar to that required for individuals with mental
23 retardation, which has continued or can be expected to continue indefinitely and
24 constitutes a substantial handicap to the afflicted individual. "Developmental

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1 disability” does not include dementia that is primarily caused by degenerative brain
2 disorder.

3 **SECTION 9.** 51.01 (14t) of the statutes, as affected by 2005 Wisconsin Acts 264
4 and 387, is repealed and recreated to read:

5 51.01 (14t) “Serious and persistent mental illness” means a mental illness that
6 is severe in degree and persistent in duration, that causes a substantially diminished
7 level of functioning in the primary aspects of daily living and an inability to cope with
8 the ordinary demands of life, that may lead to an inability to maintain stable
9 adjustment and independent functioning without long-term treatment and support,
10 and that may be of lifelong duration. “Serious and persistent mental illness” includes
11 schizophrenia as well as a wide spectrum of psychotic and other severely disabling
12 psychiatric diagnostic categories, but does not include degenerative brain disorder
13 or a primary diagnosis of a developmental disability or of alcohol or drug dependence.

14 **SECTION 10.** 51.03 (3) (a) 6. of the statutes, as affected by 2005 Wisconsin Acts
15 264 and 387, is repealed and recreated to read:

16 51.03 (3) (a) 6. The number of individuals authorized to consent to involuntary
17 administration of psychotropic medication under s. 55.14 (8) or for whom guardians
18 were appointed under s. 880.33 (4m), 2003 stats.

19 **SECTION 11.** 51.20 (7) (d) 1. of the statutes, as affected by 2005 Wisconsin Acts
20 264 and 387, is repealed and recreated to read:

21 51.20 (7) (d) 1. If the court determines after hearing that there is probable cause
22 to believe that the subject individual is a fit subject for guardianship and protective
23 placement or services, the court may, without further notice, appoint a temporary
24 guardian for the subject individual and order temporary protective placement or
25 services under ch. 55 for a period not to exceed 30 days, and shall proceed as if

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1 petition had been made for guardianship and protective placement or services. If the
2 court orders only temporary protective services for a subject individual under this
3 paragraph, the individual shall be provided care only on an outpatient basis. The
4 court may order psychotropic medication as a temporary protective service under
5 this paragraph if it finds that there is probable cause to believe that the allegations
6 under s. 55.14 (3) (e) apply, that the individual is not competent to refuse
7 psychotropic medication and that the medication ordered will have therapeutic
8 value and will not unreasonably impair the ability of the individual to prepare for
9 and participate in subsequent legal proceedings. An individual is not competent to
10 refuse psychotropic medication if, because of serious and persistent mental illness,
11 and after the advantages and disadvantages of and alternatives to accepting the
12 particular psychotropic medication have been explained to the individual, one of the
13 following is true:

14 a. The individual is incapable of expressing an understanding of the
15 advantages and disadvantages of accepting treatment and the alternatives.

16 b. The individual is substantially incapable of applying an understanding of
17 the advantages, disadvantages and alternatives to his or her serious and persistent
18 mental illness in order to make an informed choice as to whether to accept or refuse
19 psychotropic medication.

20 **SECTION 12.** 54.01 (8) of the statutes, as affected by 2005 Wisconsin Acts 264
21 and 387, is repealed and recreated to read:

22 54.01 (8) “Developmental disability” means a disability attributable to mental
23 retardation, cerebral palsy, epilepsy, autism, or another neurological condition
24 closely related to mental retardation or requiring treatment similar to that required
25 for individuals with mental retardation, which has continued or can be expected to

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1 continue indefinitely, substantially impairs an individual from adequately providing
2 for his or her own care or custody, and constitutes a substantial handicap to the
3 afflicted individual. The term does not include dementia that is primarily caused by
4 degenerative brain disorder.

5 **SECTION 13.** 54.10 (3) (d) of the statutes, as created by 2005 Wisconsin Act 387,
6 is amended to read:

7 54.10 (3) (d) Before appointing a guardian under this subsection, declaring
8 incompetence to exercise a right under s. 54.25 (2) (c), or determining what powers
9 are appropriate for the guardian to exercise under s. 54.18, 54.20, or 54.25 (2) (d), the
10 court shall determine if additional medical, psychological, social, vocational, or
11 educational evaluation is necessary for the court to make an informed decision
12 respecting the individual's competency to exercise legal rights and may obtain
13 assistance in the manner provided in s. ~~55.06 (8)~~ 55.11 whether or not protective
14 placement is made.

15 **SECTION 14.** 54.25 (1) (b) (intro.) of the statutes, as affected by 2005 Wisconsin
16 Acts 264 and 387, is repealed and recreated to read:

17 54.25 (1) (b) (intro.) Endeavor to secure any necessary care or services for the
18 ward that are in the ward's best interests, based on all of the following:

19 **SECTION 15.** 54.25 (2) (b) 4. of the statutes, as created by 2005 Wisconsin Act
20 387, is amended to read:

21 54.25 (2) (b) 4. To protest a residential placement made under s. ~~55.05 (5)~~
22 55.055, and to be discharged from a residential placement unless the individual is
23 protectively placed under s. ~~55.06 ch. 55~~ or the elements requirements of s. ~~55.06 (11)~~
24 55.135 (1) are present met.

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1 **SECTION 16.** 54.25 (2) (d) 2. n. of the statutes, as created by 2005 Wisconsin Act
2 387, is amended to read:

3 54.25 (2) (d) 2. n. The power to ~~apply~~ petition for protective placement under
4 s. ~~55.06~~ 55.075 or for commitment under s. 51.20 or 51.45 (13) for the ward.

5 **SECTION 17.** 54.36 (title) of the statutes is created to read:

6 **54.36 (title) Examination of proposed ward.**

7 **SECTION 18.** 54.36 (1) of the statutes, as affected by 2005 Wisconsin Acts 264
8 and 387, is repealed and recreated to read:

9 54.36 (1) Whenever it is proposed to appoint a guardian on the ground that a
10 proposed ward allegedly has incompetency or is a spendthrift, a physician or
11 psychologist, or both, shall examine the proposed ward and furnish a written report
12 stating the physician's or psychologist's professional opinion regarding the presence
13 and likely duration of any medical or other condition causing the proposed ward to
14 have incapacity or to be a spendthrift. The privilege under s. 905.04 does not apply
15 to the statement. The petitioner shall provide a copy of the report to the proposed
16 ward or his or her counsel, the guardian ad litem, and the petitioner's attorney, if any.
17 Prior to the examination on which the report is based, the guardian ad litem,
18 physician, or psychologist shall inform the proposed ward that statements made by
19 the proposed ward may be used as a basis for a finding of incompetency or a finding
20 that he or she is a spendthrift, that he or she has a right to refuse to participate in
21 the examination, absent a court order, or speak to the physician or psychologist, and
22 that the physician or psychologist is required to report to the court even if the
23 proposed ward does not speak to the physician or psychologist. The issuance of such
24 a warning to the proposed ward prior to each examination establishes a presumption
25 that the proposed ward understands that he or she need not speak to the physician

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1 or psychologist. Nothing in this section prohibits the use of a report by a physician
2 or psychologist that is based on an examination of the proposed ward by the
3 physician or psychologist before filing the petition for appointment of a guardian, but
4 the court will consider the recency of the report in determining whether the report
5 sufficiently describes the proposed ward's current state and in determining the
6 weight to be given to the report.

7 **SECTION 19.** 54.38 (2) (a) of the statutes, as affected by 2005 Wisconsin Acts 264
8 and 387, is repealed and recreated to read:

9 54.38 (2) (a) On the proposed ward or ward by personal service and an existing
10 guardian, if any, by personal service or by registered or certified mail at least 10 days
11 before the time set for hearing. If the proposed ward or ward is in custody or
12 confinement, the petitioner shall have notice served by registered or certified mail
13 on the proposed ward's or ward's custodian, who shall immediately serve it on the
14 proposed ward or ward. The process server or custodian shall inform the proposed
15 ward or ward of the complete contents of the notice and petition, motion, or other
16 required document; certify on the notice that the process server or custodian served
17 and informed the proposed ward or ward; and return the certificate and notice to the
18 court.

19 **SECTION 20.** 54.40 (1) of the statutes, as affected by 2005 Wisconsin Acts 264
20 and 387, is repealed and recreated to read:

21 54.40 (1) APPOINTMENT. The court shall appoint a guardian ad litem when a
22 petition for appointment of a guardian is brought under s. 54.34 (1), when a petition
23 for receipt and acceptance of a foreign guardianship is brought under s. 54.34 (3), to
24 review the scope of a guardianship, to provide protective placement to an individual
25 or order protective services under ch. 55, to review any protective placement or

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1 protective service order under s. 55.18, to terminate a protective placement under s.
2 55.17, to expand an order of guardianship under s. 54.63, to review incompetency and
3 terminate a guardianship under s. 54.64, to review the conduct of a guardian under
4 s. 54.68, to expand an order of guardianship under s. 54.63, to review incompetency
5 and terminate a guardianship under s. 54.64, to review the conduct of a guardian
6 under s. 54.68, or at any other time that the court determines it is necessary.

7 **SECTION 21.** 54.42 (1) (c) of the statutes, as affected by 2005 Wisconsin Acts 264
8 and 387, is repealed and recreated to read:

9 54.42 (1) (c) If par. (a) 1., 2., or 3. applies but the proposed ward or ward is
10 unable to obtain legal counsel, the court shall appoint legal counsel. If the proposed
11 ward or ward is represented by counsel appointed under s. 977.08 in a proceeding
12 under a petition for protective placement brought under s. 55.075, the court shall
13 order the counsel appointed under s. 977.08 to represent the proposed ward or ward.

14 **SECTION 22.** 54.48 of the statutes, as affected by 2005 Wisconsin Acts 264 and
15 387, is repealed and recreated to read:

16 **54.48 Protective placement and protective services.** A finding of
17 incompetency and appointment of a guardian under this chapter is not grounds for
18 involuntary protective placement or the provision of protective services. Protective
19 placement and the provision of protective services may be made only in accordance
20 with ch. 55.

21 **SECTION 23.** 54.75 of the statutes, as affected by 2005 Wisconsin Acts 264 and
22 387, is repealed and recreated to read:

23 **54.75 Access to court records.** All court records pertinent to the finding of
24 incompetency are closed but subject to access as provided in s. 51.30, 55.22, or under
25 an order of a court under this chapter. The fact that an individual has been found

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1 incompetent and the name of and contact information for the guardian is accessible
2 to any person who demonstrates to the custodian of the records a need for that
3 information.

4 **SECTION 24.** 55.001 of the statutes, as affected by 2005 Wisconsin Acts 264 and
5 388, is repealed and recreated to read:

6 **55.001 Declaration of policy.** The legislature recognizes that many citizens
7 of the state, because of serious and persistent mental illness, degenerative brain
8 disorders, developmental disabilities, or other like incapacities, are in need of
9 protective services or protective placement. Except as provided in s. 49.45 (30m) (a),
10 the protective services or protective placement should, to the maximum degree of
11 feasibility under programs, services and resources that the county board of
12 supervisors is reasonably able to provide within the limits of available state and
13 federal funds and of county funds required to be appropriated to match state funds,
14 allow the individual the same rights as other citizens, and at the same time protect
15 the individual from financial exploitation, abuse, neglect, and self-neglect. This
16 chapter is designed to establish those protective services and protective placements,
17 to assure their availability to all individuals when in need of them, and to place the
18 least possible restriction on personal liberty and exercise of constitutional rights
19 consistent with due process and protection from abuse, financial exploitation,
20 neglect, and self-neglect.

21 **SECTION 25.** 55.01 (1v) of the statutes, as created by 2005 Wisconsin Acts 264,
22 387 and 388, is repealed and recreated to read:

23 55.01 (1v) "Degenerative brain disorder" means the loss or dysfunction of brain
24 cells to the extent that the individual is substantially impaired in his or her ability

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1 to provide adequately for his or her own care or custody or to manage adequately his
2 or her property or financial affairs.

3 **SECTION 26.** 55.01 (2) of the statutes, as affected by 2005 Wisconsin Acts 264
4 and 388, is repealed and recreated to read:

5 55.01 (2) “Developmental disability” means a disability attributable to mental
6 retardation, cerebral palsy, epilepsy, autism or another neurological condition
7 closely related to mental retardation or requiring treatment similar to that required
8 for individuals with mental retardation, which has continued or can be expected to
9 continue indefinitely, substantially impairs an individual from adequately providing
10 for his or her own care or custody, and constitutes a substantial handicap to the
11 afflicted individual. The term does not include dementia that is primarily caused by
12 degenerative brain disorder.

13 **SECTION 27.** 55.01 (4g) of the statutes, as created by 2005 Wisconsin Act 388,
14 is renumbered 55.01 (4i).

15 **SECTION 28.** 55.01 (6) of the statutes, as created by 2005 Wisconsin Act 388, is
16 renumbered 55.01 (6u).

17 **SECTION 29.** 55.01 (6d) of the statutes, as created by 2005 Wisconsin Act 388,
18 is renumbered 55.01 (6vm).

19 **SECTION 30.** 55.01 (6g) of the statutes, as created by 2005 Wisconsin Act 388,
20 is renumbered 55.01 (6w).

21 **SECTION 31.** 55.01 (6t) of the statutes, as created by 2005 Wisconsin Act 387,
22 is renumbered 55.01 (6s).

23 **SECTION 32.** 55.01 (6v) of the statutes, as created by 2005 Wisconsin Acts 264
24 and 387, is repealed and recreated to read:

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1 55.01 (6v) “Serious and persistent mental illness” means a mental illness that
2 is severe in degree and persistent in duration, that causes a substantially diminished
3 level of functioning in the primary aspects of daily living and an inability to cope with
4 the ordinary demands of life, that may lead to an inability to maintain stable
5 adjustment and independent functioning without long-term treatment and support,
6 and that may be of lifelong duration. “Serious and persistent mental illness” includes
7 schizophrenia as well as a wide spectrum of psychotic and other severely disabling
8 psychiatric diagnostic categories, but does not include degenerative brain disorder
9 or a primary diagnosis of a developmental disability or of alcohol or drug dependence.

10 **SECTION 33.** 55.02 of the statutes, as affected by 2005 Wisconsin Acts 264, 387
11 and 388, is repealed and recreated to read:

12 **55.02 Protective services and protective placement: duties. (1)**

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

14 1. Cooperate with county departments to develop and operate a coordinated,
15 statewide system for protective services and protective placement. The protective
16 services and protective placement system shall be designed to encourage
17 independent living and to avoid protective placement whenever possible.

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

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

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

23 (b) The department may provide protective services and protective placement
24 directly or contract for the provision of protective services or protective placement.

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1 **(2) COUNTY DEPARTMENT DUTIES.** (a) The chairperson of each county board of
2 supervisors shall designate a county department under s. 46.215, 46.22, 46.23, 51.42,
3 or 51.437 that is providing services in the county on its own or through a joint
4 mechanism with another county department or county to have the responsibility for
5 planning for the provision of protective services and protective placement and for
6 directly providing protective services, protective placement, or both, or entering into
7 a contract under s. 46.036 with a responsible agency for the provision of protective
8 services, protective placement, or both.

9 (b) In addition to the responsibilities specified in par. (a), the county
10 department shall:

11 1. Monitor and evaluate protective services and protective placements.

12 2. Prepare and submit reports required by the department, or by a court if
13 protective services or protective placement are ordered by a court.

14 3. Develop requirements for submittal by guardians of the person of reports to
15 the county department under s. 54.25 (1) (a).

16 4. Designate at least one appropriate medical facility or protective placement
17 facility as an intake facility for the purpose of emergency protective placements
18 under s. 55.135.

19 **SECTION 34.** 55.03 (1) of the statutes, as affected by 2005 Wisconsin Act 264,
20 is amended to read:

21 55.03 (1) ~~AGENCY AS GUARDIAN~~ GUARDIAN AS PROVIDER. No agency acting as a
22 guardian appointed under ch. 54 or ch. 880, 2003 stats., may be a provider of
23 protective services or protective placement for its ward under this chapter.

24 **SECTION 35.** 55.03 (3) of the statutes, as affected by 2005 Wisconsin Act 264,
25 is amended to read:

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1 55.03 (3) GUARDIAN AUTHORITY AND RESPONSIBILITY APPLICABLE TO PARENT OF
2 MINOR. Where any responsibility or authority is created under this chapter upon or
3 in relation to a guardian, the responsibility or authority is deemed to apply to a
4 parent or person in the place of a parent in the case of a minor who is or who is alleged
5 to be developmentally disabled have developmental disability.

6 **SECTION 36.** 55.043 (1r) (b) 2. of the statutes, as affected by 2005 Wisconsin Acts
7 264 and 388, is repealed and recreated to read:

8 55.043 (1r) (b) 2. Observation of or an interview with the adult at risk, in
9 private to the extent practicable, and with or without consent of his or her guardian
10 or agent under an activated power of attorney for health care, if any.

11 **SECTION 37.** 55.043 (1r) (c) 2. c. of the statutes, as affected by 2005 Wisconsin
12 Acts 264 and 388, is repealed and recreated to read:

13 55.043 (1r) (c) 2. c. The examination is authorized by order of a court.

14 **SECTION 38.** 55.043 (4) (am) of the statutes, as created by 2005 Wisconsin Act
15 388, is amended to read:

16 55.043 (4) (am) Upon responding to a report, the adult-at-risk agency or the
17 investigative agency shall determine whether the adult at risk or any other
18 individual involved in the alleged abuse, financial exploitation, neglect, or
19 self-neglect is in need of services under this chapter or ch. 46, 47, 59 49, 51, or 880
20 54. If provided, direct services shall be rendered under the least restrictive
21 conditions necessary to achieve their objective.

22 **SECTION 39.** 55.043 (6) (bt) 8. of the statutes, as created by Wisconsin Act 388,
23 is amended to read:

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1 55.043 (6) (bt) 8. To the attorney or guardian ad litem for the adult at risk who
2 is the alleged victim named in the record, to assist in preparing for any proceeding
3 under ch. 48, 51, ~~54~~, 55, 813, ~~880~~, 971, or 975 pertaining to the alleged victim.

4 **SECTION 40.** 55.055 (1) (a) of the statutes, as affected by 2005 Wisconsin Act
5 264, is amended to read:

6 55.055 (1) (a) The guardian of an individual who has been found adjudicated
7 incompetent ~~under s. 880.33~~ may consent to the individual's admission to a foster
8 home, group home, or community-based residential facility, as defined under s.
9 50.01 (1g), without a protective placement order under s. 55.12 if the home or facility
10 is licensed for fewer than 16 beds. Prior to providing that consent, and annually
11 thereafter, the guardian shall review the ward's right to the least restrictive
12 residential environment and may consent only to admission to a home or facility that
13 implements that right.

14 **SECTION 41.** 55.055 (1) (b) of the statutes, as affected by 2005 Wisconsin Act
15 264, is amended to read:

16 55.055 (1) (b) The guardian of an individual who has been found adjudicated
17 incompetent ~~under s. 880.33~~ may consent to the individual's admission to a nursing
18 home or other facility not specified in par. (a) for which protective placement is
19 otherwise required for a period not to exceed 60 days. In order to be admitted under
20 this paragraph, the individual must be in need of recuperative care or be unable to
21 provide for his or her own care or safety so as to create a serious risk of substantial
22 harm to himself or herself or others. Prior to providing that consent, the guardian
23 shall review the ward's right to the least restrictive residential environment and
24 consent only to admission to a nursing home or other facility that implements that
25 right. Following the 60-day period, the admission may be extended for an additional

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1 60 days if a petition for protective placement under s. 55.075 has been brought, or,
2 if no petition for protective placement under s. 55.075 has been brought, for an
3 additional 30 days for the purpose of allowing the initiation of discharge planning for
4 the individual. Admission under this paragraph is not permitted for an individual
5 for whom the primary purpose of admission is for treatment or services related to the
6 individual's mental illness or developmental disability.

7 **SECTION 42.** 55.06 of the statutes, as affected by 2005 Wisconsin Act 264, is
8 repealed and recreated to read:

9 **55.06 Protective services and protective placement; eligibility.** To be
10 eligible for court-ordered protective placement or protective services, an individual
11 shall have filed a petition to transfer a foreign guardianship, whether present in the
12 state or not, or shall be a resident of the state; and shall have a need for protective
13 placement or protective services. The individual shall have attained the age of 18,
14 but an individual who is alleged to have developmental disability may receive
15 protective placement or protective services upon attaining the age of 14. Protective
16 placement or protective services may be ordered under this chapter only for an
17 individual who is adjudicated incompetent in this state or for a minor who is alleged
18 to have developmental disability, and only if there is a finding of a need for protective
19 placement under s. 55.12, and ss. 55.055 (5), 55.13, and 55.135 are inappropriate or
20 do not apply. A procedure for court-ordered protective placement or protective
21 services may be initiated 6 months before a minor attains age 18.

22 **SECTION 43.** 55.06 (3) (d) of the statutes, as created by 2005 Wisconsin Act 387,
23 is renumbered 55.075 (5) (bm) and amended to read:

24 55.075 (5) (bm) The court in which a petition is first filed under ~~par. (e)~~ sub. (1)
25 shall determine venue. The court shall direct that proper notice be given to any

SENATE BILL 731**SECTION 43**

1 potentially responsible or affected county. Proper notice is given to a potentially
2 responsible or affected county if written notice of the proceeding is sent by certified
3 mail to the county's clerk and corporation counsel. After all potentially responsible
4 or affected counties and parties have been given an opportunity to be heard, the court
5 shall determine that venue lies in the county in which the petition is filed under par.
6 (c) or in another county, as appropriate. If the court determines that venue lies in
7 another county, the court shall order the entire record certified to the proper court.
8 A court in which a subsequent petition is filed shall, upon being satisfied of an earlier
9 filing in another court, summarily dismiss the subsequent petition. If any
10 potentially responsible or affected county or party objects to the court's finding of
11 venue, the court may refer the issue to the department for a determination of the
12 county of residence under s. 51.40 (2) (g) and may suspend ruling on the motion for
13 change of venue until the determination under s. 51.40 (2) (g) is final.

14 **SECTION 44.** 55.075 (3) of the statutes, as affected by 2005 Wisconsin Act 264,
15 is repealed and recreated to read:

16 55.075 (3) A petition for guardianship described in s. 55.08 (1) (b) or (2) (a) shall
17 be heard prior to ordering protective placement or protective services. If the
18 individual is adjudicated incompetent in this state more than 12 months before the
19 filing of an application for protective placement or protective services on his or her
20 behalf, the court shall review the finding of incompetency.

21 **SECTION 45.** 55.075 (5) (a) of the statutes, as affected by 2005 Wisconsin Act
22 264, is repealed and recreated to read:

23 55.075 (5) (a) A petition under sub. (1) shall be filed in the county of residence
24 of the individual to be protected, as determined under s. 51.40 or by the individual's
25 guardian or where the individual is physically present due to circumstances

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1 including those specified under s. 51.22 (4). If an individual has not received services
2 under ch. 46, 51, or 55 or if an individual has received services under ch. 46, 51, or
3 55 that have been terminated and has established residence in a county other than
4 that in which the individual resided when the services were received, the court may
5 determine the individual's county of residence. The county of residence under this
6 paragraph is the county of responsibility.

7 **SECTION 46.** 55.08 (1) (b) of the statutes, as affected by 2005 Wisconsin Act 264,
8 is repealed and recreated to read:

9 55.08 (1) (b) Except in the case of a minor who is alleged to have developmental
10 disability, the individual has either been adjudicated incompetent by a circuit court,
11 or has had submitted on the minor's behalf a petition for a guardianship.

12 **SECTION 47.** 55.08 (2) (a) of the statutes, as created by 2005 Wisconsin Act 264,
13 is repealed and recreated to read:

14 55.08 (2) (a) The individual has been determined to be incompetent by a circuit
15 court or is a minor who is alleged to have developmental disability and on whose
16 behalf a petition for a guardianship has been submitted.

17 **SECTION 48.** 55.09 (1) of the statutes, as affected by 2005 Wisconsin Act 264,
18 is repealed and recreated to read:

19 55.09 (1) NOTICE TO INDIVIDUAL. Notice of a petition for protective placement
20 or protective services shall be served upon the individual sought to be protected, by
21 personal service, at least 10 days before the time set for a hearing. The person
22 serving the notice shall inform the individual sought to be protected of the complete
23 contents of the notice and shall return a certificate to the circuit judge verifying that
24 the petition has been delivered and notice given. The notice shall include the names
25 of all petitioners.

SENATE BILL 731**SECTION 49**

1 **SECTION 49.** 55.10 (4) (a) of the statutes, as created by 2005 Wisconsin Act 264,
2 is amended to read:

3 55.10 (4) (a) *Counsel; costs.* The individual sought to be protected has the right
4 to counsel whether or not the individual is present at the hearing on the petition.
5 The court shall require representation by full legal counsel whenever the petition
6 alleges that the individual is not competent to refuse psychotropic medication under
7 s. 55.14, the individual sought to be protected requested such representation at least
8 72 hours before the hearing, the guardian ad litem or any other person states that
9 the individual sought to be protected is opposed to the petition, or the court
10 determines that the interests of justice require it. If the individual sought to be
11 protected or any other person on his or her behalf requests but is unable to obtain
12 legal counsel, the court shall appoint legal counsel. Counsel shall be provided at
13 public expense, as provided under s. 967.06 and ch. 977, if the individual is indigent.
14 If the individual sought to be protected is an adult who is indigent, and if counsel was
15 not appointed under s. 977.08, the county in which the hearing is held is liable for
16 any fees due the individual's legal counsel. If the individual sought to be protected
17 is represented by counsel appointed under s. 977.08 in a proceeding for the
18 appointment of a guardian under s. 880.33 54.10, the court shall order the counsel
19 appointed under s. 977.08 to represent under this section the individual sought to
20 be protected.

21 **SECTION 50.** 55.10 (4) (b) of the statutes, as affected by 2005 Wisconsin Act 264,
22 is repealed and recreated to read:

23 55.10 (4) (b) *Guardian ad litem; duties; fees.* Sections 54.42, 54.44, and 54.46
24 apply to all hearings under this chapter except for transfers of placement under s.
25 55.15. The court shall in all cases require the appointment of an attorney as

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1 guardian ad litem in accordance with s. 757.48 (1). The responsibilities and duties
2 of a guardian ad litem on behalf of a proposed ward or individual who is alleged
3 incompetent specified in s. 54.40 apply to a guardian ad litem appointed in a
4 proceeding for protective services or protective placement on behalf of an individual
5 sought to be protected. If a guardian has been appointed for an individual who is the
6 subject of a petition for court-ordered protective placement or protective services,
7 the guardian ad litem shall interview the guardian. The guardian ad litem shall be
8 present at all hearings under this chapter if the individual sought to be protected
9 does not have full legal counsel. The court may, however, excuse a personal
10 appearance by a guardian ad litem based on information contained in a written
11 report by the guardian ad litem to the court. If the individual sought to be protected
12 is an adult who is indigent, the county shall be liable for any fees due the guardian
13 ad litem. If the individual sought to be protected is a minor, the minor's parents or
14 the county in which the hearing is held shall be liable for any fees due the guardian
15 ad litem as provided in s. 48.235 (8).

16 **SECTION 51.** 55.11 (1) (c) of the statutes, as affected by 2005 Wisconsin Act 264,
17 is amended to read:

18 55.11 (1) (c) A medical, psychological, social, vocational, and educational
19 evaluation and review, if necessary, and any recommendations for or against
20 maintenance of partial legal rights as provided in s. ~~880.33~~ 54.25 (2). The evaluation
21 and review shall include recommendations for the individual's placement that are
22 consistent with the requirements of s. 55.12 (3), (4), and (5).

23 **SECTION 52.** 55.13 (2) of the statutes, as created by 2005 Wisconsin Act 264, is
24 amended to read:

SENATE BILL 731**SECTION 52**

1 55.13 (2) If the county department or agency with which the county
2 department contracts under s. 55.02 (2) that is providing emergency protective
3 services to an individual under sub. (1) has reason to believe that the individual
4 meets the criteria for protective services under s. 55.08 (2), the county department
5 or agency may file a petition under s. 55.075. If a petition is filed, a preliminary
6 hearing shall be held within 72 hours, excluding Saturdays, Sundays, and legal
7 holidays, to establish probable cause that the criteria under s. 55.08 (2) are present.
8 The county department or agency shall provide the individual with written notice
9 and orally inform the individual of the time and place of the preliminary hearing.
10 If the individual is not under guardianship, a petition for guardianship shall
11 accompany the petition under s. 55.08 (2), except in the case of a minor who is alleged
12 to be ~~developmentally disabled~~ have developmental disability.

13 **SECTION 53.** 55.135 (4) of the statutes, as affected by 2005 Wisconsin Act 264,
14 is repealed and recreated to read:

15 55.135 (4) When an individual is detained under this section, a petition shall
16 be filed under s. 55.075 by the person making the emergency protective placement
17 and a preliminary hearing shall be held within 72 hours, excluding Saturdays,
18 Sundays and legal holidays, to establish probable cause to believe the grounds for
19 protective placement under s. 55.08 (1). The sheriff or other person making
20 emergency protective placement under sub. (1) shall provide the individual with
21 written notice and orally inform him or her of the time and place of the preliminary
22 hearing. If the detainee is not under guardianship, a petition for guardianship shall
23 accompany the protective placement petition, except in the case of a minor who is
24 alleged to have developmental disability. In the event that protective placement is

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1 not appropriate, the court may elect to treat a petition for protective placement as
2 a petition for commitment under s. 51.20 or 51.45 (13).

3 **SECTION 54.** 55.14 (2) of the statutes, as created by 2005 Wisconsin Acts 264
4 and 387, is repealed and recreated to read:

5 55.14 (2) Involuntary administration of psychotropic medication, with consent
6 of a guardian, may be ordered as a protective service only under the requirements
7 of this section.

8 **SECTION 55.** 55.14 (3) (c) of the statutes, as created by 2005 Wisconsin Acts 264
9 and 387, is repealed and recreated to read:

10 55.14 (3) (c) The individual has refused to take the psychotropic medication
11 voluntarily or attempting to administer psychotropic medication to the individual
12 voluntarily is not feasible or is not in the best interests of the individual. If the
13 petition alleges that the individual has refused to take psychotropic medication
14 voluntarily, the petition shall identify the reasons, if known, for the individuals
15 refusal to take psychotropic medication voluntarily. The petition also shall provide
16 evidence showing that a reasonable number of documented attempts to administer
17 psychotropic medication voluntarily using appropriate interventions that could
18 reasonably be expected to increase the individual's willingness to take psychotropic
19 medication voluntarily have been made and have been unsuccessful. If the petition
20 alleges that attempting to administer psychotropic medications to the individual
21 voluntarily is not feasible or is not in the best interests of the individual, the petition
22 must identify specific reasons supporting that allegation.

23 **SECTION 56.** 55.14 (3) (e) (intro.) of the statutes, as created by 2005 Wisconsin
24 Acts 264 and 387, is repealed and recreated to read:

SENATE BILL 731**SECTION 56**

1 55.14 (3) (e) (intro.) Unless psychotropic medication is administered
2 involuntarily, the individual will incur a substantial probability of physical harm,
3 impairment, injury, or debilitation or will present a substantial probability of
4 physical harm to others. The substantial probability of physical harm, impairment,
5 injury, or debilitation shall be evidenced by one of the following:

6 **SECTION 57.** 55.14 (3) (e) 1. of the statutes, as created by 2005 Wisconsin Acts
7 264 and 387, is repealed and recreated to read:

8 55.14 (3) (e) 1. The individual's history of at least 2 episodes, one of which has
9 occurred within the previous 24 months, that indicate a pattern of overt activity,
10 attempts, threats to act, or omissions that resulted from the individual's failure to
11 participate in treatment, including psychotropic medication, and that resulted in a
12 finding of probable cause for commitment under s. 51.20 (7), a settlement agreement
13 approved by a court under s. 51.20 (8) (bg), or commitment ordered under s. 51.20
14 (13).

15 **SECTION 58.** 55.14 (5) of the statutes, as created by 2005 Wisconsin Acts 264
16 and 387, is repealed and recreated to read:

17 55.14 (5) The guardian ad litem appointed under s. 55.10 (4) (b) for an
18 individual who is the subject of a petition under this section shall report to the court
19 whether the allegations in the petition required under sub. (3) are true, and whether
20 involuntary administration of psychotropic medication is in the best interests of the
21 individual.

22 **SECTION 59.** 55.14 (7) of the statutes, as created by 2005 Wisconsin Acts 264
23 and 387, is repealed and recreated to read:

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1 55.14 (7) Upon the filing of a petition under this section, the court shall appoint
2 counsel as required under s. 55.10 (4) (a). A petition under this section shall be heard
3 within 30 days after it is filed.

4 **SECTION 60.** 55.14 (8) (a) of the statutes, as created by 2005 Wisconsin Acts 264
5 and 387, is repealed and recreated to read:

6 55.14 (8) (a) Direct the development of a treatment plan for the individual
7 specifying the protective services, including psychotropic medication as ordered by
8 the treating physician, that the individual should receive. If the individual resides
9 in a nursing home or hospital, the nursing home or hospital shall develop the
10 treatment plan. If the individual resides elsewhere, the county department or an
11 agency with which it contracts under s. 55.02 (2) shall develop the treatment plan.
12 The treatment plan shall include a plan for the involuntary administration of
13 psychotropic medication to the individual. The treatment plan is subject to the
14 approval of the guardian and to review and approval by the court. If the court
15 approves the plan, the court shall order the county department or an agency with
16 which it contracts under s. 55.02 (2) to ensure that psychotropic medication is
17 administered in accordance with the treatment plan.

18 **SECTION 61.** 55.14 (9) of the statutes, as created by 2005 Wisconsin Acts 264
19 and 387, is repealed and recreated to read:

20 55.14 (9) If an individual who is subject to an order under this section is not
21 in compliance with the order because he or she refuses to take psychotropic
22 medication as ordered under the treatment plan, and it is necessary for the
23 individual to be transported to an appropriate facility for forcible restraint for
24 administration of psychotropic medication, the corporation counsel may file with the
25 court a statement of the facts of the noncompliance of the individual. The statement

SENATE BILL 731**SECTION 61**

1 shall be sworn to be true and shall be based upon the information and belief of the
2 person filing the statement. The statement shall be signed by the individual's
3 guardian and by the director or designee of the county department or an agency with
4 which it contracts under s. 55.02 (2) to develop and administer the treatment plan.
5 Upon receipt of the statement of noncompliance, if the court finds by clear and
6 convincing evidence that the individual has substantially failed to comply with the
7 administration of psychotropic medication as ordered under the treatment plan, the
8 court may issue an order authorizing the sheriff or any other law enforcement agency
9 in the county in which the individual is found or in which it is believed that the
10 individual may be present to take the individual into custody and transport him or
11 her to an appropriate facility for administration of psychotropic medication using
12 forcible restraint, with consent of the guardian.

13 **SECTION 62.** 55.14 (10) of the statutes, as created by 2005 Wisconsin Acts 264
14 and 387, is repealed and recreated to read:

15 55.14 (10) Nothing in this section prohibits the involuntary administration of
16 psychotropic medication as an emergency protective service under s. 55.13.

17 **SECTION 63.** 55.14 (11) of the statutes, as created by 2005 Wisconsin Acts 264
18 and 387, is repealed and recreated to read:

19 55.14 (11) The county department or an agency with which it contracts under
20 s. 55.02 (2) shall provide to the department a copy of any order issued under this
21 section that applies to any protectively placed individual in the county.

22 **SECTION 64.** 55.15 (2) of the statutes, as created by 2005 Wisconsin Act 264, is
23 amended to read:

24 55.15 (2) WHO MAY TRANSFER. A guardian, a county department or agency with
25 which it contracts under s. ~~55.03 (2)~~ 55.02 (2) that provided protective placement to

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1 the individual pursuant to the order of the court, the department, or a protective
2 placement facility may transfer an individual under a protective placement order
3 under the requirements of this section, notwithstanding the fact that a court order
4 has named a specific facility for the protective placement of the individual.

5 **SECTION 65.** 55.175 of the statutes, as affected by 2005 Wisconsin Act 264, is
6 repealed and recreated to read:

7 **55.175 Discharge from protective placement.** Prior to discharge of an
8 individual from a protective placement, the county department that is responsible
9 for protective placement shall review the need for continuing protective services,
10 continuation of full or limited guardianship, or, if the individual has no guardian,
11 guardianship. If the county department's recommendation includes a course of
12 action for which court approval would be required, the county department shall
13 make the recommendation to the court. Prior to discharge of the individual from any
14 mental health institute or center for the developmentally disabled, the department
15 shall make the review under s. 51.35 (7).

16 **SECTION 66.** 55.18 (2) (a) of the statutes, as created by 2005 Wisconsin Act 264,
17 is amended to read:

18 55.18 (2) (a) Review the report filed under sub. (1) (a) 1., the report required
19 under s. ~~880.38 (3)~~ 54.25 (1) (a), and any other relevant reports on the individual's
20 condition and placement.

21 **SECTION 67.** 55.18 (3) (a) of the statutes, as created by 2005 Wisconsin Act 264,
22 is amended to read:

23 55.18 (3) (a) The court that ordered protective placement for an individual
24 under s. 55.12 shall review the report of the guardian ad litem under sub. (2) (f), the

SENATE BILL 731**SECTION 67**

1 report filed under sub. (1) (a) 1., and the report required under s. ~~880.38 (3)~~ 54.25 (1)
2 (a).

3 **SECTION 68.** 55.19 (intro.) of the statutes, as created by 2005 Wisconsin Acts
4 264 and 387, is repealed and recreated to read:

5 **55.19 Annual review of order authorizing involuntary administration**
6 **of psychotropic medication.** (intro.) All of the following shall be performed with
7 respect to any individual who is subject to an order under s. 55.14 or an order initially
8 issued under s. 880.33 (4r), 2003 stats., authorizing involuntary administration of
9 psychotropic medication:

10 **SECTION 69.** 55.19 (1) (a) 1. of the statutes, as created by 2005 Wisconsin Acts
11 264 and 387, is repealed and recreated to read:

12 55.19 (1) (a) 1. File a report of the review with the court that issued the order.
13 The report of the review shall include information on all of the following:

14 a. Whether the individual continues to meet the standards for protective
15 services.

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

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

22 d. Whether the individual's condition for which psychotropic medication has
23 been prescribed has been improved by psychotropic medication and the individual
24 has responded positively to psychotropic medication.

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

4 f. The comments of the individual and the individual's guardian during the
5 performance of the review, as summarized by the county department, and the
6 response of the county department to the comments.

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

10 **SECTION 70.** 55.19 (1) (b) of the statutes, as created by 2005 Wisconsin Acts 264
11 and 387, is repealed and recreated to read:

12 55.19 (1) (b) If, following an annual review of an individual's status under par.
13 (a), the individual or the individual's guardian or guardian ad litem requests
14 termination of the order and a hearing under the requirements of s. 55.10 (4) is
15 provided, or if a hearing under the requirements of s. 55.10 (4) is provided pursuant
16 to a petition for modification or termination of the order, the county department is
17 not required to initiate a subsequent review under par. (a) until the first day of the
18 11th month after the date that the court issues a final order after the hearing.

19 **SECTION 71.** 55.19 (1) (bm) of the statutes, as created by 2005 Wisconsin Acts
20 264 and 387, is repealed and recreated to read:

21 55.19 (1) (bm) If the individual is subject to a protective placement order, the
22 review under par. (a) shall be conducted simultaneously with the review under s.
23 55.18 of the individual's protective placement.

24 **SECTION 72.** 55.19 (1) (c) of the statutes, as created by 2005 Wisconsin Acts 264
25 and 387, is repealed and recreated to read:

SENATE BILL 731**SECTION 72**

1 55.19 (1) (c) The review under par. (a) may not be conducted by a person who
2 is an employee of a facility in which the individual resides or from which the
3 individual receives services.

4 **SECTION 73.** 55.19 (1m) of the statutes, as created by 2005 Wisconsin Acts 264
5 and 387, is repealed and recreated to read:

6 55.19 (1m) COUNTY AGREEMENT. The county of residence of an individual who
7 is subject to an order under s. 55.14 and is provided protective placement in a
8 different county may enter into an agreement with that county under which the
9 county of the individual's placement performs all or part of the duties of the county
10 of residence under this section.

11 **SECTION 74.** 55.19 (2) (b) 3. of the statutes, as created by 2005 Wisconsin Acts
12 264 and 387, is repealed and recreated to read:

13 55.19 (2) (b) 3. That the court may under sub. (3) (b) order performance of an
14 evaluation.

15 **SECTION 75.** 55.19 (2) (b) 5. of the statutes, as created by 2005 Wisconsin Acts
16 264 and 387, is repealed and recreated to read:

17 55.19 (2) (b) 5. That a termination or modification of the order or modification
18 of the treatment plan for involuntary administration of psychotropic medication may
19 be ordered by the court.

20 **SECTION 76.** 55.19 (2) (b) 6. of the statutes, as created by 2005 Wisconsin Acts
21 264 and 387, is repealed and recreated to read:

22 55.19 (2) (b) 6. The right to a hearing under sub. (3) (d) and an explanation that
23 the individual or the individual's guardian may request a hearing that meets the
24 requirements under s. 55.10 (4).

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1 **SECTION 77.** 55.19 (2) (c) of the statutes, as created by 2005 Wisconsin Acts 264
2 and 387, is repealed and recreated to read:

3 55.19 (2) (c) Provide the information required under par. (b) to the individual
4 and to the individual's guardian in writing.

5 **SECTION 78.** 55.19 (2) (f) 4. of the statutes, as created by 2005 Wisconsin Acts
6 264 and 387, is repealed and recreated to read:

7 55.19 (2) (f) 4. The individual or the individual's guardian or guardian ad litem
8 requests a full due process hearing under this section for the individual.

9 **SECTION 79.** 55.19 (2) (g) of the statutes, as created by 2005 Wisconsin Acts 264
10 and 387, is repealed and recreated to read:

11 55.19 (2) (g) Certify to the court that he or she has complied with the
12 requirements of pars. (a) to (e).

13 **SECTION 80.** 55.19 (3) (b) (intro.) of the statutes, as created by 2005 Wisconsin
14 Acts 264 and 387, is repealed and recreated to read:

15 55.19 (3) (b) (intro.) The court shall order an evaluation, by a person who is not
16 an employee of the county department, of the physical, mental, and social condition
17 of the individual that is relevant to the issue of the continued need for the order under
18 s. 55.14 and that is independent of the review performed under sub. (1) (a) if any of
19 the following apply:

20 **SECTION 81.** 55.19 (3) (bm) of the statutes, as created by 2005 Wisconsin Acts
21 264 and 387, is repealed and recreated to read:

22 55.19 (3) (bm) If an evaluation is ordered under par. (b), it shall be performed
23 at the expense of the individual or, if the individual is indigent, at the expense of the
24 county of residence under sub. (1) (a).

SENATE BILL 731**SECTION 82**

1 **SECTION 82.** 55.19 (3) (br) of the statutes, as created by 2005 Wisconsin Acts
2 264 and 387, is repealed and recreated to read:

3 55.19 (3) (br) The court may order that the county department obtain any other
4 necessary information with respect to the individual.

5 **SECTION 83.** 55.19 (3) (d) (intro.) of the statutes, as created by 2005 Wisconsin
6 Acts 264 and 387, is repealed and recreated to read:

7 55.19 (3) (d) (intro.) The court shall order either a summary hearing or a
8 hearing under the requirements of s. 55.10 (4). A summary hearing shall be held on
9 the record, may be held in court or by other means, including by telephone or
10 videoconference, is not an evidentiary hearing, and does not require attendance by
11 the individual. The court shall hold a hearing under the requirements of s. 55.10 (4)
12 if any of the following apply:

13 **SECTION 84.** 55.19 (3) (e) 1. of the statutes, as created by 2005 Wisconsin Acts
14 264 and 387, is repealed and recreated to read:

15 55.19 (3) (e) 1. If the court finds that the individual continues to meet the
16 standards for an order under s. 55.14 (8), the court shall order the continuation of the
17 order. The court shall include in the decision the information relied upon as a basis
18 for continuation of the order and shall make findings based on the requirements for
19 allegations of a petition under s. 55.14 (3) in support of the need for continuation of
20 the order.

21 **SECTION 85.** 55.19 (3) (e) 2. of the statutes, as created by 2005 Wisconsin Acts
22 264 and 387, is repealed and recreated to read:

23 55.19 (3) (e) 2. If the court finds that the individual continues to meet the
24 standards for an order under s. 55.14 (8) but that modification of the order or the
25 treatment plan would be in the best interests of the individual, the court shall modify

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1 the order, order modifications to the individual's treatment plan, or both. Any
2 modifications to the treatment plan are subject to the approval of the guardian. The
3 court shall include in the decision the information relied upon as a basis for
4 continuation of the order and shall make findings based on the requirements for
5 allegations of a petition under s. 55.14 (3) in support of the need for authorizing the
6 guardian to consent to involuntary administration of psychotropic medication.

7 **SECTION 86.** 55.19 (3) (e) 3. of the statutes, as created by 2005 Wisconsin Acts
8 264 and 387, is repealed and recreated to read:

9 55.19 (3) (e) 3. If the court finds that the individual no longer meets the
10 standards for an order under s. 55.14 (8), the court shall terminate the order. If the
11 order is terminated, the court shall review the needs of the individual with respect
12 to other protective services. If the court determines that the individual meets the
13 standards under s. 55.08 (2) for other protective services that are not currently being
14 provided to the individual, the court may order those protective services for the
15 individual.

16 **SECTION 87.** 55.22 (2) of the statutes, as affected by 2005 Wisconsin Act 264,
17 is repealed and recreated to read:

18 55.22 (2) If the individual is a minor, consent for release of information from
19 and access to the court records may be given only as provided in s. 51.30. If the
20 individual is an adult who has been adjudicated incompetent in this state, consent
21 for release of information from and access to court records may be given only as
22 provided in s. 54.75.

23 **SECTION 88.** 609.65 (1) (intro.) of the statutes, as affected by 2005 Wisconsin
24 Acts 264 and 387, is repealed and recreated to read:

SENATE BILL 731**SECTION 88**

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

10 **SECTION 89.** 813.123 (2) (b) of the statutes, as created by 2005 Wisconsin Act
11 388, is amended to read:

12 813.123 (2) (b) The court may go forward with a petition filed under sub. (6) if
13 the individual at risk has been adjudicated incompetent under ch. 54 or under ch.
14 880, 2003 stats., notwithstanding an objection by an individual at risk who is the
15 subject of the petition, or an objection by the guardian of the individual at risk.

16 **SECTION 90.** 813.123 (3) (b) of the statutes, as affected by 2005 Wisconsin Act
17 388, is amended to read:

18 813.123 (3) (b) The court or circuit court commissioner, on its or his or her own
19 motion or the motion of any party, shall order that a guardian ad litem be appointed
20 ~~under s. 880.331 (1)~~ for the individual at risk, if the petition under sub. (6) was filed
21 by a person other than the individual at risk, and may order that a guardian ad litem
22 be appointed in other instances when justice so requires.

23 **SECTION 91.** 813.123 (4) (a) (intro.) of the statutes, as affected by 2005
24 Wisconsin Acts 264 and 388, is repealed and recreated to read:

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1 813.123 (4) (a) (intro.) Unless the individual at risk, guardian, or guardian ad
2 litem consents in writing and the judge or circuit court commissioner agrees that the
3 contact is in the best interests of the individual at risk, a judge or circuit court
4 commissioner shall issue a temporary restraining order, as specified in par. (ar), if
5 all of the following occur:

6 **SECTION 92.** 813.123 (4) (a) 2. a. of the statutes, as affected by 2005 Wisconsin
7 Acts 264 and 388, is repealed and recreated to read:

8 813.123 (4) (a) 2. a. That the respondent has interfered with or, based on prior
9 conduct of the respondent, may interfere with an investigation of the individual at
10 risk, the delivery of protective services to or a protective placement of the individual
11 at risk under ch. 55, or the delivery of services to an elder adult at risk under s. 46.90
12 (5m); and that the interference complained of, if continued, would make it difficult
13 to determine whether abuse, financial exploitation, neglect, or self-neglect has
14 occurred, is occurring, or may recur.

15 **SECTION 93.** 813.123 (4) (ar) 1. of the statutes, as created by 2005 Wisconsin
16 Act 388, is amended to read:

17 813.123 (4) (ar) 1. Avoid interference with an investigation of the elder adult
18 at risk under s. 46.90 or the adult at risk under s. 55.043, the delivery of protective
19 services to the individual at risk under s. 55.05 or a protective placement of the
20 individual at risk under ~~s. 55.06~~ ch. 55, or the delivery of services to the elder adult
21 at risk under s. 46.90 (5m).

22 **SECTION 94.** 813.123 (5) (a) (intro.) of the statutes, as affected by 2005
23 Wisconsin Acts 264 and 388, is repealed and recreated to read:

24 813.123 (5) (a) (intro.) Unless the individual at risk, guardian, or guardian ad
25 litem consents in writing to a contact and the judge agrees that the contact is in the

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1 best interests of the individual at risk, a judge may grant an injunction ordering the
2 respondent, as specified in par. (ar), if all of the following occur:

3 **SECTION 95.** 813.123 (5) (ar) 1. of the statutes, as created by 2005 Wisconsin
4 Act 388, is amended to read:

5 813.123 (5) (ar) 1. Avoid interference with an investigation of the elder adult
6 at risk under s. 46.90 or the adult at risk under s. 55.043, the delivery of protective
7 services to the individual at risk under s. 55.05 or a protective placement of the
8 individual at risk under ~~s. 55.06~~ ch. 55, or the delivery of services to the elder adult
9 at risk under s. 46.90 (5m).

10 **SECTION 96.** 813.123 (6) (c) of the statutes, as affected by 2005 Wisconsin Acts
11 264 and 388, is repealed and recreated to read:

12 813.123 (6) (c) That the respondent interfered with or, based on prior conduct
13 of the respondent, may interfere with an investigation of the elder adult at risk under
14 s. 46.90 (5), an investigation of the adult at risk under s. 55.043, the delivery of
15 protective services to, or a protective placement of, the individual at risk under ch.
16 55, or the delivery of services to the elder adult at risk under s. 46.90 (5m); or that
17 the respondent engaged in, or threatened to engage in, the abuse, financial
18 exploitation, neglect, stalking, or harassment of an individual at risk or
19 mistreatment of an animal.

20 **SECTION 97.** 813.123 (7) of the statutes, as affected by 2005 Wisconsin Acts 264
21 and 388, is repealed and recreated to read:

22 813.123 (7) INTERFERENCE ORDER. Any order under sub. (4) (ar) 1. or 2. or (5)
23 (ar) 1. or 2. also shall prohibit the respondent from intentionally preventing a
24 representative or employee of the county protective services agency from meeting,

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1 communicating or being in visual or audio contact with the adult at risk, except as
2 provided in the order.

3 **SECTION 98.** 940.285 (1m) of the statutes, as created by 2005 Wisconsin Act 388,
4 is amended to read:

5 940.285 (1m) EXCEPTION. Nothing in this section may be construed to mean
6 that ~~a vulnerable adult~~ an individual at risk is abused solely because he or she
7 consistently relies upon treatment by spiritual means through prayer for healing, in
8 lieu of medical care, in accordance with his or her religious tradition.

9 **SECTION 99.** 940.295 (1) (cr) of the statutes is created to read:

10 940.295 (1) (cr) "Elder adult at risk" has the meaning given in s. 46.90 (1) (br).

11 **SECTION 100.** 940.295 (1) (hr) of the statutes is created to read:

12 940.295 (1) (hr) "Individual at risk" means an elder adult at risk or an adult
13 at risk.

14 **SECTION 101.** 2005 Wisconsin Act 387, section 585 (intro.) is amended to read:

15 [2005 Wisconsin Act 387] Section 585 **Effective dates.** (intro.) This act takes
16 effect on ~~the first day of the 7th month beginning after publication~~ November 1, 2006,
17 except as follows:

18 **SECTION 102.** 2005 Wisconsin Act 387, section 585 (2) is repealed.

19 **SECTION 103.** 2005 Wisconsin Act 388, section 252m (1) is amended to read:

20 [2005 Wisconsin Act 388] Section 252m (1) This act takes effect on ~~the first day~~
21 ~~of the 7th month beginning after publication~~ November 1, 2006.

22 **SECTION 104. Nonstatutory provisions.**

23 (1) The treatment of sections 51.01 (3g), 55.06 (2) (c) and (11) (a), and 880.01
24 (2), (4), and (5) of the statutes by 2005 Wisconsin Act 388 is void.

