ASSEMBLY BILL 279 (LRB -0121)

An Act to repeal 54.25 (4) (a), 54.40 (4) (am), 54.40 (4) (ar), 54.40 (4) (dm) and 146.40 (1) (am); to renumber and amend 54.25 (2) (d) 2. a. and 54.25 (4) (b); to consolidate and renumber 54.25 (2) (c) 4. and 5.; to amend 46.90 (1) (eg) 1., 46.90 (1) (eg) 2., 46.90 (1) (eg) 3., 46.90 (5m) (a), 46.90 (5m) (br) 2., 46.90 (6) (bt) 8., 48.368 (1), 48.415 (3) (a), 50.06 (2) (d) 3., 51.30 (4) (b) 17., 54.01 (13), 54.10 (3) (d), 54.15 (intro.), 54.15 (5), 54.15 (6), 54.19 (1), 54.19 (8), 54.25 (2) (b) 4., 54.25 (2) (d) 2. n., 54.40 (4) (c), 54.40 (4) (ds), 54.44 (1) (a), 54.44 (2), 54.44 (4) (title), 54.44 (4) (a), 54.44 (4) (b), 54.48, 54.52 (2), 54.62 (1) (title), 54.64 (3) (a), 54.93 (1) (b), 55.01 (1f), 55.01 (6p), 55.01 (6r) (k), 55.03 (3), 55.043 (1r) (a) 2., 55.043 (4) (am), 55.043 (4) (b) 1., 55.043 (6) (bt) 8., 55.075 (1), 55.075 (3), 55.075 (5) (bm), 55.08 (2) (a), 55.08 (2) (b), 55.09 (1), 55.10 (4) (intro.), 55.10 (4) (a), 55.12 (6), 55.13 (2), 55.135 (4), 55.135 (5), 55.15 (2), 55.16 (3) (c), 55.17 (1), 55.18 (1) (b), 55.18 (2) (a), 55.18 (2) (b) 6., 55.18 (2) (f) 4., 55.18 (3) (a), 55.18 (3) (d) (intro.), 55.195 (4), 55.195 (5), 55.195 (6), 560.9811 (1), 813.123 (2) (b), 813.123 (4) (ar) 1., 813.123 (5) (a) 3. b., 813.123 (5) (ar) 1., 813.123 (5) (c) 1., 813.123 (7) and 940.285 (1m); to repeal and recreate 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm), 46.23 (3) (e), 46.286 (3) (a) 3., 49.001 (8), 50.06 (2) (c), 51.01 (5) (a), 51.01 (14t), 51.03 (3) (a) 6., 51.10 (8), 51.20 (7) (d) 1., 51.40 (2) (a) 1., 51.40 (2) (a) 2., 51.42 (3) (e), 51.437 (4r) (b), 54.01 (8), 54.25 (1) (a), 54.25 (1) (b) (intro.), 54.36 (1), 54.38 (2) (a), 54.40 (1), 54.42 (1) (a) (intro.), 54.42 (1) (c), 54.46 (3) (a), 54.75, 55.01 (1v), 55.01 (2), 55.01 (6v), 55.02, 55.03 (1), 55.043 (1r) (b) 2., 55.043 (1r) (c) 2. c., 55.043 (4) (b) 2., 55.055 (1) (a), 55.055 (1) (b), 55.055 (3) (c), 55.06, 55.075 (5) (a), 55.08 (1) (b), 55.08 (1) (c), 55.10 (4) (b), 55.11 (1) (c), 55.135 (1), 55.14 (1) (b) (intro.), 55.14 (2), 55.14 (3) (c), 55.14 (3) (e) (intro.), 55.14 (3) (e) 1., 55.14 (5), 55.14 (6), 55.14 (7), 55.14 (8) (a), 55.14 (9), 55.14 (10), 55.14 (11), 55.175, 55.19 (intro.), 55.19 (1) (a) (intro.), 55.19 (1) (a) 1., 55.19 (1) (b), 55.19 (1) (bm), 55.19 (1) (c), 55.19 (1m), 55.19 (2) (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), 55.19 (3) (b) (intro.), 55.19 (3) (bm), 55.19 (3) (br), 55.19 (3) (d) (intro.), 55.19 (3) (e) 1., 55.19 (3) (e) 2., 55.19 (3) (e) 3., 55.195 (intro.), 55.22 (2), 146.82 (2) (a) 7., 609.65 (1) (intro.), 757.69 (1) (h), 813.123 (3) (b), 813.123 (4) (a) (intro.), 813.123 (4) (a) 2. a., 813.123 (5) (a) (intro.) and 813.123 (6) (c); and to create 54.44 (5), 54.44 (5m) (title), 940.295 (1) (cr) and 940.295 (1) (hr) of the statutes; relating to: protective placements and protective services; involuntary administration of psychotropic medication; guardianships, conservatorships, and wards; and services for adults at risk and elder adults at risk.

2007

04-23.	A.	Introduced by Representatives **Townsend**, **Jeskewitz**, **Hahn**, **M. Williams**, **Hines**, **Pridemore**, **Musser**, **Berceau**, **Strachota**, **Mursau**, **Petrowski**, **Sherman** and **Krusick**; cosponsored by Senators **Olsen**, **Miller**, **Erpenbach**, **Roessler**, **Risser** and **Plale**.	
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05-01.	A.	Public hearing held.	
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05-15.	A.	Executive action taken.	
05-21.	A.	Report Assembly Amendment 1 adoption recommended by committee on Aging and Long Term Care, Ayes 10, Noes 0	194
05-21.	A.	Report Assembly Amendment 2 adoption recommended by committee on Aging and Long Term Care, Ayes 10, Noes 0	194
05-21.	A.	Report passage as amended recommended by committee on Aging and Long Term Care, Ayes 10, Noes 0	194
05-21.	A.	Referred to committee on Rules	194
10-24.	A.	Placed on calendar 10-30-2007 by committee on Rules.	
10-30.	A.	Read a second time	331
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12-03.	S.	Withdrawn from committee on Public Health, Senior Issues, Long Term Care and Privacy and rereferred to committee on Judiciary, Corrections, and Housing, pursuant to Senate Rule 46 (2)(c)	446
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12-11.	S.	Rules suspended.	
12-11.	S.	Read a third time and **concurred in**.	
12-11.	S.	Ordered immediately messaged.	
12-11.	A.	Received from Senate concurred in.	

LP

2007
ENROLLED BILL

07en A B- 279

ADOPTED DOCUMENTS:

☒ **Orig** ☐ **Engr** ___ **SubAmdt** ___ **07-0121/1**

Amendments to above (if none, write "NONE"): AA1 - a0444/1
AA2 - a0445/1

Corrections - show date (if none, write "NONE"): None

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12-12-07
Date

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2007 ASSEMBLY BILL 279

April 23, 2007 – Introduced by Representatives TOWNSEND, JESKEWITZ, HAHN, M. WILLIAMS, HINES, PRIDEMORE, MUSSER, BERCEAU, STRACHOTA, MURSAU, PETROWSKI, SHERMAN and KRUSICK, cosponsored by Senators OLSEN, MILLER, ERPENBACH, ROESSLER, RISSER and PLALE. Referred to Committee on Aging and Long Term Care.

1 AN ACT ***to repeal*** 54.25 (4) (a), 54.40 (4) (am), 54.40 (4) (ar), 54.40 (4) (dm) and
2 146.40 (1) (am); ***to renumber and amend*** 54.25 (2) (d) 2. a. and 54.25 (4) (b);
3 ***to consolidate and renumber*** 54.25 (2) (c) 4. and 5.; ***to amend*** 46.90 (1) (eg)
4 1., 46.90 (1) (eg) 2., 46.90 (1) (eg) 3., 46.90 (5m) (a), 46.90 (5m) (br) 2., 46.90 (6)
5 (bt) 8., 48.368 (1), 48.415 (3) (a), 50.06 (2) (d) 3., 51.30 (4) (b) 17., 54.01 (13), 54.10
6 (3) (d), 54.15 (intro.), 54.15 (5), 54.15 (6), 54.19 (1), 54.19 (8), 54.25 (2) (b) 4.,
7 54.25 (2) (d) 2. n., 54.40 (4) (c), 54.40 (4) (ds), 54.44 (1) (a), 54.44 (2), 54.44 (4)
8 (title), 54.44 (4) (a), 54.44 (4) (b), 54.48, 54.52 (2), 54.62 (1) (title), 54.64 (3) (a),
9 54.93 (1) (b), 55.01 (1f), 55.01 (6p), 55.01 (6r) (k), 55.03 (3), 55.043 (1r) (a) 2.,
10 55.043 (4) (am), 55.043 (4) (b) 1., 55.043 (6) (bt) 8., 55.075 (1), 55.075 (3), 55.075
11 (5) (bm), 55.08 (2) (a), 55.08 (2) (b), 55.09 (1), 55.10 (4) (intro.), 55.10 (4) (a), 55.12
12 (6), 55.13 (2), 55.135 (4), 55.135 (5), 55.15 (2), 55.16 (3) (c), 55.17 (1), 55.18 (1)
13 (b), 55.18 (2) (a), 55.18 (2) (b) 6., 55.18 (2) (f) 4., 55.18 (3) (a), 55.18 (3) (d) (intro.),
14 55.195 (4), 55.195 (5), 55.195 (6), 560.9811 (1), 813.123 (2) (b), 813.123 (4) (ar)

1., 813.123 (5) (a) 3. b., 813.123 (5) (ar) 1., 813.123 (5) (c) 1., 813.123 (7) and 940.285 (1m); ***to repeal and recreate*** 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm), 46.23 (3) (e), 46.286 (3) (a) 3., 49.001 (8), 50.06 (2) (c), 51.01 (5) (a), 51.01 (14t), 51.03 (3) (a) 6., 51.10 (8), 51.20 (7) (d) 1., 51.40 (2) (a) 1., 51.40 (2) (a) 2., 51.42 (3) (e), 51.437 (4r) (b), 54.01 (8), 54.25 (1) (a), 54.25 (1) (b) (intro.), 54.36 (1), 54.38 (2) (a), 54.40 (1), 54.42 (1) (a) (intro.), 54.42 (1) (c), 54.46 (3) (a), 54.75, 55.01 (1v), 55.01 (2), 55.01 (6v), 55.02, 55.03 (1), 55.043 (1r) (b) 2., 55.043 (1r) (c) 2. c., 55.043 (4) (b) 2., 55.055 (1) (a), 55.055 (1) (b), 55.055 (3) (c), 55.06, 55.075 (5) (a), 55.08 (1) (b), 55.08 (1) (c), 55.10 (4) (b), 55.11 (1) (c), 55.135 (1), 55.14 (1) (b) (intro.), 55.14 (2), 55.14 (3) (c), 55.14 (3) (e) (intro.), 55.14 (3) (e) 1., 55.14 (5), 55.14 (6), 55.14 (7), 55.14 (8) (a), 55.14 (9), 55.14 (10), 55.14 (11), 55.175, 55.19 (intro.), 55.19 (1) (a) (intro.), 55.19 (1) (a) 1., 55.19 (1) (b), 55.19 (1) (bm), 55.19 (1) (c), 55.19 (1m), 55.19 (2) (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), 55.19 (3) (b) (intro.), 55.19 (3) (bm), 55.19 (3) (br), 55.19 (3) (d) (intro.), 55.19 (3) (e) 1., 55.19 (3) (e) 2., 55.19 (3) (e) 3., 55.195 (intro.), 55.22 (2), 146.82 (2) (a) 7., 609.65 (1) (intro.), 757.69 (1) (h), 813.123 (3) (b), 813.123 (4) (a) (intro.), 813.123 (4) (a) 2. a., 813.123 (5) (a) (intro.) and 813.123 (6) (c); and ***to create*** 54.44 (5), 54.44 (5m) (title), 940.295 (1) (cr) and 940.295 (1) (hr) of the statutes; **relating to:** protective placements and protective services; involuntary administration of psychotropic medication; guardianships, conservatorships, 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 2005 Wisconsin Acts 264, 387, and 388, as to provisions that were mutually inconsistent and therefore could not 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," "serious and persistent mental illness," and "voluntary."

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

1 **SECTION 1.** 46.21 (2m) (c) of the statutes, as affected by 2005 Wisconsin Acts
2 264 and 388, is repealed and recreated to read:

3 46.21 **(2m)** (c) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78
4 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7) and 253.07
5 (3) (c), a subunit of a county department of human services or tribal agency acting
6 under this subsection may exchange confidential information about a client, without
7 the informed consent of the client, with any other subunit of the same county
8 department of human services or tribal agency, with a resource center, a care
9 management organization, or a family care district, with an elder–adult–at–risk
10 agency, an adult–at–risk agency, or any agency to which referral for investigation is
11 made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with a person providing services
12 to the client under a purchase of services contract with the county department of
13 human services or tribal agency or with a resource center, a care management
14 organization, or a family care district, if necessary to enable an employee or service
15 provider to perform his or her duties, or to enable the county department of human
16 services or tribal agency to coordinate the delivery of services to the client. An agency
17 that releases information under this paragraph shall document that a request for
18 information was received and what information was provided.

1 **SECTION 2.** 46.215 (1m) of the statutes, as affected by 2005 Wisconsin Acts 264,
2 388 and 406, is repealed and recreated to read:

3 46.215 **(1m)** EXCHANGE OF INFORMATION; LONG–TERM CARE. Notwithstanding ss.
4 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82,
5 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a subunit of a county department of social
6 services or tribal agency acting under this section may exchange confidential
7 information about a client, without the informed consent of the client, with any other
8 subunit of the same county department of social services or tribal agency, with a
9 resource center, a care management organization, or a family care district, with an
10 elder–adult–at–risk agency, an adult–at–risk agency, or any agency to which referral
11 for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with a person
12 providing services to the client under a purchase of services contract with the county
13 department of social services or tribal agency or with a resource center, a care
14 management organization, or a family care district, if necessary to enable an
15 employee or service provider to perform his or her duties, or to enable the county
16 department of social services or tribal agency to coordinate the delivery of services
17 to the client. An agency that releases information under this subsection shall
18 document that a request for information was received and what information was
19 provided.

20 **SECTION 3.** 46.22 (1) (dm) of the statutes, as affected by 2005 Wisconsin Acts
21 264, 388 and 406, is repealed and recreated to read:

22 46.22 **(1)** (dm) *Exchange of information; long–term care.* Notwithstanding ss.
23 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82,
24 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a subunit of a county department of social
25 services or tribal agency acting under this subsection may exchange confidential

information about a client, without the informed consent of the client, with any other subunit of the same county department of social services or tribal agency, with a resource center, a care management organization, or a family care district, with an elder–adult–at–risk agency, an adult–at–risk agency, or any agency to which referral for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with a person providing services to the client under a purchase of services contract with the county department of social services or tribal agency or with a resource center, a care management organization, or a family care district, if necessary to enable an employee or service provider to perform his or her duties, or to enable the county department of social services or tribal agency to coordinate the delivery of services to the client. An agency that releases information under this paragraph shall document that a request for information was received and what information was provided.

SECTION 4. 46.23 (3) (e) of the statutes, as affected by 2005 Wisconsin Acts 264, 388 and 406, is repealed and recreated to read:

46.23 **(3)** (e) *Exchange of information; long–term care.* Notwithstanding ss. 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a subunit of a county department of human services or tribal agency acting under this section may exchange confidential information about a client, without the informed consent of the client, with any other subunit of the same county department of human services or tribal agency, with a resource center, a care management organization, or a family care district, with an elder–adult–at–risk agency, an adult–at–risk agency, or any agency to which referral for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with a person providing services to the client under a purchase of services contract with the county

department of human services or tribal agency or with a resource center, a care management organization, or a family care district, if necessary to enable an employee or service provider to perform his or her duties, or to enable the county department of human services or tribal agency to coordinate the delivery of services to the client. An agency that releases information under this paragraph shall document that a request for information was received and what information was provided.

SECTION 5. 46.286 (3) (a) 3. of the statutes, as affected by 2005 Wisconsin Acts 264 and 388, is repealed and recreated to read:

46.286 **(3)** (a) 3. Is functionally eligible at the intermediate level and is determined by an elder–adult–at–risk agency under s. 46.90 (2) or an adult–at–risk agency designated under s. 55.043 (1d) to be in need of protective services or protective placement under ch. 55.

SECTION 6. 46.90 (1) (eg) 1. of the statutes is amended to read:

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

SECTION 7. 46.90 (1) (eg) 2. of the statutes is amended to read:

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

SECTION 8. 46.90 (1) (eg) 3. of the statutes is amended to read:

46.90 **(1)** (eg) 3. An agent under a ~~financial~~ power of attorney under ~~s. 243.07~~ ch. 243.

SECTION 9. 46.90 (5m) (a) of the statutes is amended to read:

46.90 **(5m)** (a) Upon responding to a report, the elder–adult–at–risk agency or the investigative agency shall determine whether the elder adult at risk or any other individual involved in the alleged abuse, financial exploitation, neglect, or self–neglect is in need of services under this chapter or ~~ch. 47, 49, 51, 55 or 880~~ ch.

47, 49, 51, 54, or 55. From the appropriation under s. 20.435 (7) (dh), the department shall allocate to selected counties not less than $25,000 in each fiscal year, and within the limits of these funds and of available state and federal funds and of county funds appropriated to match the state and federal funds, the elder–adult–at–risk agency shall provide the necessary direct services to the elder adult at risk or other individual or arrange for the provision of the direct services with other agencies or individuals. Those direct services provided shall be rendered under the least restrictive conditions necessary to achieve their objective.

SECTION 10. 46.90 (5m) (br) 2. of the statutes is amended to read:

46.90 **(5m)** (br) 2. Take appropriate emergency action, including emergency protective placement under ~~s. 55.06~~ s. 55.135, if the elder–adult–at–risk agency determines that the emergency action is in the best interests of the elder adult at risk and the emergency action is the least restrictive appropriate intervention.

SECTION 11. 46.90 (6) (bt) 8. of the statutes is amended to read:

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

SECTION 12. 48.368 (1) of the statutes is amended to read:

48.368 **(1)** If a petition for termination of parental rights is filed under s. 48.41 or 48.415 or an appeal from a judgment terminating or denying termination of parental rights is filed during the year in which a dispositional order under s. 48.355, an extension order under s. 48.365, a voluntary agreement for placement of the child under s. 48.63, or a guardianship order under ch. 880, 2003 stats., or s. 48.977 or ~~ch. 880~~ ch. 54 is in effect, the dispositional or extension order, voluntary agreement, or

guardianship order shall remain in effect until all proceedings related to the filing of the petition or an appeal are concluded.

SECTION 13. 48.415 (3) (a) of the statutes is amended to read:

48.415 **(3)** (a) The parent is presently, and for a cumulative total period of at least 2 years within the 5 years immediately prior to the filing of the petition has been, an inpatient at one or more hospitals as defined in s. 50.33 (2) (a), (b) or (c), licensed treatment facilities as defined in s. 51.01 (2) or state treatment facilities as defined in s. 51.01 (15) on account of mental illness as defined in s. 51.01 (13) (a) or (b) ~~or~~, developmental disability as defined in s. 55.01 (2), or other like incapacities, as defined in s. 55.01 (5);

SECTION 14. 49.001 (8) of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

49.001 **(8)** "Voluntary" means according to an individual's free choice, if competent, or by choice of his or her guardian if the individual is adjudicated incompetent.

SECTION 15. 50.06 (2) (c) of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

50.06 **(2)** (c) A petition for guardianship for the individual under s. 54.34 and a petition under s. 55.075 for protective placement of the individual are filed prior to the proposed admission.

SECTION 16. 50.06 (2) (d) 3. of the statutes is amended to read:

50.06 **(2)** (d) 3. Comply with s. 55.135 if the requirements of s. 55.135 (1) are met and emergency protective placement in that facility or another facility is necessary ~~or file a petition for protective placement under s. 55.075~~. The court, with

1 the permission of the facility, may order the incapacitated individual to remain in the
2 facility pending the outcome of the protective placement proceedings.

3 **SECTION 17.** 51.01 (5) (a) of the statutes, as affected by 2005 Wisconsin Acts 264,
4 387 and 388, is repealed and recreated to read:

5 51.01 **(5)** (a) "Developmental disability" means a disability attributable to
6 brain injury, cerebral palsy, epilepsy, autism, Prader–Willi syndrome, mental
7 retardation, or another neurological condition closely related to mental retardation
8 or requiring treatment similar to that required for individuals with mental
9 retardation, which has continued or can be expected to continue indefinitely and
10 constitutes a substantial handicap to the afflicted individual. "Developmental
11 disability" does not include dementia that is primarily caused by degenerative brain
12 disorder.

13 **SECTION 18.** 51.01 (14t) of the statutes, as affected by 2005 Wisconsin Acts 264,
14 387 and 388, is repealed and recreated to read:

15 51.01 **(14t)** "Serious and persistent mental illness" means a mental illness that
16 is severe in degree and persistent in duration, that causes a substantially diminished
17 level of functioning in the primary aspects of daily living and an inability to cope with
18 the ordinary demands of life, that may lead to an inability to maintain stable
19 adjustment and independent functioning without long–term treatment and support,
20 and that may be of lifelong duration. "Serious and persistent mental illness" includes
21 schizophrenia as well as a wide spectrum of psychotic and other severely disabling
22 psychiatric diagnostic categories, but does not include degenerative brain disorder
23 or a primary diagnosis of a developmental disability or of alcohol or drug dependence.

24 **SECTION 19.** 51.03 (3) (a) 6. of the statutes, as affected by 2005 Wisconsin Acts
25 264 and 387, is repealed and recreated to read:

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

SECTION 20. 51.10 (8) of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

51.10 **(8)** An adult for whom, because of incompetency, a guardian of the person has been appointed in this state may be voluntarily admitted to an inpatient treatment facility if the guardian consents after the requirements of sub. (4m) (a) 1. are satisfied or if the guardian and the ward consent to the admission under this section.

SECTION 21. 51.20 (7) (d) 1. of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

51.20 **(7)** (d) 1. If the court determines after hearing that there is probable cause to believe that the subject individual is a fit subject for guardianship and protective placement or services, the court may, without further notice, appoint a temporary guardian for the subject individual and order temporary protective placement or services under ch. 55 for a period not to exceed 30 days, and shall proceed as if petition had been made for guardianship and protective placement or services. If the court orders only temporary protective services for a subject individual under this paragraph, the individual shall be provided care only on an outpatient basis. The court may order the involuntary administration of psychotropic medication as a temporary protective service under this paragraph if it finds that there is probable cause to believe that the allegations under s. 55.14 (3) (e) apply, that the individual is not competent to refuse psychotropic medication and that the medication ordered will have therapeutic value and will not unreasonably impair the ability of the

individual to prepare for and participate in subsequent legal proceedings. An individual is not competent to refuse psychotropic medication if, because of serious and persistent mental illness, and after the advantages and disadvantages of and alternatives to accepting the particular psychotropic medication have been explained to the individual, one of the following is true:

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

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

SECTION 22. 51.30 (4) (b) 17. of the statutes is amended to read:

51.30 **(4)** (b) 17. To the elder–adult–at–risk agency designated under s. 46.90 (2) or other investigating agency under s. 46.90 for the purposes of s. 46.90 (4) and (5), to the county department as defined in s. 48.02 (2g) or the sheriff or police department for the purposes of s. 48.981 (2) and (3), or to the adult–at–risk agency designated under ~~s. 55.02~~ s. 55.043 (1d) for purposes of s. 55.043. The treatment record holder may release treatment record information by initiating contact with the elder–adult–at–risk agency, adult–at–risk agency, or county department, as defined in s. 48.02 (2g), without first receiving a request for release of the treatment record from the elder–adult–at–risk agency, adult–at–risk agency, or county department.

SECTION 23. 51.40 (2) (a) 1. of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

51.40 **(2)** (a) 1. 'Commitment or protective placement or protective services.' If an individual is under a court order of commitment under this chapter or protective placement or protective services under s. 55.06, 2003 stats., or s. 55.12, the individual remains a resident of the county in which he or she has residence at the time the initial commitment or initial order for protective placement or protective services is made. If the court makes no specific finding of a county of residence, the individual is a resident of the county in which the court is located. After notice, including notice to the corporation counsel of each affected county by certified mail, after opportunity to be heard has been provided to all affected counties and parties, and if there is no objection, the court may make a specific finding of a county of residence. If any affected county or party objects to the court's proposed finding, the county or party may request the department to make a determination under par. (g). Any transfer of venue may be suspended until the department's determination is final.

SECTION 24. 51.40 (2) (a) 2. of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

51.40 **(2)** (a) 2. 'Placement by a county.' Except for the provision of emergency services under s. 51.15, 51.42 (1) (b), 51.437 (4) (c), or 51.45 (11) and (12), emergency protective services under s. 55.13, or emergency protective placement under s. 55.135, if a county department or an agency of a county department places or makes arrangements for placement of the individual into a facility, the individual is a resident of the county of that county department. Any agency of the county department is deemed to be acting on behalf of the county department in placing or making arrangements for placement. Placement of an individual by a county department or an agency of a county department in a facility outside the jurisdiction of the county department or agency does not transfer the individual's legal residence

to the county in which the facility is located. If a resident of a county is physically present in another county and is in need of immediate care, the county in which the individual is present may provide for his or her immediate needs under s. 51.15, 51.20, 51.42 (1) (b), 51.437 (4) (c), or 51.45 (11) or (12), or ch. 54 or 55, without becoming the individual's county of residence.

SECTION 25. 51.42 (3) (e) of the statutes, as affected by Wisconsin Acts 264 and 388, is repealed and recreated to read:

51.42 **(3)** (e) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), any subunit of a county department of community programs or tribal agency acting under this section may exchange confidential information about a client, without the informed consent of the client, with any other subunit of the same county department of community programs or tribal agency, with a resource center, a care management organization, or a family care district, or with any person providing services to the client under a purchase of services contract with the county department of community programs or tribal agency or with a resource center, care management organization, or family care district, if necessary to enable an employee or service provider to perform his or her duties, or to enable the county department of community programs or tribal agency to coordinate the delivery of services to the client. Any agency releasing information under this paragraph shall document that a request was received and what information was provided.

SECTION 26. 51.437 (4r) (b) of the statutes, as affected by 2005 Wisconsin Acts 264 and 388, is repealed and recreated to read:

51.437 **(4r)** (b) Notwithstanding ss. 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), any

1 subunit of a county department of developmental disabilities services or tribal
2 agency acting under this section may exchange confidential information about a
3 client, without the informed consent of the client, with any other subunit of the same
4 county department of developmental disabilities services or tribal agency, with a
5 resource center, a care management organization, or a family care district, or with
6 any person providing services to the client under a purchase of services contract with
7 the county department of developmental disabilities services or tribal agency or with
8 a resource center, a care management organization, or a family care district, if
9 necessary to enable an employee or service provider to perform his or her duties, or
10 to enable the county department of developmental disabilities services or tribal
11 agency to coordinate the delivery of services to the client. Any agency releasing
12 information under this paragraph shall document that a request was received and
13 what information was provided.

14 **SECTION 27.** 54.01 (8) of the statutes, as affected by 2005 Wisconsin Acts 264,
15 387 and 388, is repealed and recreated to read:

16 54.01 **(8)** "Developmental disability" means a disability attributable to mental
17 retardation, cerebral palsy, epilepsy, autism, or another neurological condition
18 closely related to mental retardation or requiring treatment similar to that required
19 for individuals with mental retardation, which has continued or can be expected to
20 continue indefinitely, substantially impairs an individual from adequately providing
21 for his or her own care or custody, and constitutes a substantial handicap to the
22 afflicted individual. The term does not include dementia that is primarily caused by
23 degenerative brain disorder.

24 **SECTION 28.** 54.01 (13) of the statutes is amended to read:

54.01 **(13)** "Heir" means any person, including the surviving spouse, who is entitled under the statutes of intestate succession to an interest in property of a decedent. The state is an heir of the decedent and a person interested under s. 45.37 (10) and (11) when the decedent was a member of the Wisconsin Veterans Home at King or at the facilities operated by the department of veterans affairs under ~~s. 45.385~~ s. 45.50 at the time of the decedent's death.

SECTION 29. 54.10 (3) (d) of the statutes is amended to read:

54.10 **(3)** (d) Before appointing a guardian under this subsection, declaring incompetence to exercise a right under s. 54.25 (2) (c), or determining what powers are appropriate for the guardian to exercise under s. 54.18, 54.20, or 54.25 (2) (d), the court shall determine if additional medical, psychological, social, vocational, or educational evaluation is necessary for the court to make an informed decision respecting the individual's competency to exercise legal rights and may obtain assistance in the manner provided in ~~s. 55.06 (8)~~ s. 55.11 (1) whether or not protective placement is made.

SECTION 30. 54.15 (intro.) of the statutes is amended to read:

54.15 Selection of guardian; nominations; preferences; other criteria. (intro.) The court shall ~~do one of the following and shall~~ consider all of the following ~~nominations, applicable preferences, and criteria~~ in determining who is appointed as guardian:

SECTION 31. 54.15 (5) of the statutes is amended to read:

54.15 **(5)** PARENT OF A PROPOSED WARD. If one or both of the parents of a minor or an individual with developmental disability or with serious and persistent mental illness are suitable and willing, the court shall appoint one or both as guardian unless the court finds that the appointment is not in the proposed ~~ward,s~~ ward's best

interest. The court shall consider a proposed ward's objection to the appointment of his or her parent.

SECTION 32. 54.15 (6) of the statutes is amended to read:

54.15 **(6)** TESTAMENTARY NOMINATION BY PROPOSED WARD'S PARENTS. Subject to the rights of a surviving parent, a parent may by will nominate a guardian and successor guardian of the person or estate for any of his or her minor children who is in need of guardianship, unless the court finds that appointment of the guardian or successor guardian is not ~~i~~ in the minor's best interests. For an individual who is aged 18 or older and is found to be in need of guardianship by reason of a developmental disability or serious and persistent mental illness, a parent may by will nominate a testamentary guardian. The parent may waive the requirement of a bond for such an estate that is derived through a will.

SECTION 33. 54.19 (1) of the statutes is amended to read:

54.19 **(1)** Take possession of the ward's real and personal property, of any rents, income, and benefits accruing from the property, and of any proceeds arising from the sale, mortgage, lease, or exchange of the property, and prepare an inventory of these. Subject to this possession, the title of all the income and assets of the ward and the increment and proceeds of the income and assets of the ward remains vested in the ward and is not vested in the guardian.

SECTION 34. 54.19 (8) of the statutes is amended to read:

54.19 **(8)** File, with the register of deeds of any county in which the ward possesses real property of which the guardian has actual knowledge, a sworn and notarized statement that specifies the legal description of the property, the date that the ward is determined to be ~~an~~ incompetent, and the name, address, and telephone number of the ward's guardian and any surety on the guardian's bond.

1 **SECTION 35.** 54.25 (1) (a) of the statutes, as affected by 2005 Wisconsin Acts 264
2 and 387, is repealed and recreated to read:

3 54.25 **(1)** (a) Make an annual report on the condition of the ward to the court
4 that ordered the guardianship and to the county department designated under s.
5 55.02 (2). That county department shall develop reporting requirements for the
6 guardian of the person. The report shall include the location of the ward, the health
7 condition of the ward, any recommendations regarding the ward, and a statement
8 as to whether or not the ward is living in the least restrictive environment consistent
9 with the needs of the ward.

10 **SECTION 36.** 54.25 (1) (b) (intro.) of the statutes, as affected by 2005 Wisconsin
11 Acts 264 and 387, is repealed and recreated to read:

12 54.25 **(1)** (b) (intro.) Endeavor to secure any necessary care or services for the
13 ward that are in the ward's best interests, based on all of the following:

14 **SECTION 37.** 54.25 (2) (b) 4. of the statutes is amended to read:

15 54.25 **(2)** (b) 4. To protest a residential placement made under ~~s. 55.05 (5)~~ s.
16 55.055, and to be discharged from a residential placement unless the individual is
17 protectively placed under ~~s. 55.06~~ ch. 55 or the ~~elements~~ requirements of ~~s. 55.06 (11)~~
18 s. 55.135 (1) are ~~present~~ met.

19 **SECTION 38.** 54.25 (2) (c) 4. and 5. of the statutes are consolidated and
20 renumbered 54.25 (2) (c) 4.

21 **SECTION 39.** 54.25 (2) (d) 2. a. of the statutes is renumbered 54.25 (2) (d) 2. ac.
22 and amended to read:

23 54.25 **(2)** (d) 2. ac. Except as provided under subd. 2. b., c., and d., and except
24 for consent to psychiatric treatment and medication under ch. 51, and subject to any
25 limitation under s. 54.46 ~~(3) (b)~~ (2) (b), the power to give informed consent, if in the

ward's best interests, to ~~voluntary or~~ the involuntary administration of a medical examination, medication other than psychotropic medication, and medical treatment ~~and to the voluntary receipt by the ward of medication, including any appropriate psychotropic medication~~ that is in the ward's best interest~~, if the guardian has first made a good–faith attempt to discuss with the ward the ward's voluntary receipt of the psychotropic medication and the ward does not protest. For purposes of this subd. 2. a., "protest" means make more than one discernible negative response, other than mere silence, to the offer of, recommendation for, or other proffering of voluntary receipt of psychotropic medication. "Protest" does not mean a discernible negative response to a proposed method of administration of the psychotropic medication~~. A guardian may consent to the involuntary administration of psychotropic medication only under a court order under s. 55.14. In determining whether involuntary administration of a medical examination, medication other than psychotropic medication, or medical treatment~~, other than psychotropic medication,~~ is in the ward's best interest, the guardian shall consider the invasiveness of the medical examination, medication, or treatment and the likely benefits and side effects of the medical examination, medication, or treatment.

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SECTION 40. 54.25 (2) (d) 2. n. of the statutes is amended to read:

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

SECTION 41. 54.25 (4) (a) of the statutes is repealed.

SECTION 42. 54.25 (4) (b) of the statutes is renumbered 54.25 (2) (d) 2. ab. and and amended to read:

54.25 **(2)** (d) 2. ab. ~~A guardian may, without court approval,~~ Except as provided under subd. 2. b., c., and d., and except for consent to psychiatric treatment and

1 medication under ch. 51, and subject to any limitation under s. 54.46 (2) (b), the
2 power to give an informed consent to the voluntary receipt by the guardian's ward
3 of a medical examination, medication, including any appropriate psychotropic
4 medication, and medical treatment that is in the ward's best interest, if the guardian
5 has first made a good–faith attempt to discuss with the ward the voluntary receipt
6 of the examination, medication, or treatment and if the ward does not protest. For
7 purposes of this subd. 2. ab., "protest" means, with respect to the voluntary receipt
8 of a medical examination, medication, including appropriate psychotropic
9 medication, or medical treatment, make more than one discernible negative
10 response, other than mere silence, to the offer of, recommendation for, or other
11 proffering of voluntary receipt of the medical examination, medication, or medical
12 treatment. "Protest" does not mean a discernible negative response to a proposed
13 method of administration of the medical examination, medication, or medical
14 treatment. In determining whether a medical examination, medication, or medical
15 treatment is in the ward's best interest, the guardian shall consider the invasiveness
16 of the medical examination, medication, or treatment and the likely benefits and side
17 effects of the medical examination, medication, or treatment.

18 **SECTION 43.** 54.36 (1) of the statutes, as affected by 2005 Wisconsin Acts 264
19 and 387, is repealed and recreated to read:

20 54.36 **(1)** Whenever it is proposed to appoint a guardian on the ground that a
21 proposed ward allegedly has incompetency or is a spendthrift, a physician or
22 psychologist, or both, shall examine the proposed ward and furnish a written report
23 stating the physician's or psychologist's professional opinion regarding the presence
24 and likely duration of any medical or other condition causing the proposed ward to
25 have incapacity or to be a spendthrift. The privilege under s. 905.04 does not apply

1 to the report. The petitioner shall provide a copy of the report to the proposed ward
2 or his or her counsel, the guardian ad litem, and the petitioner's attorney, if any.
3 Prior to the examination on which the report is based, the guardian ad litem,
4 physician, or psychologist shall inform the proposed ward that statements made by
5 the proposed ward may be used as a basis for a finding of incompetency or a finding
6 that he or she is a spendthrift, that he or she has a right to refuse to participate in
7 the examination, absent a court order, or speak to the physician or psychologist, and
8 that the physician or psychologist is required to report to the court even if the
9 proposed ward does not speak to the physician or psychologist. The issuance of such
10 a warning to the proposed ward prior to each examination establishes a presumption
11 that the proposed ward understands that he or she need not speak to the physician
12 or psychologist. Nothing in this section prohibits the use of a report by a physician
13 or psychologist that is based on an examination of the proposed ward by the
14 physician or psychologist before filing the petition for appointment of a guardian, but
15 the court will consider the recency of the report in determining whether the report
16 sufficiently describes the proposed ward's current state and in determining the
17 weight to be given to the report.

18 **SECTION 44.** 54.38 (2) (a) of the statutes, as affected by 2005 Wisconsin Acts 264
19 and 387, is repealed and recreated to read:

20 54.38 **(2)** (a) On the proposed ward or ward by personal service and an existing
21 guardian, if any, by personal service or by registered or certified mail at least 10 days
22 before the time set for hearing. If the proposed ward or ward is in custody or
23 confinement, the petitioner shall have notice served by registered or certified mail
24 on the proposed ward's or ward's custodian, who shall immediately serve it on the
25 proposed ward or ward. The process server or custodian shall inform the proposed

ward or ward of the complete contents of the notice and petition, motion, or other required document; certify on the notice that the process server or custodian served and informed the proposed ward or ward; and return the certificate and notice to the court.

SECTION 45. 54.40 (1) of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

54.40 **(1)** APPOINTMENT. The court shall appoint a guardian ad litem when a petition for appointment of a guardian is brought under s. 54.34 (1), when a petition for receipt and acceptance of a foreign guardianship is brought under s. 54.34 (3), to review the scope of a guardianship, to provide protective placement to an individual or order protective services under ch. 55, to review any protective placement under s. 55.18, to terminate a protective placement under s. 55.17, to expand an order of guardianship under s. 54.63, to review incompetency and terminate a guardianship under s. 54.64, to review the conduct of a guardian under s. 54.68, or at any other time that the court determines it is necessary.

SECTION 46. 54.40 (4) (am) of the statutes is repealed.

SECTION 47. 54.40 (4) (ar) of the statutes is repealed.

SECTION 48. 54.40 (4) (c) of the statutes is amended to read:

54.40 **(4)** (c) Interview the proposed guardian, the proposed standby guardian, if any, and any other person seeking appointment as guardian and report to the court concerning the suitability of each individual interviewed to serve as guardian and concerning the ~~report~~ statement under s. 54.15 (8).

SECTION 49. 54.40 (4) (dm) of the statutes is repealed.

SECTION 50. 54.40 (4) (ds) of the statutes is amended to read:

54.40 **(4)** (ds) Notify the guardian of the right to be present at and participate in the hearing, to present and cross–examine witnesses, to receive a copy of any evaluation under s. 55.11 (1) (intro.) or (2), and to secure and present a report on an independent evaluation under ~~s. 880.33 (2) (b)~~ s. 54.42 (3).

SECTION 51. 54.42 (1) (a) (intro.) of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

54.42 **(1)** (a) (intro.) The proposed ward or ward has the right to counsel, if any of the following occurs:

SECTION 52. 54.42 (1) (c) of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

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

SECTION 53. 54.44 (1) (a) of the statutes is amended to read:

54.44 **(1)** (a) *Time of hearing for petition.* A petition for guardianship, other than a petition under par. (b) or (c) or s. 54.50 (1), shall be heard within 90 days after it is filed. The guardian ad litem and attorney for the proposed ward or ward shall be provided with a copy of the report of the examining physician or psychologist under s. 54.36 (1) at least 96 hours before the time of the hearing.

SECTION 54. 54.44 (2) of the statutes is amended to read:

54.44 **(2)** STANDARD OF PROOF. Any determination by the court as to whether the proposed ward or ward is a minor, is incompetent, or is a spendthrift shall be by clear and convincing evidence.

SECTION 55. 54.44 (4) (title) of the statutes is amended to read:

54.44 **(4)** (title) PRESENCE OF PROPOSED WARD OR WARD.

SECTION 56. 54.44 (4) (a) of the statutes is amended to read:

54.44 **(4)** (a) *Adult proposed ward or ward.* The petitioner shall ensure that the proposed ward or ward attends the hearing unless the attendance is waived by the guardian ad litem. In determining whether to waive attendance by the proposed ward or ward, the guardian ad litem shall consider the ability of the proposed ward or ward to understand and meaningfully participate, the effect of the ~~proposed ward's~~ attendance of the proposed ward or ward on his or her physical or psychological health in relation to the importance of the proceeding, and the ~~proposed ward's~~ expressed desires of the proposed ward or ward. If the proposed ward or ward is unable to attend the hearing because of residency in a nursing home or other facility, physical inaccessibility, or a lack of transportation and if the proposed ward or ward, guardian ad litem, advocate counsel, or other interested person so requests, the court shall hold the hearing in a place where the proposed ward or ward may attend.

SECTION 57. 54.44 (4) (b) of the statutes is amended to read:

54.44 **(4)** (b) *Minor proposed ward or ward.* A minor proposed ward or ward is not required to attend the hearing.

SECTION 58. 54.44 (5) of the statutes is created to read:

54.44 **(5)** PRIVACY OF HEARING. Every hearing under this chapter shall be closed, unless the proposed ward or ward or his or her attorney acting with the proposed ward's or ward's consent or the attorney for a foreign ward moves that it be open. If the hearing is closed, only interested persons, their attorneys, and witnesses may be present.

1 **SECTION 59.** 54.44 (5m) (title) of the statutes is created to read:

2 54.44 **(5m)** (title) PARTICIPATION BY INTERESTED PERSONS.

3 **SECTION 60.** 54.46 (3) (a) of the statutes, as affected by 2005 Wisconsin Acts 264
4 and 387, is repealed and recreated to read:

5 54.46 **(3)** (a) *Petitioner's attorney fees and costs.* If a guardian is appointed, the
6 court shall award from the ward's income and assets payment of the petitioner's
7 reasonable attorney fees and costs unless the court finds, after considering all of the
8 following, that it would be inequitable to do so:

9 1. The petitioner's interest in the matter, including any conflict of interest that
10 the petitioner may have had in pursuing the guardianship.

11 2. The ability of the ward's estate to pay the petitioner's reasonable attorney
12 fees and costs.

13 3. Whether the guardianship was contested and, if so, the nature of the contest.

14 4. Whether the ward had executed a durable power of attorney under s. 243.07
15 or a power of attorney for health care under s. 155.05 or had engaged in other advance
16 planning for financial and health care decision making.

17 5. Any other factors that the court considers to be relevant.

18 **SECTION 61.** 54.48 of the statutes, as affected by 2005 Wisconsin Acts 264 and
19 387, is amended to read:

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

25 **SECTION 62.** 54.52 (2) of the statutes is amended to read:

54.52 **(2)** At any hearing conducted under this section the court may designate one or more standby guardians of the person or estate whose appointment shall become effective immediately upon the death, unwillingness, or inability to act, or resignation or court's removal of the initially appointed guardian or during a period, as determined by the initially appointed guardian, when the initially appointed guardian ~~or the court~~ is temporarily unable to fulfill his or her duties, including during an extended vacation or illness. The powers and duties of the standby guardian shall be the same as those of the initially appointed guardian. The standby guardian shall receive a copy of the court order establishing or modifying the initial guardianship, and the order designating the standby guardian. Upon assuming office, the standby guardian shall so notify the court. Upon notification, the court shall issue new letters of guardianship that specify that the standby guardianship is permanent or that specify the time period for a limited standby guardianship.

SECTION 63. 54.62 (1) (title) of the statutes is amended to read:

54.62 **(1)** (title) ANNUAL ~~REPORTS~~ ACCOUNTS.

SECTION 64. 54.64 (3) (a) of the statutes is amended to read:

54.64 **(3)** (a) The court adjudicates a ward who was formerly found to be incompetent to be no longer incompetent ~~or a ward who was formerly found to be a spendthrift to be capable of handling his or her income and assets,~~ or terminates the guardianship under sub. (2) (d).

SECTION 65. 54.75 of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

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

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

SECTION 66. 54.93 (1) (b) of the statutes is amended to read:

54.93 **(1)** (b) In this section, "3rd party" ~~is~~ means a person other than a bank, broker, transfer agent or issuer who with respect to a security held by an incompetent or spendthrift effects a transaction otherwise than directly with the incompetent or spendthrift.

SECTION 67. 55.01 (1f) of the statutes is amended to read:

55.01 **(1f)** "Adult–at–risk agency" means the agency designated by the county board of supervisors under ~~s. 55.043 (1)~~ s. 55.043 (1d) to receive, respond to, and investigate reports of abuse, neglect, self–neglect, and financial exploitation under s. 55.043.

SECTION 68. 55.01 (1v) of the statutes, as created by 2005 Wisconsin Acts 264, 387 and 388, is repealed and recreated to read:

55.01 **(1v)** "Degenerative brain disorder" means the loss or dysfunction of brain cells to the extent that the individual is substantially impaired in his or her ability to provide adequately for his or her own care or custody or to manage adequately his or her property or financial affairs.

SECTION 69. 55.01 (2) of the statutes, as affected by 2005 Wisconsin Acts 264 and 388, is repealed and recreated to read:

55.01 **(2)** "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism or another neurological condition closely related to mental retardation or requiring treatment similar to that required for individuals with mental retardation, which has continued or can be expected to

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

SECTION 70. 55.01 (6p) of the statutes is amended to read:

55.01 **(6p)** "Protective placement unit" means a ward, wing, or other designated part of a protective placement facility.

SECTION 71. 55.01 (6r) (k) of the statutes is amended to read:

55.01 **(6r)** (k) Any services that, when provided to an individual with developmental disabilities, degenerative brain disorder, serious and persistent mental illness, or other like incapacity, keep the individual safe from abuse, financial exploitation, neglect, or ~~misappropriation of property~~ self–neglect or prevent the individual from experiencing deterioration or from inflicting harm on himself or herself or another person.

SECTION 72. 55.01 (6v) of the statutes, as created by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

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

1 **SECTION 73.** 55.02 of the statutes, as affected by 2005 Wisconsin Acts 264, 387
2 and 388, is repealed and recreated to read:

3 **55.02 Protective services and protective placement: duties. (1)**
4 DEPARTMENT DUTIES. (a) The department shall do all of the following:

5 1. Cooperate with county departments to develop and operate a coordinated,
6 statewide system for protective services and protective placement. The protective
7 services and protective placement system shall be designed to encourage
8 independent living and to avoid protective placement whenever possible.

9 2. Monitor and supervise the implementation and operation of the protective
10 services and protective placement system.

11 3. Provide technical assistance to county departments providing protective
12 services and protective placement.

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

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

16 **(2)** COUNTY DEPARTMENT DUTIES. (a) The chairperson of each county board of
17 supervisors shall designate a county department under s. 46.215, 46.22, 46.23, 51.42,
18 or 51.437 that is providing services in the county on its own or through a joint
19 mechanism with another county department or county to have the responsibility for
20 planning for the provision of protective services and protective placement and for
21 directly providing protective services, protective placement, or both, or entering into
22 a contract under s. 46.036 with a responsible agency for the provision of protective
23 services, protective placement, or both.

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

1. Monitor and evaluate protective services and protective placements.

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

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

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

(3) CORPORATION COUNSEL. The corporation counsel of the county in which the petition is brought may or, if requested by the court, shall assist in conducting proceedings under this chapter.

SECTION 74. 55.03 (1) of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

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

SECTION 75. 55.03 (3) of the statutes is amended to read:

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

SECTION 76. 55.043 (1r) (a) 2. of the statutes is amended to read:

55.043 **(1r)** (a) 2. If an agent or employee of an adult–at–risk agency required to refer under this subsection is the subject of a report, or if the adult–at–risk agency

or an agency under contract with the county department determines that the relationship between the adult–at–risk agency and the agency under contract with the county department would not allow for an unbiased response, the adult–at–risk agency shall, after taking any action necessary to protect the adult at risk, notify the department. Upon receipt of the notice, the department or a county department under s. 46.215, 46.22, 51.42, or 51.437 designated by the department shall conduct an independent investigation. The powers and duties of a county department making the independent investigation are those given to an adult–at–risk agency under ~~pars. (b) to (g)~~ pars. (b) to (d) and sub. (6).

SECTION 77. 55.043 (1r) (b) 2. of the statutes, as affected by 2005 Wisconsin Acts 264 and 388, is repealed and recreated to read:

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

SECTION 78. 55.043 (1r) (c) 2. c. of the statutes, as affected by 2005 Wisconsin Acts 264 and 388, is repealed and recreated to read:

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

SECTION 79. 55.043 (4) (am) of the statutes is amended to read:

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

SECTION 80. 55.043 (4) (b) 1. of the statutes, as affected by 2005 Wisconsin Acts 264 and 388, is amended to read:

55.043 **(4)** (b) 1. Initiate a protective services~~,~~ action or contact an investigative agency, as appropriate.

SECTION 81. 55.043 (4) (b) 2. of the statutes, as affected by 2005 Wisconsin Acts 264 and 388, is repealed and recreated to read:

55.043 **(4)** (b) 2. Take appropriate emergency action, including provision of emergency protective services under s. 55.13 or emergency protective placement under s. 55.135, if the adult–at–risk agency considers that the emergency action is in the best interests of the adult at risk and the emergency action is the least restrictive appropriate intervention.

SECTION 82. 55.043 (6) (bt) 8. of the statutes is amended to read:

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

SECTION 83. 55.055 (1) (a) of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

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

1 **SECTION 84.** 55.055 (1) (b) of the statutes, as affected by 2005 Wisconsin Acts
2 264 and 387, is repealed and recreated to read:

3 55.055 **(1)** (b) The guardian of an individual who has been adjudicated
4 incompetent may consent to the individual's admission to a nursing home or other
5 facility not specified in par. (a) for which protective placement is otherwise required
6 for a period not to exceed 60 days. In order to be admitted under this paragraph, the
7 individual must be in need of recuperative care or be unable to provide for his or her
8 own care or safety so as to create a serious risk of substantial harm to himself or
9 herself or others. Prior to providing that consent, the guardian shall review the
10 ward's right to the least restrictive residential environment and consent only to
11 admission to a nursing home or other facility that implements that right. Following
12 the 60–day period, the admission may be extended for an additional 60 days if a
13 petition for protective placement under s. 55.075 has been brought, or, if no petition
14 for protective placement under s. 55.075 has been brought, for an additional 30 days
15 for the purpose of allowing the initiation of discharge planning for the individual.
16 Admission under this paragraph is not permitted for an individual for whom the
17 primary purpose of admission is for treatment or services related to the individual's
18 mental illness or developmental disability.

19 **SECTION 85.** 55.055 (3) (c) of the statutes is repealed and recreated to read:

20 55.055 **(3)** (c) Comply with s. 55.135, if the individual satisfies all criteria under
21 s. 55.135 (1) and emergency placement in that home, nursing home, or other facility
22 or another home, nursing home, or other facility is necessary, or file a petition for
23 protective placement under s. 55.075. The court, with the permission of the home,
24 nursing home, or other facility, may order the individual to remain in the home,

nursing home, or other facility pending the outcome of the protective placement proceedings.

SECTION 86. 55.06 of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

55.06 Protective services and protective placement; eligibility. To be eligible for court–ordered protective placement or protective services, an individual shall have filed a petition to transfer a foreign guardianship, whether present in the state or not, or shall be a resident of the state; and shall have a need for protective placement or protective services. The individual shall have attained the age of 18, but an individual who is alleged to have a developmental disability may receive protective placement or protective services upon attaining the age of 14. Protective placement or protective services may be ordered under this chapter only for an individual who is adjudicated incompetent in this state or for a minor who is alleged to have a developmental disability, and only if there is a finding of a need for protective placement under s. 55.08 (1), and ss. 55.055 (5), 55.13, and 55.135 are inappropriate or do not apply. A procedure for court–ordered protective placement or protective services may be initiated 6 months before a minor attains age 18.

SECTION 87. 55.075 (1) of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is amended to read:

55.075 **(1)** WHO MAY PETITION. The department, the county department or an agency with which the county department contracts under s. 55.02 (2), a guardian, or an interested person may file a petition for appointment of a guardian and for protective services or protective placement for an ~~the~~ individual. The department shall provide for a schedule of reimbursement for the cost of the proceedings based upon the ability to pay of the proposed ward or individual to be protected.

1 **SECTION 88.** 55.075 (3) of the statutes, as affected by 2005 Wisconsin Acts 264
2 and 387, is amended to read:

3 55.075 **(3)** PETITION FOR GUARDIANSHIP; REVIEW OF INCOMPETENCY. A petition for
4 guardianship described in s. 55.08 (1) (b) or (2) (a) shall be heard prior to ordering
5 protective placement or protective services. If the individual is ~~incompetent~~
6 adjudicated incompetent in this state more than 12 months before the filing of an
7 application for protective placement or protective services on his or her behalf, the
8 court shall review the finding of incompetency.

9 **SECTION 89.** 55.075 (5) (a) of the statutes, as affected by 2005 Wisconsin Acts
10 264 and 387, is repealed and recreated to read:

11 55.075 **(5)** (a) A petition under sub. (1) shall be filed in the county of residence
12 of the individual to be protected, as determined under s. 51.40 or by the individual's
13 guardian or where the individual is physically present due to extraordinary
14 circumstances including those specified under s. 51.22 (4). If an individual has not
15 received services under this chapter or ch. 46 or 51 or if an individual has received
16 services under this chapter or ch. 46 or 51 that have been terminated and has
17 established residence in a county other than that in which the individual resided
18 when the services were received, the court may determine the individual's county of
19 residence. The county of residence under this paragraph is the county of
20 responsibility.

21 **SECTION 90.** 55.075 (5) (bm) of the statutes is amended to read:

22 55.075 **(5)** (bm) The court in which a petition is first filed under ~~par. (c)~~ par. (a)
23 shall determine venue. The court shall direct that proper notice be given to any
24 potentially responsible or affected county. Proper notice is given to a potentially
25 responsible or affected county if written notice of the proceeding is sent by certified

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

SECTION 91. 55.08 (1) (b) of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

55.08 **(1)** (b) The individual is a minor who is not alleged to have a developmental disability and on whose behalf a petition for guardianship has been submitted, or is an adult who has been determined to be incompetent by a circuit court.

SECTION 92. 55.08 (1) (c) of the statutes, as affected by 2005 Wisconsin Acts 264 and 388, is repealed and recreated to read:

55.08 **(1)** (c) As a result of developmental disability, degenerative brain disorder, serious and persistent mental illness, or other like incapacities, the individual is so totally incapable of providing for his or her own care or custody as to create a substantial risk of serious harm to himself or herself or others. Serious harm may be evidenced by overt acts or acts of omission.

SECTION 93. 55.08 (2) (a) of the statutes is amended to read:

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

SECTION 94. 55.08 (2) (b) of the statutes is amended to read:

55.08 **(2)** (b) As a result of developmental ~~disabilities~~ disability, degenerative brain disorder, serious and persistent mental illness, or other like incapacities, the individual will incur a substantial risk of physical harm or deterioration or will present a substantial risk of physical harm to others if protective services are not provided.

SECTION 95. 55.09 (1) of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is amended to read:

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

SECTION 96. 55.10 (4) (intro.) of the statutes is amended to read:

55.10 **(4)** RIGHTS. (intro.) ~~The~~ Sections 54.42, 54.44, and 54.46 and the following provisions apply to all hearings under this chapter except transfers of placement under s. 55.15 and summary hearings under ss. 55.18 (3) (d) and 55.19 (3) (d):

SECTION 97. 55.10 (4) (a) of the statutes is amended to read:

55.10 **(4)** (a) *Counsel; costs.* The individual sought to be protected has the right to counsel whether or not the individual is present at the hearing on the petition. The court shall require representation by full legal counsel whenever the petition alleges that the individual is not competent to refuse psychotropic medication under s. 55.14, the individual sought to be protected requested such representation at least 72 hours before the hearing, the guardian ad litem or any other person states that the individual sought to be protected is opposed to the petition, or the court determines that the interests of justice require it. If the individual sought to be protected or any other person on his or her behalf requests but is unable to obtain legal counsel, the court shall appoint legal counsel. Counsel shall be provided at public expense, as provided under s. 967.06 and ch. 977, if the individual is indigent. If the individual sought to be protected is an adult who is indigent, and if counsel was not appointed under s. 977.08, the county in which the hearing is held is liable for any fees due the individual's legal counsel. If the individual sought to be protected is represented by counsel appointed under s. 977.08 in a proceeding for the appointment of a guardian under ~~s. 880.33~~ ch. 54, the court shall order the counsel appointed under s. 977.08 to represent under this section the individual sought to be protected.

SECTION 98. 55.10 (4) (b) of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

55.10 **(4)** (b) *Guardian ad litem; costs.* The court shall in all cases require the appointment of an attorney as guardian ad litem in accordance with s. 757.48 (1). The responsibilities and duties of a guardian ad litem on behalf of a proposed ward or individual who is alleged incompetent specified in s. 54.40 apply to a guardian ad litem appointed in a proceeding for protective services or protective placement on

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

12 **SECTION 99.** 55.11 (1) (c) of the statutes, as affected by 2005 Wisconsin Acts 264
13 and 387, is repealed and recreated to read:

14 55.11 **(1)** (c) A medical, psychological, social, vocational, and educational
15 evaluation and review, if necessary, and any recommendations for or against
16 maintenance of partial legal rights as provided in s. 54.25 (2). The evaluation and
17 review shall include recommendations for the individual's placement that are
18 consistent with the requirements of s. 55.12 (3), (4), and (5).

19 **SECTION 100.** 55.12 (6) of the statutes is amended to read:

20 55.12 **(6)** If the county department or agency with which it contracts under s.
21 55.02 (2) proposes to provide protective placement to an individual who has a
22 developmental disability in an intermediate facility or a nursing facility under an
23 order under this section, the county department or agency, or, if s. 46.279 (4m) applies
24 to the individual, the department or the department's contractor shall develop a plan
25 under s. 46.279 (4) and furnish the plan to the county department or agency and to

the individual's guardian. The county department or agency with which it contracts under s. 55.02 (2) shall ~~place~~ provide protective placement to the individual in a noninstitutional community setting in accord with the plan unless the court finds that protective placement in the intermediate facility or nursing facility is the most integrated setting, as defined in s. 46.279 (1) (bm), that is appropriate to the needs of the individual, taking into account information presented by all affected parties.

SECTION 101. 55.13 (2) of the statutes is amended to read:

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

SECTION 102. 55.135 (1) of the statutes, as affected by 2005 Wisconsin Acts 253, 264 and 388, is repealed and recreated to read:

55.135 **(1)** If, from personal observation of, or a reliable report made by a person who identifies himself or herself to, a sheriff, police officer, fire fighter, guardian, if any, or authorized representative of a county department or an agency with which it contracts under s. 55.02 (2), it appears probable that an individual is so totally

1 incapable of providing for his or her own care or custody as to create a substantial
2 risk of serious physical harm to himself or herself or others as a result of
3 developmental disability, degenerative brain disorder, serious and persistent mental
4 illness, or other like incapacities if not immediately placed, the individual who
5 personally made the observation or to whom the report is made may take into custody
6 and transport the individual to an appropriate medical or protective placement
7 facility. The person making emergency protective placement shall prepare a
8 statement at the time of detention providing specific factual information concerning
9 the person's observations or reports made to the person and the basis for emergency
10 placement. The statement shall be filed with the director of the facility and with any
11 petition under s. 55.075. At the time of emergency protective placement the
12 individual shall be informed by the director of the facility or the director's designee,
13 orally and in writing, of his or her right to contact an attorney and a member of his
14 or her immediate family and the right to have an attorney provided at public
15 expense, as provided under s. 967.06 and ch. 977, if the individual is a minor or is
16 indigent. The director or designee shall also provide the individual with a copy of the
17 statement by the person making emergency protective placement.

18 **SECTION 103.** 55.135 (4) of the statutes is amended to read:

19 55.135 **(4)** When an individual is detained under this section, a petition shall
20 be filed under s. 55.075 by the person making the emergency protective placement
21 and a preliminary hearing shall be held within 72 hours, excluding Saturdays,
22 Sundays and legal holidays, to establish probable cause to believe the grounds for
23 protective placement under s. 55.08 (1). The sheriff or other person making
24 emergency protective placement under sub. (1) shall provide the individual with
25 written notice and orally inform him or her of the time and place of the preliminary

hearing. If the detainee is not under guardianship, a petition for guardianship shall accompany the protective placement petition, except in the case of a minor who is alleged to ~~be developmentally disabled~~ have a developmental disability. In the event that protective placement is not appropriate, the court may elect to treat a petition for protective placement as a petition for commitment under s. 51.20 or 51.45 (13).

SECTION 104. 55.135 (5) of the statutes is amended to read:

55.135 **(5)** Upon finding probable cause under sub. (4), the court may order temporary protective placement up to 30 days pending the hearing for a permanent protective placement, or the court may order such protective services as may be required. If the court orders under this subsection an individual who has a developmental disability to receive temporary protective placement in an intermediate facility or in a nursing facility, and if at the hearing for permanent protective placement the court orders that the individual be ~~provide~~ provided protective placement, the court may, before commencement of permanent protective placement, extend the temporary protective placement order for not more than 90 days if necessary for the county department that is participating in the program under s. 46.278 or, if s. 46.279 (4m) applies, the department's contractor to develop the plan required under s. 46.279 (4).

SECTION 105. 55.14 (1) (b) (intro.) of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

55.14 **(1)** (b) (intro.) "Not competent to refuse psychotropic medication" means that, as a result of developmental disability, degenerative brain disorder, serious and persistent mental illness, or other like incapacities, and after the advantages and disadvantages of and alternatives to accepting the particular psychotropic medication have been explained to an individual, one of the following is true:

1 **SECTION 106.** 55.14 (2) of the statutes, as created by 2005 Wisconsin Acts 264
2 and 387, is repealed and recreated to read:

3 55.14 **(2)** Involuntary administration of psychotropic medication, with consent
4 of a guardian, may be ordered as a protective service only under the requirements
5 of this section.

6 **SECTION 107.** 55.14 (3) (c) of the statutes, as created by 2005 Wisconsin Acts
7 264 and 387, is repealed and recreated to read:

8 55.14 **(3)** (c) The individual has refused to take the psychotropic medication
9 voluntarily or attempting to administer psychotropic medication to the individual
10 voluntarily is not feasible or is not in the best interests of the individual. If the
11 petition alleges that the individual has refused to take psychotropic medication
12 voluntarily, the petition shall identify the reasons, if known, for the individual's
13 refusal to take psychotropic medication voluntarily. The petition also shall provide
14 evidence showing that a reasonable number of documented attempts to administer
15 psychotropic medication voluntarily using appropriate interventions that could
16 reasonably be expected to increase the individual's willingness to take psychotropic
17 medication voluntarily have been made and have been unsuccessful. If the petition
18 alleges that attempting to administer psychotropic medications to the individual
19 voluntarily is not feasible or is not in the best interests of the individual, the petition
20 shall identify specific reasons supporting that allegation.

21 **SECTION 108.** 55.14 (3) (e) (intro.) of the statutes, as created by 2005 Wisconsin
22 Acts 264 and 387, is repealed and recreated to read:

23 55.14 **(3)** (e) (intro.) Unless psychotropic medication is administered
24 involuntarily, the individual will incur a substantial probability of physical harm,
25 impairment, injury, or debilitation or will present a substantial probability of

1 physical harm to others. The substantial probability of physical harm, impairment,
2 injury, or debilitation shall be evidenced by one of the following:

3 **SECTION 109.** 55.14 (3) (e) 1. of the statutes, as created by 2005 Wisconsin Acts
4 264 and 387, is repealed and recreated to read:

5 55.14 **(3)** (e) 1. The individual's history of at least 2 episodes, one of which has
6 occurred within the previous 24 months, that indicate a pattern of overt activity,
7 attempts, threats to act, or omissions that resulted from the individual's failure to
8 participate in treatment, including psychotropic medication, and that resulted in a
9 finding of probable cause for commitment under s. 51.20 (7), a settlement agreement
10 approved by a court under s. 51.20 (8) (bg), or commitment ordered under s. 51.20
11 (13).

12 **SECTION 110.** 55.14 (5) of the statutes, as created by 2005 Wisconsin Acts 264
13 and 387, is repealed and recreated to read:

14 55.14 **(5)** The guardian ad litem appointed under s. 55.10 (4) (b) for an
15 individual who is the subject of a petition under this section shall report to the court
16 whether the allegations in the petition required under sub. (3) are true, and whether
17 involuntary administration of psychotropic medication is in the best interests of the
18 individual.

19 **SECTION 111.** 55.14 (6) of the statutes, as created by 2005 Wisconsin Acts 264
20 and 387, is repealed and recreated to read:

21 55.14 **(6)** If requested by an individual who is the subject of a petition under
22 this section or anyone on his or her behalf, the individual has the right at his or her
23 own expense, or if indigent at the expense of the county in which the petition is filed,
24 to secure an independent medical or psychological examination relevant to the issues
25 of whether the allegations in the petition required under sub. (3) are true, and

1 whether involuntary administration of psychotropic medication is in the best
2 interest of the individual, and to present a report of this independent evaluation or
3 the evaluator's personal testimony as evidence at the hearing.

4 **SECTION 112.** 55.14 (7) of the statutes, as created by 2005 Wisconsin Acts 264
5 and 387, is repealed and recreated to read:

6 55.14 **(7)** Upon the filing of a petition under this section, the court shall appoint
7 counsel as required under s. 55.10 (4) (a). A petition under this section shall be heard
8 within 30 days after it is filed.

9 **SECTION 113.** 55.14 (8) (a) of the statutes, as created by 2005 Wisconsin Acts
10 264 and 387, is repealed and recreated to read:

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

23 **SECTION 114.** 55.14 (9) of the statutes, as created by 2005 Wisconsin Acts 264
24 and 387, is repealed and recreated to read:

1 55.14 **(9)** If an individual who is subject to an order under this section is not
2 in compliance with the order because he or she refuses to take psychotropic
3 medication as ordered under the treatment plan, and it is necessary for the
4 individual to be transported to an appropriate facility for forcible restraint for
5 administration of psychotropic medication, the corporation counsel may file with the
6 court a statement of the facts that constitute the basis of the noncompliance of the
7 individual. The statement shall be sworn to be true and shall be based upon the
8 information and belief of the person filing the statement. The statement shall be
9 signed by the individual's guardian and by the director or designee of the county
10 department or an agency with which it contracts under s. 55.02 (2) to develop and
11 administer the treatment plan. Upon receipt of the statement of noncompliance, if
12 the court finds by clear and convincing evidence that the individual has substantially
13 failed to comply with the administration of psychotropic medication as ordered under
14 the treatment plan, the court may issue an order authorizing the sheriff or any other
15 law enforcement agency in the county in which the individual is found or in which
16 it is believed that the individual may be present to take the individual into custody
17 and transport him or her to an appropriate facility for administration of psychotropic
18 medication using forcible restraint, with consent of the guardian.

19 **SECTION 115.** 55.14 (10) of the statutes, as created by 2005 Wisconsin Acts 264
20 and 387, is repealed and recreated to read:

21 55.14 **(10)** Nothing in this section prohibits the involuntary administration of
22 psychotropic medication as an emergency protective service under s. 55.13.

23 **SECTION 116.** 55.14 (11) of the statutes, as created by 2005 Wisconsin Acts 264
24 and 387, is repealed and recreated to read:

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

SECTION 117. 55.15 (2) of the statutes is amended to read:

55.15 **(2)** WHO MAY TRANSFER. A guardian, a county department or agency with which it contracts under ~~s. 55.03 (2)~~ s. 55.02 (2) that provided protective placement to the individual pursuant to the order of the court, the department, or a protective placement facility may transfer an individual under a protective placement order under the requirements of this section, notwithstanding the fact that a court order has named a specific facility for the protective placement of the individual.

SECTION 118. 55.16 (3) (c) of the statutes is amended to read:

55.16 **(3)** (c) The hearing shall be subject to s. 55.10 ~~(4)~~.

SECTION 119. 55.17 (1) of the statutes is amended to read:

55.17 **(1)** PETITION. An individual, the individual's guardian or guardian ad litem, the department, a county department or agency with which it contracts under s. 55.02 (2), or any other interested person may file a petition at any time for termination of an order for protective placement or protective services. The petition shall be served on the individual; the individual's guardian; the individual's attorney and guardian ad litem, if any; and the county department. The petition shall allege that the individual no longer meets the standards under s. 55.08 (1) for court–ordered protective placement or under s. 55.08 (2) for court–ordered protective services.

SECTION 120. 55.175 of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

1 **55.175 Discharge from protective placement.** Prior to discharge of an
2 individual from a protective placement, the county department that is responsible
3 for protective placement shall review the need for continuing protective services,
4 continuation of full or limited guardianship, or, if the individual has no guardian,
5 guardianship. If the county department's recommendation includes a course of
6 action for which court approval would be required, the county department shall
7 make the recommendation to the court. Prior to discharge of the individual from any
8 mental health institute or center for the developmentally disabled, the department
9 shall make the review under s. 51.35 (7).

10 **SECTION 121.** 55.18 (1) (b) of the statutes is amended to read:

11 55.18 **(1)** (b) If, following an annual review of an individual's status under par.
12 (a), the individual or the individual's guardian or guardian ad litem requests
13 modification or termination of the individual's protective placement and a hearing
14 under the requirements of s. 55.10 ~~(1)~~ is provided, or if a hearing under the
15 requirements of s. 55.10 ~~(4)~~ is provided pursuant to a petition for modification or
16 termination of the protective placement, the county is not required to initiate a
17 subsequent review of the individual's status 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 122.** 55.18 (2) (a) of the statutes is amended to read:

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

23 **SECTION 123.** 55.18 (2) (b) 6. of the statutes is amended to read:

INS. AA2-1

55.18 **(2)** (b) 6. The right to a hearing under sub. (3) (d) and an explanation that the individual or the individual's guardian may request a hearing that meets the requirements under s. 55.10 ~~(4)~~. INSERT AA2-2

SECTION 124. 55.18 (2) (f) 4. of the statutes is amended to read:

55.18 **(2)** (f) 4. The individual or the individual's guardian or guardian ad litem requests a ~~full due process~~ hearing ~~under this section~~ that meets the requirements of s. 55.10 for the individual. INS. AA2-3

SECTION 125. 55.18 (3) (a) of the statutes is amended to read:

55.18 **(3)** (a) The court that ordered protective placement for an individual under s. 55.12 shall review the report of the guardian ad litem under sub. (2) (f), the report filed under sub. (1) (a) 1., and the report required under ~~s. 880.38 (3)~~ s. 54.25 (1) (a).

SECTION 126. 55.18 (3) (d) (intro.) of the statutes is amended to read:

55.18 **(3)** (d) (intro.) The court shall order either a summary hearing or a hearing under the requirements of s. 55.10 ~~(4)~~. A summary hearing shall be held on the record, may be held in court or by other means, including by telephone or videoconference, is not an evidentiary hearing, and does not require attendance by the individual. The court shall hold a hearing under the requirements of s. 55.10 ~~(4)~~ if any of the following apply: INS. AA2-4

SECTION 127. 55.19 (intro.) of the statutes, as created by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

55.19 Annual review of order authorizing involuntary administration of psychotropic medication. (intro.) All of the following shall be performed annually with respect to any individual who is subject to an order under s. 55.14 or

1 an order initially issued under s. 880.33 (4r), 2003 stats., authorizing involuntary
2 administration of psychotropic medication:

3 **SECTION 128.** 55.19 (1) (a) (intro.) of the statutes, as created by 2005 Wisconsin
4 Acts 264 and 387, is repealed and recreated to read:

5 55.19 **(1)** (a) (intro.) The county department of the individual's county of
6 residence shall, except as provided in sub. (1m), review, in compliance with the
7 requirements of this section, the status of each individual who is the subject of the
8 order. The review shall include a visit to the individual and a written evaluation of
9 the physical, mental, and social condition of the individual that is relevant to the
10 issue of the continued need for the order. The review shall be made a part of the
11 permanent record of the individual. The county department shall inform the
12 guardian of the individual of the review at the time the review is made and shall,
13 before completing a report of the review, invite the individual and the guardian to
14 submit comments or information concerning the individual's need for involuntary
15 administration of psychotropic medication or other protective services. Not later
16 than the first day of the 11th month after the initial order is made for an individual,
17 except as provided in par. (b), and at least annually thereafter, the county
18 department shall do all of the following:

19 **SECTION 129.** 55.19 (1) (a) 1. of the statutes, as created by 2005 Wisconsin Acts
20 264 and 387, is repealed and recreated to read:

21 55.19 **(1)** (a) 1. File a report of the review with the court that issued the order.
22 The report of the review shall include information on all of the following:

23 a. Whether the individual continues to meet the standards for protective
24 services.

1 b. Whether the individual is not competent to refuse psychotropic medication,
2 as defined in s. 55.14 (1) (b).
3 c. Whether the individual continues to refuse to take psychotropic medication
4 voluntarily; and whether attempting to administer psychotropic medication to the
5 individual voluntarily is not feasible or is not in the best interests of the individual,
6 including all information required to be specified under s. 55.14 (3) (c).
7 d. Whether the individual's condition for which psychotropic medication has
8 been prescribed has been improved by psychotropic medication and the individual
9 has responded positively to psychotropic medication.
10 e. If the petitioner alleged under s. 55.14 (3) (e) 2. that the individual met one
11 of the dangerousness criteria set forth in s. 51.20 (1) (a) 2. a. to e., whether the
12 individual continues to meet the criterion.
13 f. The comments of the individual and the individual's guardian during the
14 performance of the review, as summarized by the county department, and the
15 response of the county department to the comments.
16 g. The comments, if any, of a staff member at the facility at which the individual
17 is placed or receives services or at which psychotropic medication is administered to
18 the individual that are relevant to the review of the continued need for the order.
19 **SECTION 130.** 55.19 (1) (b) of the statutes, as created by 2005 Wisconsin Acts
20 264 and 387, is repealed and recreated to read:
21 55.19 **(1)** (b) If, in an annual review of an individual's status under par. (a), the
22 individual or the individual's guardian or guardian ad litem requests termination of
23 the order and a hearing that meets the requirements of s. 55.10 is provided, or if a
24 hearing under the requirements of s. 55.10 is provided pursuant to a petition for
25 modification or termination of the order, the county department is not required to

initiate a subsequent review under par. (a) until the first day of the 11th month after the date that the court issues a final order after the hearing.

SECTION 131. 55.19 (1) (bm) of the statutes, as created by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

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

SECTION 132. 55.19 (1) (c) of the statutes, as created by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

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

SECTION 133. 55.19 (1m) of the statutes, as created by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

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

SECTION 134. 55.19 (2) (b) 3. of the statutes, as created by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

55.19 **(2)** (b) 3. The right to an evaluation under sub. (3) (b).

SECTION 135. 55.19 (2) (b) 5. of the statutes, as created by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

1 55.19 **(2)** (b) 5. That a termination or modification of the order or modification
2 of the treatment plan for involuntary administration of psychotropic medication may
3 be ordered by the court.

4 **SECTION 136.** 55.19 (2) (b) 6. of the statutes, as created by 2005 Wisconsin Acts
5 264 and 387, is repealed and recreated to read:

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

9 **SECTION 137.** 55.19 (2) (c) of the statutes, as created by 2005 Wisconsin Acts
10 264 and 387, is repealed and recreated to read:

11 55.19 **(2)** (c) Provide the information required under par. (b) to the individual
12 and to the individual's guardian in writing.

13 **SECTION 138.** 55.19 (2) (f) 4. of the statutes, as created by 2005 Wisconsin Acts
14 264 and 387, is repealed and recreated to read:

15 55.19 **(2)** (f) 4. The individual or the individual's guardian or guardian ad litem
16 requests a hearing that meets the requirements of s. 55.10 for the individual.

17 **SECTION 139.** 55.19 (2) (g) of the statutes, as created by 2005 Wisconsin Acts
18 264 and 387, is repealed and recreated to read:

19 55.19 **(2)** (g) Certify to the court that he or she has complied with the
20 requirements of pars. (a) to (e).

21 **SECTION 140.** 55.19 (3) (b) (intro.) of the statutes, as created by 2005 Wisconsin
22 Acts 264 and 387, is repealed and recreated to read:

23 55.19 **(3)** (b) (intro.) The court shall order an evaluation, by a person who is not
24 an employee of the county department, of the physical, mental, and social condition
25 of the individual that is relevant to the issue of the continued need for the order under

1 s. 55.14 and that is independent of the review performed under sub. (1) (a) if any of
2 the following apply:

3 **SECTION 141.** 55.19 (3) (bm) of the statutes, as created by 2005 Wisconsin Acts
4 264 and 387, is repealed and recreated to read:

5 55.19 **(3)** (bm) If an evaluation is ordered under par. (b), it shall be performed
6 at the expense of the individual or, if the individual is indigent, at the expense of the
7 county of residence under sub. (1) (a).

8 **SECTION 142.** 55.19 (3) (br) of the statutes, as created by 2005 Wisconsin Acts
9 264 and 387, is repealed and recreated to read:

10 55.19 **(3)** (br) The court shall order that the county department obtain any
11 other necessary information with respect to the individual.

12 **SECTION 143.** 55.19 (3) (d) (intro.) of the statutes, as created by 2005 Wisconsin
13 Acts 264 and 387, is repealed and recreated to read:

14 55.19 **(3)** (d) (intro.) The court shall order either a summary hearing or a
15 hearing that meets the requirements of s. 55.10. A summary hearing shall be held
16 on the record, may be held in court or by other means, including by telephone or
17 videoconference, is not an evidentiary hearing, and does not require attendance by
18 the individual. The court shall hold a hearing under the requirements of s. 55.10 if
19 any of the following apply:

20 **SECTION 144.** 55.19 (3) (e) 1. of the statutes, as created by 2005 Wisconsin Acts
21 264 and 387, is repealed and recreated to read:

22 55.19 **(3)** (e) 1. If the court finds that the individual continues to meet the
23 standards for an order under s. 55.14 (8), the court shall order the continuation of the
24 order. The court shall include in the decision the information relied upon as a basis
25 for continuation of the order and shall make findings based on the requirements for

allegations of a petition under s. 55.14 (3) in support of the need for continuation of the order.

SECTION 145. 55.19 (3) (e) 2. of the statutes, as created by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

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

SECTION 146. 55.19 (3) (e) 3. of the statutes, as created by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

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

SECTION 147. 55.195 (intro.) of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

1 **55.195 Duties of guardian ad litem for protective services reviews.**
2 (intro.) In any review of a protective services order made under s. 55.12, except as
3 provided in s. 55.19 (2), the guardian ad litem shall do all of the following:

4 **SECTION 148.** 55.195 (4) of the statutes is amended to read:

5 55.195 **(4)** Review the annual report and relevant reports on the ward's
6 condition and ~~placement~~ protective services.

7 **SECTION 149.** 55.195 (5) of the statutes is amended to read:

8 55.195 **(5)** Review the ward's condition, ~~placement~~ protective services, and
9 rights with the guardian.

10 **SECTION 150.** 55.195 (6) of the statutes is amended to read:

11 55.195 **(6)** If relevant, report to the court that the ward objects to the finding
12 of continuing incompetency, the present or proposed ~~placement~~ protective services,
13 the position of the guardian, or the recommendation of the guardian ad litem as to
14 the best interests of the ward or if there is ambiguity about the ward's position on
15 these matters.

16 **SECTION 151.** 55.22 (2) of the statutes, as affected by 2005 Wisconsin Acts 264
17 and 387, 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 152.** 146.40 (1) (am) of the statutes is repealed.

24 **SECTION 153.** 146.82 (2) (a) 7. of the statutes is repealed and recreated to read:

146.82 **(2)** (a) 7. To an elder–adult–at–risk agency designated under s. 46.90 (2) or other investigating agency under s. 46.90 for purposes of s. 46.90 (4) and (5) or to an adult–at–risk agency designated under s. 55.043 (1d) for purposes of s. 55.043. The health care provider may release information by initiating contact with the elder–adult–at–risk agency or adult–at–risk agency without receiving a request for release of the information from the elder–adult–at–risk agency or adult–at–risk agency.

SECTION 154. 560.9811 (1) of the statutes is amended to read:

560.9811 **(1)** In this section, "~~mental illness~~ serious and persistent mental illness" has the meaning given in s. 51.01 (14t).

SECTION 155. 609.65 (1) (intro.) of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

609.65 **(1)** (intro.) If an enrollee of a limited service health organization, preferred provider plan, or defined network plan is examined, evaluated, or treated for a nervous or mental disorder pursuant to a court order under s. 880.33 (4m) or (4r), 2003 stats., an emergency detention under s. 51.15, a commitment or a court order under s. 51.20, an order for protective placement or protective services under ch. 55, an order under s. 55.14 or 55.19 (3) (e), or an order under ch. 980, then, notwithstanding the limitations regarding participating providers, primary providers, and referrals under ss. 609.01 (2) to (4) and 609.05 (3), the limited service health organization, preferred provider plan, or defined network plan shall do all of the following:

SECTION 156. 757.69 (1) (h) of the statutes, as affected by 2005 Wisconsin Acts 264 and 387, is repealed and recreated to read:

757.69 **(1)** (h) Hear petitions for commitment and conduct probable cause hearings under ss. 51.20, 51.45, 55.13, and 55.135, conduct reviews of guardianships under ch. 54 and reviews of protective placements and protective services under ch. 55, advise a person alleged to be mentally ill of his or her rights under the United States and Wisconsin constitutions, and, if the person claims or appears to be unable to afford counsel, refer the person to the authority for indigency determinations specified under s. 977.07 (1) or, if the person is a child, refer that child to the state public defender who shall appoint counsel for the child without a determination of indigency, as provided in s. 48.23 (4).

SECTION 157. 813.123 (2) (b) of the statutes is amended to read:

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

SECTION 158. 813.123 (3) (b) of the statutes, as affected by 2005 Wisconsin Acts 387 and 388, is repealed and recreated to read:

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

SECTION 159. 813.123 (4) (a) (intro.) of the statutes, as affected by 2005 Wisconsin Acts 264 and 388, is repealed and recreated to read:

813.123 **(4)** (a) (intro.) Unless the individual at risk, guardian, or guardian ad litem consents in writing and the judge or circuit court commissioner agrees that the

contact is in the best interests of the individual at risk, a judge or circuit court commissioner shall issue a temporary restraining order, as specified in par. (ar), if all of the following occur:

SECTION 160. 813.123 (4) (a) 2. a. of the statutes, as affected by 2005 Wisconsin Acts 264 and 388, is repealed and recreated to read:

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

SECTION 161. 813.123 (4) (ar) 1. of the statutes is amended to read:

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

SECTION 162. 813.123 (5) (a) (intro.) of the statutes, as affected by 2005 Wisconsin Acts 264 and 388, is repealed and recreated to read:

813.123 **(5)** (a) (intro.) Unless the individual at risk, guardian, or guardian ad litem consents in writing to a contact and the judge agrees that the contact is in the best interests of the individual at risk, a judge may grant an injunction ordering the respondent as specified in par. (ar), if all of the following occur:

SECTION 163. 813.123 (5) (a) 3. b. of the statutes, as affected by Wisconsin Acts 264 and 388, is amended to read:

813.123 **(5)** (a) 3. b. That the respondent has interfered with the delivery ~~individual at risk~~ of protective services to or a protective placement of the individual at risk under ch. 55 after the offer of protective services or protective placement has been made and the individual at risk or his or her guardian, if any, has consented to receipt of the protective services or protective placement; or that the respondent has interfered with the delivery of services to an elder adult at risk under s. 46.90 (5m).

SECTION 164. 813.123 (5) (ar) 1. of the statutes is amended to read:

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

SECTION 165. 813.123 (5) (c) 1. of the statutes is amended to read:

813.123 **(5)** (c) 1. An injunction under this subsection is effective according to its terms, but for not more than 4 years.

SECTION 166. 813.123 (6) (c) of the statutes, as affected by 2005 Wisconsin Acts 264 and 388, is repealed and recreated to read:

813.123 **(6)** (c) That the respondent interfered with or, based on prior conduct of the respondent, may interfere with an investigation of the elder adult at risk under s. 46.90 (5), an investigation of the adult at risk under s. 55.043, the delivery of protective services to or a protective placement of the individual at risk under ch. 55, or the delivery of services to the elder adult at risk under s. 46.90 (5m); or that the respondent engaged in, or threatened to engage in, the abuse, financial exploitation,

neglect, stalking, or harassment of an individual at risk or mistreatment of an animal.

SECTION 167. 813.123 (7) of the statutes, as affected by Wisconsin Acts 264 and 388, is amended to read:

813.123 **(7)** INTERFERENCE ORDER. Any order under ~~or ch. 55~~ sub. (4) (ar) 1. or 2. or (5) (ar) 1. or 2. also shall prohibit the respondent from intentionally preventing a representative or employee of the county protective services agency from meeting, communicating, or being in visual or audio contact with the adult at risk, except as provided in the order.

SECTION 168. 940.285 (1m) of the statutes, as created by 2005 Wisconsin Act 388, is amended to read:

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

SECTION 169. 940.295 (1) (cr) of the statutes is created to read:

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

SECTION 170. 940.295 (1) (hr) of the statutes is created to read:

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

SECTION 171. Effective date.

(1) This act takes effect on the first day of the first month beginning after publication.

(END)

ASSEMBLY AMENDMENT 1,

TO 2007 ASSEMBLY BILL 279

AA1-1

May 14, 2007 – Offered by Representative TOWNSEND.

At the locations indicated, amend the bill as follows:

1. Page 18, line 19: delete "~~apply~~ petition" and substitute "apply".

(END)

ASSEMBLY AMENDMENT 2,

TO 2007 ASSEMBLY BILL 279

May 14, 2007 – Offered by Representative TOWNSEND.

At the locations indicated, amend the bill as follows:

AA2-1

1. Page 47, line 14: on lines 14 and 15, delete "~~(4)~~" and substitute "(2) to (4)".

2. Page 48, line 3: delete "~~(4)~~" and substitute "(2) to (4)". AA 2-2

3. Page 48, line 7: after "55.10" insert "(2) to (4)". AA 2-3

AA2-4

4. Page 48, line 15: on lines 15 and 18, delete "~~(4)~~" and substitute "(2) to (4)".

(END)