

**Kennedy, Debora**

---

**From:** Betsy Abramson [abramson@mailbag.com]  
**Sent:** Friday, October 06, 2006 8:32 AM  
**To:** Kennedy, Debora; Rose, Laura  
**Subject:** SB 731 - two answers

Well, am working on the Dianne two questions and the one venue. In the meantime, I have two answers to our questions.

For 54.36(1) Examination of proposed ward. We had some discussion about why once in that paragraph the word [physician's] "statement" is used and at least six other times it's "report." The elder law gang said change the word "statement" to "report" - i.e., - all should say "report."

In 46.90(6) (b)2 and 3 and its counterparts 55.043(1m)(b)2 and 3, the provisions permit ("may") the counties to "interview" the individual-at-risk, **IN PRIVATE TO THE EXTENT PRACTICABLE**, with or w/o the consent of the guardian or agent under an activated health care poa. Under the provision right above or below it, the provision permits the counties to "observe" the individual-at-risk, with or w/o the consent of blah blah. You asked whether **BOTH** the interview and observing should be "private to the extent practicable." Jane and I talked about it. We like them the way they are - interview in private (if practicable), but observe just like it is. So, no need to touch that one.

Will let you know when I get other answers. Always fun to be with you both. I have decided that when you were both little girls, you must have really studied those Highlights magazines in dentists' offices where they have two very very similar pictures and you're supposed to figure out what's different in the second one. Aha! This tree's branch has four veins showing and the other one has five! Or this girl's hair has the ribbon on the top and the other one has the ribbon off to the side, or whatever. Is that when you knew you'd be good at this? B/c I could never see those things - of course was usually fretting about maybe having cavities from eating too many fermented apricots.

:)

Bets

Betsy J. Abramson  
Attorney / Elder Law Consultant  
520 Miller Ave.  
Madison, WI 53704  
(608) 332-7867  
[abramson@mailbag.com](mailto:abramson@mailbag.com)

**Kennedy, Debora**

---

**From:** Betsy Abramson [abramson@mailbag.com]  
**Sent:** Friday, October 06, 2006 10:09 AM  
**To:** Kennedy, Debora; Rose, Laura  
**Subject:** Fw: Another Guard/APS-related reconciliation question

So, keep the "therapeutic value" in 51.20(7)(d). Does that give us the answers from Dianne we need? I think then, we're just waiting on the venue/county of responsibility. And I believe Laura was going to ask Nancy Rottier something about effective dates.

Ta-ta-for-now.  
BA

Betsy J. Abramson  
Attorney / Elder Law Consultant  
520 Miller Ave.  
Madison, WI 53704  
(608) 332-7867  
[abramson@mailbag.com](mailto:abramson@mailbag.com)

----- Original Message -----

**From:** Dianne Greenley  
**To:** Betsy Abramson  
**Sent:** Friday, October 06, 2006 9:52 AM  
**Subject:** RE: Another Guard/APS-related reconciliation question

I'd like to keep therapeutic value.  
FYI – I'm out of town from this afternoon until Oct 24.

**Dianne Greenley**  
**Supervising Attorney**  
**DISABILITY RIGHTS WISCONSIN**  
131 West Wilson Street, Suite 700  
Madison, WI 53703  
608 267-0214 Voice  
608 267-0368 Fax  
800 928-8778 *consumers & family only*  
888 758-6049 TTY  
[dianneg@drwi.org](mailto:dianneg@drwi.org)  
*\*formerly Wisconsin Coalition for Advocacy*

PLEASE NOTE NEW AGENCY NAME, E-MAIL ADDRESS, AND TTY NUMBER

---

**From:** Betsy Abramson [mailto:[abramson@mailbag.com](mailto:abramson@mailbag.com)]  
**Sent:** Wednesday, October 04, 2006 10:30 PM  
**To:** Dianne Greenley  
**Cc:** [debora.kennedy@legis.state.wi.us](mailto:debora.kennedy@legis.state.wi.us); [laura.rose@legis.state.wi.us](mailto:laura.rose@legis.state.wi.us)  
**Subject:** Another Guard/APS-related reconciliation question

Dianne: Would have asked you this question today at e-health but had an emergency and couldn't come. Re: psych meds  
Act 264 (AB 785) retains 51.20(7)(d) current law about meds having "therapeutic value"  
<http://www.legis.state.wi.us/2005/data/acts/05Act264.pdf> (search for "therapeutic" and you'll find it.

Act 387 (SB 731) - deletes the "therapeutic value" language in 51.20(7)(d) on page 8.  
<http://www.legis.state.wi.us/2005/data/acts/05Act387.pdf>

Because Act 387 is later, it will be the law - i.e., deleting the "therapeutic value" language. Are you ok with that? Otherwise, am working with Debora and Laura on revision of reconciliation bill - and we could make some changes - maybe....

Thoughts?

Thanks.

Bets

Betsy J. Abramson  
Attorney / Elder Law Consultant  
520 Miller Ave.  
Madison, WI 53704  
(608) 332-7867  
[abramson@mailbag.com](mailto:abramson@mailbag.com)

**Kennedy, Debora**

---

**From:** Betsy Abramson [abramson@mailbag.com]  
**Sent:** Friday, October 06, 2006 9:55 AM  
**To:** Kennedy, Debora; Rose, Laura  
**Subject:** Fw: #2: Another Guard/APS-related reconciliation question

One more answer iin - in 55.14(9) the word should be changed to MAY, not shall as is currently there. Corp Counsel should, according to Dianne, have discretion, not be required to file this thing.  
On we go!  
BA

Betsy J. Abramson  
Attorney / Elder Law Consultant  
520 Miller Ave.  
Madison, WI 53704  
(608) 332-7867  
abramson@mailbag.com

----- Original Message -----

**From:** Dianne Greenley  
**To:** Betsy Abramson  
**Sent:** Friday, October 06, 2006 9:35 AM  
**Subject:** RE: #2: Another Guard/APS-related reconciliation question

I think it should be may –s o corp counsel has discretion about whether to file – it may not always be a good idea.

**Dianne Greenley**  
**Supervising Attorney**  
**DISABILITY RIGHTS WISCONSIN**  
131 West Wilson Street, Suite 700  
Madison, WI 53703  
608 267-0214 Voice  
608 267-0368 Fax  
800 928-8778 *consumers & family only*  
888 758-6049 TTY  
dianneg@drwi.org  
*\*formerly Wisconsin Coalition for Advocacy*

PLEASE NOTE NEW AGENCY NAME, E-MAIL ADDRESS, AND TTY NUMBER

---

**From:** Betsy Abramson [mailto:abramson@mailbag.com]  
**Sent:** Friday, October 06, 2006 9:06 AM  
**To:** Dianne Greenley  
**Cc:** laura.rose@legis.state.wi.us; debora.kennedy@legis.state.wi.us  
**Subject:** #2: Another Guard/APS-related reconciliation question

Dianne: In addition to the question I sent you on Wed., below, about whether or not to keep the "therapeutic value" in the standard for the invol admin of psych meds, here's another (the LAST question - at least from this go-round....) - for some reason questoin came up as to whether the capitalized word below should be "shall" or "may." I'm thinking "shall." And you?

(9) If an individual who is subject to an order under this section is not in compliance with the order b/c he or she

refuses to take psychotropic medication as order under the treatment plan, and it is necessary for the individual to be transported to an appropriate facility for forcible restraint for administration of psychotropic medication, the corporation counsel **SHALL** file with the court a statement of the facts which constitute basis for the noncompliance of the individual. The statement shall yada yada. Upon receive of the statement of noncompliance, if the court finds by clear and convincing evidence that the ind. has substantially failed to comply....the court may issue an order authorizing the sheriff or any other .....to take the individua into custody and transport....for admin of psych med using forcible restraint, with consent of the guardian.

So, "shall" is right? Thanks. Earlier asked question below.

**Sent:** Wednesday, October 04, 2006 10:29 PM

**Subject:** Another Guard/APS-related reconciliation question

Dianne: Would have asked you this question today at e-health but had an emergency and couldn't come. Re: psych meds

Act 264 (AB 785) retains 51.20(7)(d) current law about meds having "therapeutic value"

<http://www.legis.state.wi.us/2005/data/acts/05Act264.pdf> (search for "therapeutic" and you'll find it.

Act 387 (SB 731) - deletes the "therapeutic value" language in 51.20(7)(d) on page 8.

<http://www.legis.state.wi.us/2005/data/acts/05Act387.pdf>

Because Act 387 is later, it will be the law - i.e., deleting the "therapeutic value" language. Are you ok with that? Otherwise, am working with Debora and Laura on revision of reconciliation bill - and we could make some changes - maybe....

Thoughts?

Thanks.

Bets

Betsy J. Abramson  
Attorney / Elder Law Consultant  
520 Miller Ave.  
Madison, WI 53704  
(608) 332-7867  
[abramson@mailbag.com](mailto:abramson@mailbag.com)

**Kennedy, Debora**

---

**From:** Bruce Tammi [bruce@brucetammi.com]  
**Sent:** Thursday, October 05, 2006 11:13 AM  
**To:** 'Betsy Abramson'; 'Jim Jaeger'; 'beckerhickey\_bjb'; 'Barbara Hughes'  
**Cc:** Kennedy, Debora; Rose, Laura  
**Subject:** RE: G Reform Q - doctor's statement/report

It was my idea to change from statement to report. The term report is used in most other civil cases to identify professional opinion statements reduced to writing.

**Kennedy, Debora**

**From:** Barbara J. Becker [beckerhickey\_bjb@sbcglobal.net]  
**Sent:** Thursday, October 05, 2006 10:31 AM  
**To:** 'Betsy Abramson'; 'Jim Jaeger'; 'Barbara Hughes'; bruce@brucetammi.com  
**Cc:** Kennedy, Debora; Rose, Laura  
**Subject:** RE: G Reform Q - doctor's statement/report

Use report to make it clear—Barbara Becker

**From:** Betsy Abramson [mailto:abramson@mailbag.com]  
**Sent:** Wednesday, October 04, 2006 10:31 PM  
**To:** Betsy Abramson; Jim Jaeger; beckerhickey\_bjb; Barbara Hughes; bruce@brucetammi.com  
**Cc:** debora.kennedy@legis.state.wi.us; laura.rose@legis.state.wi.us  
**Subject:** Re: G Reform Q - doctor's statement/report

Re-send - with Bruce Tammi's new e-mail address. Please reply to all of THESE. Thanks. BA

Betsy J. Abramson  
 Attorney / Elder Law Consultant  
 520 Miller Ave.  
 Madison, WI 53704  
 (608) 332-7867  
 abramson@mailbag.com

----- Original Message -----

**From:** Betsy Abramson  
**To:** Jim Jaeger ; beckerhickey\_bjb ; Barbara Hughes ; tammi@execpc.com  
**Cc:** debora.kennedy@legis.state.wi.us ; laura.rose@legis.state.wi.us  
**Sent:** Wednesday, October 04, 2006 10:18 PM  
**Subject:** G Reform Q - doctor's statement/report

Am working on the revised version of the Reconciliation bill of the 3 Guardianship/APS bills with the LRB drafter and Leg Council attorney. (This is the gift that keeps on giving!) Have a question for you all:  
 new 54.36(1) - wondering why there's different use of the word "statement" and "report" - should they remain as drafted, or switch the reference to physician's STATEMENT to "report" or all references to physician's REPORT to "statement" or.....? Please advise ASAP.

Here it is - my emphasis, of course:

54.36 **Examination of proposed ward.** (1) Whenever it is proposed to appoint a guardian on the ground that a proposed ward allegedly has incompetency or is a spendthrift, a physician or psychologist, or both, shall examine the proposed ward and furnish a written REPORT stating the physician's or psychologist's professional opinion regarding the presence and likely duration of any medical or other condition causing the proposed ward to have incapacity or be a spendthrift. The privilege under s.9045.04 does not apply to the STATEMENT. The petition shall provide a copy of the REPORT to the proposed ward..... Prior to the examination on which the REPORT is based, the gal, physician or psychologist shall inform the proposed ward that statements made by the proposed ward may be used as a basis for a finding of incompetency or a finding that he or she is a spendthrift, that he or she has a right to refuse to participate in the examination, absent a court order, or speak to the phys or psych and that the phys or psych is required to report to the court even if the proposed ward does not speak to the phys or psych. The issuance of such a warning to the proposed ward prior to each examination esablishes a presumption that the proposed ward understands that he or she need not speak to the phys or psych. Nothing in this sectoin prohibits the use of a REPORT by a physician or psychologist that is based on an examination of the proposed ward by the phys or psych before filing the petition for appointment of

a guardian, but the court will consider the recency of the REPORT in determining whether the REPORT sufficiently describes the proposed ward's current state and in determining the weight to be given to the REPORT.

Betsy J. Abramson  
Attorney / Elder Law Consultant  
520 Miller Ave.  
Madison, WI 53704  
(608) 332-7867  
[abramson@mailbag.com](mailto:abramson@mailbag.com)



**Kennedy, Debora**

**From:** Betsy Abramson [abramson@mailbag.com]  
**Sent:** Wednesday, October 04, 2006 10:31 AM  
**To:** Underwood  
**Cc:** guardian@cwag.org  
**Subject:** Re: guardianshp rights

Mr. and Mrs. Underwood:

This problem was definitely something that was not intended. We were trying to prevent AGENCY guardians (e.g., corporate guardians) from being both a provide of protective services and serving as guardian. As you know, we all supported the amendment to SB 731, the reconciliation bill, that would have corrected this. That bill did not pass as the Assembly did not go forward with it this summer. As I understand things, the fix is now part of the large reconciliation bill that Rep. Townsend and Sen. Olsen will be introducing as soon after 1/1/07 as possible.

Yes, I have talked to the drafter and we are all on board and want this in the reconciliation bill that we hope will be swiftly passed to deal with this issue, and a host of other small conflicts and/or duplications, etc. The reconciliation bill must be revised, because it will now be addressing effective law (since the relevant laws go into effective Nov. 1 and Dec. 1) rather than pre-effective date as was initially hoped. As soon as the bill draft is done and available, we will all be able to look at to make sure we've reinstated that provision as we all want it to be.

Again, the goal is to revise s. 55.03 to reflect that no AGENCY serving as a guardian may also serve as a provide of protective services. Thus, once passed, parents, other relatives or other individual guardians will, as is current law, be able to serve as both an individual (non-corporate, non-agency) guardian AND provider of protective services.

Betsy J. Abramson  
 Attorney / Elder Law Consultant  
 520 Miller Ave.  
 Madison, WI 53704  
 (608) 332-7867  
[abramson@mailbag.com](mailto:abramson@mailbag.com)

----- Original Message -----

**From:** Underwood  
**To:** Betsy J. Abramson ; Ellen Henningsen  
**Cc:** Rep.Pridemore  
**Sent:** Wednesday, October 04, 2006 9:55 AM  
**Subject:** guardianshp rights

Betsy & Ellen:

Inquiring as to what steps are being taken to fix the "glitch", as it was called, in the rewrite of the guardianship laws that affected 55.03 of the State Stats so that parents who are also guardians of their disabled adult children are now prohibited by state law from providing protective placement or services to their own loved one.

At the public hearing held on July 6 on SB 731 in which we raised this issue, both of you assured us this could and would be fixed. You both repeatedly publicly assured us this was accidental, not intentional. So --- what is being done to fix it? Betsy, in your email of 5/19/2006 you indicated that you would talk to the drafter about how to fix it. Did you?

10/04/2006

Hindsight is always 20/20 vision and it now seems rather clear that this "glitch" was not accidental, but intentional. And the link back to the Department of Health and Family Services is becoming a bit clearer.

I await word on what steps are being taken by both of you to fix the "glitch" and restore to parents who are guardians of their adult children, the right to provide both protective placement and protective services to them if they so choose.

Ellen, is the Guardianship Support Center on board to help restore to guardians the right to care for their own children when that child, even though that child is now an adult child, is disabled and in need of protective placement and protective services?

Thank you.

Rebecca Underwood  
[krr.underwood@verizon.net](mailto:krr.underwood@verizon.net)

△ Problem w/ Revisor version  
✓ DAK put in bec. found was merged by Revisor

### GENERAL PRINCIPLES USED IN REDRAFTING SB 731

1. If affected by one act only, amend without reference to the act; use Revisor's numbering (see 46.90 (1) (eg) 1.)
2. If affected by two or more acts, repeal and recreate referring to the acts in the heading; use Act's (and Revisor's) numbering (see 46.286 (3) (a) 3.).
- \* 3. Make bill effective on date after publication. — LR ask Nancy Rottier
4. If first Act amends and second Act renumbers and amends: repeal and recreate, referring to both acts (even though someone reading the first Act will not find the correct number in it).
5. If first Act renumbers and amends and second Act amends, same as in No. 4 above.
6. Consider: if first Act renumbers and amends and second Act repeals, Revisor *usually* gives effect to repeal; may be necessary to create if want what first Act did.
7. Consider: if first Act repeals and second Act renumbers and amends, Revisor gives effect to repeal; may be necessary to create if want what first Act did.
8. Delete voiding, because are now dealing with current law, not acts that have not yet taken effect; if necessary, repeal.
9. Do not delete from SB 731 important text that is also in Revisor's bills; his bills may not pass any time soon.

~~10. Delete from SB 731 when exact material that is wanted is in the galley proofs.~~

\* 11. Put in SB 731 cross-ref. changes Revisor has found in

### DIFFERENCES IN AUTHORITY REVISOR CITES IN GALLEY PROOFS

Rev Docs  
I, II, or III

13.93 (1) (b) Allows Revisor on his own to renumber chapters or statutory sections and change cross references.

13.93 (2) (c) Requires Revisor to incorporate into the printed statutes changes made by two acts that are not mutually inconsistent and to document the incorporation in a note to the statutory section; Revisor must include in a correction bill a provision formally validating the incorporation.

unless SB 731 is same; if that's so, re

12. when Revisor merges, amend as affected by Acts
13. " " prints as mut inconsistent, re as affld by Acts
14. If Revisor prints w/ bracketed material (only one act), amend
15. If include material with problem "string cite," fix string cite

If Revisor finds sections affected by two or more acts mutually inconsistent, he prints each version, with a note, and does nothing more.

### CHANGES TO BE MADE TO 2005 SB 731

p. 2-- 46.286 (3) (a) 3.: incorrect cross reference

✓ Proposed: Change from "designated under s. 55.02" to "designated under s. 55.043 (1d)"

*p. 4-49.001(8) - LR will look at*

p. 5-- 51.10 (14t): Revisor has printed as mutually inconsistent (as affected by all 3 acts)

✓ Proposed: Leave as is in SB 731; add Act 388 to heading; delete voiding of 51.01 (3g) by Act 388

✓ p. 5-- 51.03 (3) (a) 6.: SB 731 makes sense of the two acts, but Revisor has printed and has in Rev. Doc. III a version that doesn't work

△ Proposed: Ask BH to remove from Rev Doc III

pp. 5 & 6-- 51.20 (7) (d) 1. (intro.), a. & b.: SB 731 gives effect to Act 264 (Act 387 repeals a. & b. and renumbers (intro.)). Revisor has printed & has in Rev. Doc. III the Act 387 version

Proposed: Ask BH to remove from Rev Doc III

*2 standards for temp. prot. services + incamp to refuse are OK (chs 54+55)*

From Bruce Hoesly: 51.30 (4) (b) 17.: cross reference change necessary (language "designated under s. 55.02 for purposes of s. 55.043" should be "designated under s. 55.043 (1d)"); Revisor has printed with brackets & has in Rev Doc III

Proposed: Include in SB 731? Leave for Revisor to handle? (Note that this problem also exists for 146.82 (2) (a) 7.) *(also in Rev Doc III)* D-N

✓ p. 6- *54.01 (8) - Revisor has printed as mutually inconsistent; keep as is in SB 731*

From Bruce Hoesly: 54.01 (13): cross reference to "45.385" is incorrect bec. of 2005 Act 22; shd be to "45.50"; Revisor has printed with brackets & has in Rev Doc III

Proposed: ~~Leave for Revisor to handle.~~ *Include. DAK add D Note asking if it's ok to include.* D-N

△ ✓ p. 7-- 54.10 (3) (d): cross reference change necessary; Revisor has printed and has in Rev Doc III, but Revisor's version may be too narrow?

Proposed: Keep SB 731 version; Ask BH to remove from Rev Doc III

✓ From Bruce Hoesly-- 54.15 (6): "i" should be "in"; is not printed bracketed by Revisor; is not included in a Rev Doc

Proposed: ~~Leave for Revisor to handle.~~ *Include in SB 731* D-N

54.25(1)(a) Revisor has printed as merged; put in D-N  
SP-731

p. 7— 54.25 (2) (b) 4.: cross reference change necessary; Revisor has printed and has in Rev Doc III, but Revisor's version may be too broad? (55.135 should be 55.135 (1))

△ ✓ Proposed: Keep SB 731 version; Ask BH to remove from Rev Doc III

✓ 54.25(2)(c) 1.g. Revisor has printed as merged; put in D-N  
SB 731

From Guardianship CLE: 54.25 (2) (d) 2. a.: cross reference to limitation under 54.46 (3) (b) should probably be to 54.46 (2) (b) (if ward has a pwr of atty for health care; 54.46 (3) (b) refers to GAL fees) (NOTE: Is part of greater problem about et approval of vol. admin. of psychotrop med.?)

✓ Proposed: ?? Change cross reference to "designated under s. 55.043 (1d)"; trailer bill?

DAK: write D-NOTE; include in SB 731

54.34(2m) - remembered by Revisor; include in SB 731

p. 8— From Guardianship CLE: 54.36 (1): "statement" should be "report" D-N

✓ Proposed: ?? Change "statement" to "report"?

BA will ask practitioners; depending on answer, DAK will include or not; if include, DAK write D-Note D-N

pp. 9 & 10— 54.40 (1): SB 731 gets cross references correctly, but perpetuates duplicate language; Revisor has printed a merged version, with bad cross reference, and in Rev Doc III fixes cross reference and takes out duplicative language. D-N

△ ✓ Proposed: Fix SB 731 version; ask BH to remove from Rev Doc III

From Bruce Hoesly: 54.40 (4) (am) and (ar), as afftd by Act 264 (renumbered from 880.331 (4) (am) and (ar)) are redundant to 54.40 (4) (c), as created in Act 387.

Proposed: ??? Repeal 54.40 (4) (am) and (ar)? Yes

✓ Include; DAK write D-Note

Also 54.40 (A) (dm) + (g); Include repeal of (dm) (check gallery) D-N

p. 10— 54.48: Revisor has printed as merged under 13.93 (2) (c) the same as set forth in SB 731 and has in Rev Doc III

Proposed: Delete from SB 731? No

54.42(1)(a) (intro) Revisor has printed as merged, but does not have in any Rev Doc. Proposed: include

p. 10— 54.75: Revisor has printed as merged under 13.93 (2) (c) the same as set forth in SB 731 and has in Rev Doc III

Proposed: Delete from SB 731? No

p. 11— 55.001: Revisor has printed as merged under 13.93 (2) (c) the same as set forth in SB 731 and has in Rev Doc III

Proposed: Delete from SB 731 Yes — D-N

54.46(3)(a) merged by Revisor "If rather than" who? D-N

From Bruce Hoesly— 55.01 (1f): incorrect cross reference (55.043 (1) should be 55.043 (1d)); is printed in brackets and Revisor has in Rev Doc III D-N

Proposed: Leave for Revisor to handle Include. D-N

54.42(1)(a)(intro); merged by Revisor, include

54.40(4)(ds); cross ref to 3 880.33(2)(b) is incorrect; Revisor has printed in brackets and has in Rev Doc III  
Proposed: Include; ask Rev to remove from Rev Doc III D-N

p. 12— 55.01 (4g), (6), (6d), (6g), (6t), created by Act 388: Revisor has printed renumbered under 13.93 (1) (b); *has in Rev Doc III*

Proposed: Delete from SB 731 **No**; *ask Rev to remove*

*See \*\*\*  
NOTE \**

pp. 13 & 14— 55.02, afftd by all three acts: Revisor has printed all provisions the same as set forth in SB 731 except 55.02 (1) (a) 1. and (2) (b) 3. (has no note in galley proofs about merger) and has (2) (b) 3. in Rev Doc III to fix cross reference the same as SB 731

Proposed: Delete from SB 731 all but 55.02 (1) (a) and (2) (b) 3.; DAK to decide: do I AM these or RC them, as afftd by acts? *No; include all*

p. 14— 55.03 (1): Revisor has printed as merged under 13.93 (2) (c) and has in Rev Doc III; Revisor's language is what K. Underwood objected to

Proposed: RC in SB 731 as in amendment (2005a3199/1); delete voiding of 55.03 by Act 387 and add Act 387 to heading; ask BH to remove from Rev Doc III. **D-N**

From Bruce Hoesly— 55.043 (1r) (a) 2.: the cross ref to "pars. (b) to (g)" should be "pars. (b) to (d)"; Revisor has printed in brackets and has in Rev Doc III *Include* **D-N**

Proposed: Leave for Revisor to handle **No**

55.043 (1r) (b) 2. - *BA will ask if shd be merged w/ 3. Revisor has printed w/o comment.*

*Answer: No, they are OK as is*

p.15— 55.043 (4) (am): Cross reference change; Revisor has printed with brackets BUT has used "and," rather than "or"; has in Rev Doc III using "or"

Proposed: Keep in SB 731; ask BH to remove from Rev Doc III

55.043 (4) (b) 2. *merged by Revisor, but galley proof has 2 "including"; ask to remove from Rev Doc III* **D-N**

pp. 15 & 16— 55.043 (6) (bt) 8.: Cross reference change; Revisor has printed with brackets and has in Rev Doc III **D-N**

Proposed: Delete from SB 731 **No**; *ask BH to remove from Rev Doc III*

p. 16— 55.055 (1) (a): Merger of Acts 264 & 387. Revisor has printed same as in SB 731 under 13.93 (2) (c) and has in Rev Doc III **No**

Proposed: Delete from SB 731; delete voiding for s. 55.05 (5) (b) 1. for Act 387; *add ref to Act 387 in heading*

p. 16— 55.055 (1) (b): Merger of Acts 264 & 387. Revisor has printed same as in SB 731 under 13.93 (2) (c), and has in Rev Doc III **No**

Proposed: Delete from SB 731; delete voiding for 55.05 (5) (b) 2. for Act 387; *add ref. to Act 387 in heading?*

p. 17— 55.06: Merger of Acts 264 & 387. Is cross reference to 55.12 incorrect? Should it be s. 55.08 (1)? *Revisor has printed as mutually inconsistent*

→ 55.043 (4) (b) 1. *Include*

**D-N**

✓ Proposed: Fix cross reference; delete voiding for 55.06 (1) (intro.) for Act 387 and add Act 387 to heading (Yes)

pp. 17 & 18— 55.06 (3) (d), created by Act 387. This is renumbered to 55.075 (5) (bm) by Revisor and Revisor has in Rev Doc III. Cross reference difference: SB 731 refers to "sub. (1)" and Revisor to "par. (a)". Is SB 731 cross reference incorrect? D-N

✓ Proposed: (a) Fix cross-reference & keep in SB 731; (Yes) or ask Revisor to remove from Rev Doc III  
(b) Delete from SB 731 and let Revisor handle (No)

✓ 55.075 (1) Revisor has merged and has in Rev Doc III correctly; has shown incorrect language as bracketed; included; ask R. to remove heading is wrong in Rev Doc III  
p. 18— 55.075 (3): Revisor has printed as merged under 13.93 (2) (c) the same as set forth in SB 731 and has in Rev Doc III

✓ Proposed: Delete from SB 731 and delete voiding of 55.06 (4) for Act 387 (No) (Yes)

\* p. 18— 55.075 (5) (a): added Act 387 to heading and deleted voiding of 55.06 (3) (c) by Act 387  
Revisor has printed as mutually inconsistent  
BA will ask DHS D-N

p. 19— 55.08 (1) (b): Revisor has merged under 13.93 (2) (c) and has in Rev Doc III, but differs from SB 731 because uses "to be developmentally disabled," rather than "to have developmental disability" (which agrees with definition change in SB 731) (a)

✓ Proposed: Keep SB 731 version; add Act 387 to heading and delete voiding of 55.06 (2) (b) by Act 387; ask BH to remove from Rev Doc III. (Yes)

55.08 (1)(c): Revisor has merged and has in Rev Doc III; (is renumb. from 55.06 (2) (c); include D-N

p. 19— 55.09 (1): (Act 264 RA 55.06 (5); Act 387 AM 55.06 (5); Revisor has printed with bracketed surplusage and has in Rev Doc III the same as SB 731.

✓ Proposed: Delete from SB 731; delete 55.06 (5) from Act 387 voiding section; and let Revisor handle. ask R. to remove (No)

AM; 55.10 (4) (intro.) D-N

p. 20— 55.10 (4) (a): Cross reference change from "880.33" to "54.10"; is not affected in printed statutes; Revisor has changed to "ch. 54" in Rev Doc III

Proposed: (a) ?? Delete from SB 731?? (No) — change to "ch 54"

(b) Change SB 731? (Yes) Is Revisor's reference (broader) better? If change, ask Revisor to delete from Rev Doc III??; delete voiding of 55.06 (6) by Act 387 and add Act 387 to heading (Yes) — no, this applies to 55.10 (4) (b)

pp. 20 & 21— 55.10 (4) (b): Revisor has printed as merged (Acts 264 & 387) under 13.93 (2) (c) and has in Rev Doc III, but Revisor's version omits language about rts. in ss. 54.42, 54.44, and 54.46 that are in SB 731.

PROBLEM: Placement of this language in SB 731 should likely be in 55.10 (4) (intro.), rather than (4) (b) (Yes)

FURTHER PROBLEM: Revisor's changed cross ref (to 54.40 (4)) is narrower than SB 731 and does not include GAL responsibilities under 54.40 (3). use SB 731 version

55.075 (5) (bm) (note that this is under 55.06 (3) (d))

Proposed: (a) ??? Amend 55.10 (4) (intro.) and delete treatment of 55.10 (4) (b) in SB 731; let Revisor handle 55.10 (4) (b)?; ask Revisor to broaden cross-ref; delete voiding of 55.06 (6) by Act 387 ?? No

(b) ?? Leave 55.10 (4) (b) in SB 731 as is; delete voiding of 55.06 (6) by Act 387; ask Revisor to remove 55.10 (4) (b) from Rev Doc III???

✓ (c) ??? Amend 55.10 (4) (intro.) and change 55.10 (4) (b) in SB 731; delete voiding of 55.06 (6) by Act 387 ??? ; ask Revisor to remove 55.10 (4) (b) from Rev Doc III D-N Yes

p. 21-- 55.11 (1) (c): Revisor has printed as merged under 13.93 (2) (c) the same as set forth in SB 731 and has in Rev Doc III

✓ Proposed: Delete from SB 731; delete voiding of 55.06 (8) (c) by Act 387 Yes Ask Revisor to remove from Rev Doc III

✓ 55.135(1): Revisor has printed as merged; has bracketed surplusage; is in Rev Doc III

✓ 55.14 (1) (b): Revisor indicates mutual inconsistency between Acts 264 and 387; does not have in any Rev Doc (intro.) D-N

✓ Proposed: add to SB 731, but which version? (see 880.01 (7m)) Add Act 264 version D-N

p. 23-- 55.14 (2): Revisor has printed as merged under 13.93 (2) (c) the same as set forth in SB 731 and has in Rev Doc III

✓ Proposed: Delete from SB 731 No; ask Revisor to remove from Rev Doc III

pp. 23+24-55.14 (3) (e) (intro.): Revisor has printed as mutually inconsistent; SB 731 has Act 387 version; Keep SB 731 as is.

p. 24-- 55.14 (3) (e) 1.: Revisor has printed without comment the same as set forth in SB 731 No

△ Proposed: Delete from SB 731 No Revisor has printed (8)(b), rather than (8)(bg) Amend. (has apparently used later act's incorrect, x-ref.) D-N

p. 24-- 55.14 (5): Revisor has merged Acts 264 & 387 under 13.93 (2) (c) the same as set forth in SB 731 (with bracketed cross-ref fix) and has in Rev Doc III

△ Proposed: Delete from SB 731 No; Ask Revis to remove from Rev Doc III Yes  
? Revisor brackets incorrect cross-ref (Act 387)

pp. 24 & 25-- 55.14 (7): Revisor has merged Acts 264 & 387 under 13.93 (2) (c) and has in Rev Doc III, but Revisor's version is incorrect; refers to hearing under 55.10 (4) (a), rather than appointment of counsel

△△ Proposed: Keep SB 731 version; ask BH to remove from Rev Doc III Yes

p. 25-- 55.14 (8) (a): Revisor has merged Acts 264 & 387 under 13.93 (2) (c) and has in Rev Doc III, but Revisor's version differs from SB 731

✓ Proposed: (a) ?? Keep SB 731 version; ask BH to remove from Rev Doc III ?? Yes

(b) ?? Delete from SB 731 ?? No



pp. 25 & 26--55.14 (9): Revisor has printed as merged under 13.93 (2) (c) and has in Rev Doc III (a bit differently from printed statute), but Revisor's version is that of Act 387 (corp. counsel shall file statement of facts, whereas SB 731 takes Act 264 version (may)

Proposed: ~~Keep~~ in SB 731; ask BH to remove from Rev Doc III; see change on p. 25 use "shall" ~~may~~

DAK: Do I amend this or keep heading as is?

BA will check w/ Deanne Greenberg re "that constitute the basis"

p. 26-- 55.14 (10): Revisor has printed as merged under 13.93 (2) (c), with bracketed language that "indicates the less specific cross-reference" and has in Rev Doc III using 55.13, the same as in SB 731

Proposed: ~~Delete~~ from SB 731 (No); Ask Revisor to remove

p. 26-- 55.14 (11): Revisor has printed as merged under 13.93 (2) (c) the same as set forth in SB 731 and has in Rev Doc III.

Proposed: ~~Delete~~ from SB 731 (No) Ask Revisor to remove

pp. 26 & 27-- 55.15 (2): Same as above. Same

From Bruce Hoesly-- 55.17 (1): "it" should be "which"; is not printed bracketed; is in Rev Doc I

Proposed: Let Revisor handle. No; put in SB 731; ask Revisor to remove

(title? -> fix in SB 731)  
p. 27-- 55.175: Revisor has printed as mutually inconsistent (as afftd by Acts 264 & 387)

Proposed: Leave as in SB 731; add Act 387 to heading and delete voiding of 55.06 (14) by Act 387 (yes)

p. 27-- 55.18 (2) (a): Revisor has printed with correct cross-ref in brackets and has in Rev Doc III same as in SB 731

Proposed: ~~Delete~~ from SB 731 (No)

pp. 27 & 28-- 55.18 (3) (a): Same as above. (yes)

p. 28-- 55.19 (intro.): Revisor, without indicating merger, merges Acts 264 & 387 (in effect, takes Act 387 version), and includes "In addition to or in conjunction with the annual review required under s. 55.06 (10) [s. 55.18]," and indicates bracketed cross ref is correct and has in Rev Doc III. SB 731 does not include this language (takes Act 264).

Proposed: (a) ?? Delete from SB 731?? (No); add "annually" after "performed" (D-N)

(b) ?? Add to SB 731?? (No)

(c) ?? Keep SB 731 as is and ask BH to remove from Rev Doc III? (yes)

✓ 55.19 (1)(b) - Keep as is in SB 731

pp. 28 & 29— 55.19 (1) (a) 1. (includes (intro.) and a. to g.): Revisor has printed as merged under 13.93 (2) (c) and has in Rev Doc III same as in SB 731

Proposed: Delete from SB 731, but see below. ~~No~~; ask Revisor to remove

55.19 (1)(b) Revisor has printed as mutually inconsistent; keep 731, but change "following" to "in"; ask Rev to remove  
pp. 29 & 30— 55.19 (1) (c): Revisor has printed, without comment, the version of 55.19 (1) (c) that is in Act 387; this duplicates s. 55.19 (1) (a) 1. (intro.) and a. to g. (see above); Revisor has this in Rev Doc III; SB 731 has very short (Act 264) version

D-N?

△ Proposed: Leave SB 731 as is and ask BH to remove from Rev Doc III Yes; Yes

p. 30— 55.19 (1m): Revisor has printed as merged under 13.93 (2) (c) and has in Rev Doc III the same as SB 731

Proposed: Delete from SB 731 No; ask Revisor to remove

55.19 (2)(b) 3. ~~Keep as in SB 731; ask Revisor to~~

D-N  
Use Act 264 version, not SB 731 (Act 387)

p. 30— 55.19 (2) (b) 5.: Revisor has merged under 13.93 (2) (c) the same as in SB 731 and has in Rev Doc III

Proposed: Delete from SB 731 No; ask Revisor to remove

55.19 (2)(b) 6. Revisor says mutually inconsistent; Keep SB 731 as is

p. 31— 55.19 (2) (c): Same as above. Same

55.19 (2)(g) - Keep as in SB 731

p. 31— 55.19 (2) (f) 4.: Same as above. Same

p. 31— 55.19 (3) (b) (intro.): Same as above. Same (Keep)

p. 31— 55.19 (3) (bm): Revisor has printed, without comment, the version of 55.19 (3) (bm) that is in Act 387; is the same as in SB 731

Proposed: Delete from SB 731 No

55.19 (3)(b) SB 731 uses Act 387; change to Act 264 (shall) D-N

From Ellen Henningsen— 55.195: statute should also except reviews under s. 55.18 AND 55.18 should more clearly apply to Watts reviews and not to initials, non-annuals (transfers, etc.)

Proposed: ?? Trailer bill? Appropriate to include in SB 731??

p. 33— 55.22: Revisor has merged under 13.93 (2) (c) and has in Rev Doc III (55.06 (17) (b)) the same as SB 731.

Proposed: Delete from SB 731; delete voiding of 55.06 (17) (b) by Act 387 No Yes

55.19 (3)(d) (intro) - Keep as is in SB 731 (Act 264)

55.19 (3)(e) 1. - Keep as is in SB 731

2. - " " " " " "  
3. - " " " " " "

146.82(2)(a) 7. - same problem as 51.30(4)(b) 17. D-N

p. 37---SEC. 102: This was a March 1, 2006, effective date for wild turkey hunting licenses.

Proposed: Delete. Yes

p. 37--- SEC. 104 (1) Voiding by Act 388

(a) 55.06 (2) (c): Revisor has merged Acts 264 and 388 under 13.93 (2) (c) as 55.08 (1) (c) and has in Rev Doc III.

Proposed: Delete. Yes

(b) 55.06 (11) (a): Revisor has merged Acts 264 & 388 under 13.93 (2) (c) as 55.135 (1) and has bracketed surplus language; has in Rev Doc III

Proposed: Delete Yes

p. 38--- SEC. 104 (2) Voiding by Act 387

(a) 55.06 (1) (a): Revisor has merged 55.075 (1) under 13.93 (2) (c) with Act 387 lang. bracketed as surplusage, same as SB 731; has deletion of Act 387 language in Rev Doc III

Proposed: Delete

(b) 55.06 (10) (c): Revisor did not print (repealed by Act 264 and amended by Act 387)

Proposed: Delete Yes

**MORE CHANGES TO BE MADE TO 2005 SB 731**

pp. 33 & 34— 609.65 (1) (intro.): Revisor has printed, without comment, the Act 264 version and appears to have ignored the Act 387 version; Revisor does not include treatment in any of the Rev Docs; SB 731 uses the Act 387 version

Proposed: Leave SB 731 as is; ask Revisor about this treatment in statutes. *No; add Revisor language* D-N

p. 34— 813.123 (2) (b): Revisor has printed correct cross-ref in brackets and has included in Rev Doc III

Proposed: Leave SB 731 as is; ask Revisor to remove from Rev Doc III? Yes

p. 34— 813.123 (3) (b): Revisor has merged under 13.93 (2) (c) as in SB 731 and has included in Rev Doc III as having no conflicts of substance. *SB 731 agrees w/ Revisor version*

Proposed: Leave SB 731 as is; ask Revisor to remove from Rev Doc III? Yes

pp. 34 & 35— 813.123 (4) (a) (intro.): Revisor has printed as mutually inconsistent; SB 731 uses Act 388 version.

Proposed: Leave SB 731 as is. Yes

p. 35— 813.123 (4) (a) 2. a.: Revisor has printed as merged under 13.93 (2) (c) and has in Rev Doc III same version as in SB 731 (except has included an "or" inappropriately).

Proposed: Leave SB 731 as is; ask Revisor to remove from Rev Doc III? Yes

p. 35— 813.123 (4) (ar) 1.: Revisor has printed with incorrect cross-reference to 55.06, without comment, and has not included in Rev Docs.

Proposed: Leave SB 731 as is. *See changes in document (strike "to the indiv. at risk under s. 55.06"* D-N

pp. 35 & 36— 813.123 (5) (a) (intro.): Revisor has printed as mutually inconsistent; SB 731 uses Act 388 version.

Proposed: Leave SB 731 as is. Yes *(Fix comma)* D-N

p. 36— 813.123 (5) (ar) 1.: Revisor has printed with incorrect cross-reference to 55.06, without comment and has not included in Rev. Docs.

Proposed: Leave SB 731 as is. D-N

*813.123(5)(a)3.b. - put in SB 731* D-N

p. 36— 813.123 (6) (c): Revisor has printed as merged under 13.93 (1) (c) with bracketed "the" and has in Rev. Doc III same language as in SB 731.

*813.123(5)(a)3.b. - put in SB 731 - change wording from that shown by Revisor*

Yes

✓ Proposed: Leave SB 731 as is; ask Revisor to remove from Rev Doc III.

pp. 36 & 37— 813.123 (7): Revisor has printed as merged under 13.93 (2) (c) and has in Rev Doc III same as in SB 731, except SB 731 lacks an appropriate comma.

✓ Proposed: Leave SB 731 as is, but fix comma; ask Revisor to remove from Rev Doc III?

Yes

**Kennedy, Debora**

---

**From:** Kennedy, Debora  
**Sent:** Wednesday, November 15, 2006 11:44 AM  
**To:** 'Betsy Abramson'  
**Cc:** Rose, Laura  
**Subject:** RE: Roy comment on the psych med

Thanks, Betsy. When the bill comes back from editing, I will check Roy's point and make sure that there is provision for voluntary nonpsychotropic medication. I just talked with Laura, and she agrees with you that there should be a middle ground between the two acts. So it will come out as:

Ct. approves guardian's consent for involuntary administration of medication and treatment, except involuntary administration of psychotropic medication comes under s. 55.14; court CAN find that ward lacks evaluative capacity and authorize guardian to consent to invol. administration of medication and treatment, except involuntary psychotropic meds.

Guardian does not have to have court approval to consent on ward's behalf to voluntary administration of medication and treatment, including psychotropic medication, if in ward's best interest and ward is nonprotesting.

---

**From:** Betsy Abramson [mailto:[abramson@mailbag.com](mailto:abramson@mailbag.com)]  
**Sent:** Wednesday, November 15, 2006 10:51 AM  
**To:** Kennedy, Debora  
**Subject:** Roy comment on the psych med

54.25(2)(d)2.a. I think this should read:

a. Except as provided under subd. 2.b., c., and d., and except for consent to psychiatric treatment and medication under ch. 51, and subject to any limitation under s. 54.46 (3) (b), the power to give informed consent, if in the ward's best interests, to voluntary or involuntary nonpsychotropic medication, medical examination and treatment and to the voluntary receipt by the ward of ~~medication, including~~ any appropriate psychotropic medication that is in the ward's best interest...

**WHY?** The statute refers to power to consent to voluntary receipt of medication, and then discusses lack-of-protest to psychotropic medication, and cross-refers to 55.14 for involuntary receipt of psychotropic medication. This leaves no coverage for consent to nonpsychotropic medication of a nonprotesting (or protesting) ward.

Betsy J. Abramson  
Attorney / Elder Law Consultant  
520 Miller Ave.  
Madison, WI 53704  
(608) 332-7867  
[abramson@mailbag.com](mailto:abramson@mailbag.com)

Act 264 amends 880.38(2)

creates 880.38(4)

Act 387 renumbers 880.38(2) → 54.25(i)(b)  
(intro.)

creates 54.25(2)(d) 2.a.

54.25(i)(b) ~~under Act~~ has 2 versions; under Act 264, it allows guard to consent to invol admin of med + treatment, except psychotrop

Act 387 wipes this out

(created by Act 387)

54.25(2)(d) 2.a. - Subjects' guardian's consent to vol. + invol med exam + treatment to ct. approval

54.25(4) created by Act 264

allows guardian to consent to vol receipt of med, including psychotrop, if ward doesn't protest

Your call

**Kennedy, Debora**

**From:** Ellen Henningsen [guardian@cwag.org]  
**Sent:** Monday, November 13, 2006 4:29 PM  
**To:** Kennedy, Debora  
**Subject:** RE: Your call

Thanks for hanging with me on this -

The language I quoted below as 880.38 (2) is from Act 264, section 219. And it appears in the November only version of ch. 880 - <http://www.legis.state.wi.us/statutes/368/Stat0880.pdf> - see pages 15-16. Sec. 54.25 (4) is different than 880.38 (2). Sec. 54.25 (4) is November's sec. 880.38 (4) - see page 16 of the above link.

54.25 (4) isn't the problem. 54.25 (2) (d) 2 a. is the problem because it leaves out involuntary administration of non-psych meds. 880.38 (2) included it. Thus if the recon bill restored Act 264's language and renumbered it to 54.25 whatever, that would solve the gap.

Attorney Ellen J. Henningsen  
Director, Wisconsin Guardianship Support Center  
Elder Law Center of the Coalition of Wisconsin Aging Groups  
2850 Dairy Drive, Suite 100  
Madison, WI 53718-6751  
608-224-0606 ext. 314  
fax 608-224-0607  
[guardian@cwag.org](mailto:guardian@cwag.org)  
[www.cwag.org/legal/guardian-support](http://www.cwag.org/legal/guardian-support)

**From:** Kennedy, Debora [mailto:Debora.Kennedy@legis.wisconsin.gov]  
**Sent:** Thursday, November 09, 2006 4:12 PM  
**To:** Ellen Henningsen  
**Subject:** RE: Your call

Ellen--

I'm not at all sure what you're referring to as "the Act 264 language is the language in effect in 880 for November." The Revisor's galley proofs do not indicate at all that s. 54.25 (4) is in effect only for that time. The galley proofs indicate that s. 54.25 (2) (d) 2. a. and (4) co-exist, and clearly they are in conflict. I believe this conflict can be resolved fairly easily by limiting s. 54.25 (2) (d) 2. a. to court approval for a guardian's consent to involuntary administration of medication and treatment, other than psychotrop medication, which must be approved under s. 55.14, and by leaving s. 54.25 (4) as is.

I am not the person who makes the decisions on what should go into the bill; I suggest you e-mail or talk to Laura Rose of the Legislative Council about your other concerns.

Debora

**From:** Ellen Henningsen [mailto:guardian@cwag.org]  
**Sent:** Thursday, November 09, 2006 3:10 PM  
**To:** Kennedy, Debora  
**Cc:** Rose, Laura; Betsy Abramson; Margaret Resan  
**Subject:** RE: Your call



of the ward. Subject to any limitation imposed by the court under

s. 880.33 (8) (b), a guardian may consent, without further court involvement, to involuntary administration of medication, other

than psychotropic medication, and involuntary medical treatment

that is in the ward's best interest. A guardian may consent to involuntary

administration of psychotropic medication only under a

court order under s. 55.14 or s. 880.33 (4m) or (4r), 2003 stats. In

determining whether medication, other than psychotropic medication,

or medical treatment is in the ward's best interest, the

guardian shall consider the invasiveness of the medication or

treatment and the likely benefits and side effects of the medication

or treatment.

This language expires on November 30 and is replaced by sec. 54.25 (2) (d) 2:

2. All of the following are powers subject to subd. 1.:

a. Except as provided under subd. 2. b., c., and d., and except for consent to psychiatric treatment and medication under ch. 51, and subject to any limitation under s. 54.46 (3) (b), the power to give informed consent, if in the ward's best interests, to voluntary or involuntary medical examination and 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 medication or medical treatment,

other than psychotropic medication, is in the ward's best interest, the guardian shall consider the invasiveness of the  
medication or

treatment and the likely benefits and side effects of the medication

or treatment.

As I read the above ch. 54 language, there's no reference to the authority of the GP to consent to involuntary, non-psych meds as there is in 880.38. I would love to be wrong so please let me know if I've missed anything.

*Attorney Ellen J. Henningsen*

*Director, Wisconsin Guardianship Support Center*

*Elder Law Center of the Coalition of Wisconsin Aging Groups*

*2850 Dairy Drive, Suite 100*

*Madison, WI 53718-6751*

*608-224-0606 ext. 314*

*fax 608-224-0607*

*[guardian@cwag.org](mailto:guardian@cwag.org)*

*[www.cwag.org/legal/guardian-support](http://www.cwag.org/legal/guardian-support)*

To: DAK  
From: CJS  
Re: LRB-0121 (and companion -0122)

Note that changes I have made in the bill or that you may make in response to my questions may require the addition of 4-star notes or of items in the d-note.

Bill

4-19, 6-22, 12-5

The definitions of "developmental disability" are not identical—OK? *Yes; LR ~~and~~ did not want to change them*

9-25 to 10-1

It says "...review any protective placement or protective service order under s. 55.18...".

Is this correct—does s. 55.18 provide for the review of protective service orders that are not part of a protective placement order? *NO; thanks; I deleted ref. to a "protective service order"*

10-24

See my changes to correct list syntax.

12-5

The term defined in s. 55.01 (2) has changed from "developmentally disabled" to "developmental disability". As a result, s. 146.40 (1) (am) needs to be adjusted. Section 48.415 (3) (a) may also need adjusting. It refers to "developmental disability" as defined in s. 55.01 (2) or (5)". *Bizarre! 146.40 does not use the term defined;*

*I repeated it. Bizarre again! I have amended 48.415(3) after talking w/ GMM - see INSERT ADD 6-10*

The repeal and recreation of s. 55.02 presented here wipes out s. 55.02 (3), which was renumbered from s. 55.06 (1) (c) by 2005 Act 264. Is that your intent? *No; see INSERT*

*ADD 18-4*

15-5, 17-14, 17-18,

See my changes (for consistency with language used at 19-9 and 22-12 and in the Insert at 22-20 and 28-8). *Thanks.*

Should "developmentally disabled" be reworded "have a developmental disability" also in the following provisions (which are not currently treated in the bill):

51.13 (4) (h) 3.

51.15 (1) (a)

51.20 (13) (a) 2.

*I think not; these problems predated these acts + I don't think we can address them in this bill.*

19-2

See my changes. *Thanks.*

19-9

See INSERT ADD 21-15

See my change.



In addition, the sentence does not work properly as written, because "the individual" is the subject of "has had submitted on the minor's behalf a petition", which makes "the individual" a *different* person than "the minor". I think that the sentence would have to be rewritten if it is to actually say what it seems to be trying to say. What about using the language that appears in s. 55.08 (2) (a):

[A court may under s. 55.12 order protective placement for an individual who meets all of the following standards:...]

If the individual is not a minor, the individual has been adjudicated incompetent, or, if the individual is a minor, a petition for a guardianship has been submitted on the individual's behalf.

23-14 and 23-22

See my changes—OK? *Yes; thanks*

36-7

See my change in pencil (imitating 35-10 and, in the Insert, 37-5 and 37-11)—OK? *Yes*

**Insert Material**

2-2, 2-21, 3-19

See my changes. Since some prior actions were listed it seemed best to list them all. *Fine*

6-8

See my change. The material in brackets was not preexisting text and so it does not have to be struck out. *Oh, great; I invented it. Thanks.*

6-13

This definition is x-ref'd at s. 51.40 (1) (m). Does the definition given here work OK with the material that appears there? *No, but those problems preexisted these acts + I don't think we can address them in this bill.*

9-18

See my change. *Thanks!*

13-7

In 2005 SB 731, you used the x-ref s. 55.135 (1) instead of s. 55.135. Is the use of the more general x-ref intentional? *No; I was following the Revisor*  
*See INSERT ADD 13-7 + my correction.*

13-9

Is the x-ref to s. 55.14 needed here, given the x-ref to s. 55.14 that appears at 14-3?

*Nope; I took it out. Thanks*

14-11 to 14-14



See my proposed changes (in pencil) to mention the same three categories that appear in s. 55.25 (2) (d) 2. a., as amended by the bill (pp. 13 to 14 of the Insert Material), and to keep track of the categories through the whole sentence. Should the two provisions be brought into synch along these lines? *Yes; see my changes*

15-15 to 16-1



The remainder of s. 54.44 refers only to the "proposed ward", not to the "proposed ward or ward". *SEE D-NOTE #9 + INSERT ADD 15-12*

16-6



Act 387 renumbered the parts of s. 880.24 (3) to be 54.46 (3) (a), but Act 264 renumbered those parts differently. In order to clarify the situation, the revisor has included a nonstatutory provision in the correction bill that reads:

**Nonstatutory provisions.**

(1) The renumbering of section 880.24 (3) (a) [and (b)] of the statutes by 2005 Wisconsin Act 264 is void.

*→ This becomes 54.46 (3)(a) H.*

(The brackets indicate an item that I think needs to be included but have to ask Bruce about still.) The language does not void the amending by Act 264, just the renumbering.

*Void an enacted act that has taken effect, even for renumbering only. I don't think that we should have added that INSERT ADD 17-1, a repeal recreate secs. 54.46(3)(b) and affected by both acts, which is the way I think we should treat these provisions. See my changed \*NOTE for (3)(a).*

17-12



See my change in the note—OK?

18-3

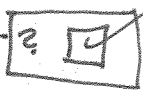


See my change in the note—OK?

18, the 4-star note that is INSERT 12-22



See my change. *Thanks*



19-5 and 19-11



See my changes. Section 55.043 was affected by only one 2005 Act, so I imitated your treatment in similar cases, removing the mention of the prior treatment from the action phrase. *Thanks; odd that the Revisor indicates action under Act 264*

19-18



The doubled "including" is a mistake by the revisor (as far as I can tell), and not really part of current law. Would it be better to repeal and recreate this provision (and maybe add a note)? *Yes; see \*NOTE*

*Right!*

20-4 and 20-9



I changed the action phrase; the provision was affected by only one 2005 Act. *Thanks*



20-8

See my change in the expression of the x-ref. *Thanks -*

22-2 and 22-3

See my markup.

22-17, the 4-star note

I don't know if you need to mention this in the note, but I think the revisor's merger should have shown two commas in brackets that would need to be removed by future legislation. Your repeal and recreate fixes the text in any event, though. *I think I'll leave the NOTE as is, mysterious though it may be.*

24-17

See my change. I think that revisor mistakenly left unprinted the word "and" that was scored in by Act 387. Since the revisor did not print the text correctly, would a repeal and recreate, and possibly some changes to the 4-star note, be better here? *See my changes.*

24-21

See my changes. It was not necessary to strike "(4)" because it was not part of the preexisting text. Also, I made a change in the 4-star note to accommodate my change here. *ok ?*

26-16

See my change in action phrase. *Thank you.*

26-18

I deleted a comma; I think the revisor was incorrect to print a comma here. Since the revisor did not print the text correctly, would a repeal and recreate, and possibly some changes to the 4-star note, be better here? *See my changes*

29-6 to 29-7

In the note, you indicate that you have changed certain plurals to singulars. However, in a similar phrase that appears in ss. 55.08 (1) (c), 55.08 (2) (b), and 55.135 (1), the plurals have been retained. *See my changes + INSERT ADD 23-2*

29-13, 14, 20, and my proposed 4-star note.

I don't understand how the revisor could pick one of the two x-refs to print instead of printing both and bracketing one. Since the statute is incorrectly printed—and since the revisor merged creates to produce it—I thought a repeal and recreate with an explanatory note would be the cleaner approach, and I took a stab at wording the note. (See the next item on the merger of creates, as opposed to the merger of amends.) *Thank you.*

30-1 to 32-3

See my changes. Two slightly different versions of s. 55.14 were created by 2005 Acts 264 and 387. The revisor "merged" the two versions, by analogy to the mergers of amends that are done routinely. However, it is very unusual to merge creates, and potentially problematic, and when I asked Bruce Hoesly about this, he said it would

probably be best in this bill to repeal and recreate the provisions, rather than amend them.  
Would you want to add 4-star notes? *See INSERT ADD 30-22*

I compared the versions of s. 55.14 and found one discrepancy that the revisor resolved without adding a revisor's note. In s. 55.14 (6) one of the Acts created the word "issues" where the other created the word "issue". The revisor printed "issues", but ordinarily in a merger I think the revisor would have printed both words and bracketed one for removal by future legislation. Do you want to repeal and recreate this provision by way of cleanup? *See INSERT ADD 30-7*

I also found one trivial "merge" that probably requires no further action; I can show you if you like.

*31-21*

See my change to the 4-star note—correct? *Yes; thanks.*

*33-10 to 34-9*

See my changes. Two slightly different versions of s. 55.19 were created by 2005 Acts 264 and 387. The revisor "merged" the two versions, by analogy to the mergers of amends that are done routinely. As with s. 55.14 above, Bruce Hoesly said it would probably be best to repeal and recreate these provisions in this bill, rather than amend them. Would you want to add 4-star notes? *See INSERT ADD 34-3*

I compared the versions of s. 55.19 and found one discrepancy that the revisor resolved without adding a revisor's note. In s. 55.19 (1) (a) (intro.), the two Acts created the phrase "before completing a report of the review" in different places within otherwise identical sentences. The revisor printed one occurrence of the phrase, but ordinarily in a merger I think the revisor would have printed both occurrences and bracketed one for removal by future legislation. Do you want to repeal and recreate this provision by way of cleanup? *See INSERT ADD 33-9*

I also found one trivial "merge" that probably requires no further action; I can show you if you like.

*34-2*

Should "full due process hearing" be replaced with "hearing that meets the requirements under s. 55.10 (4)"? See the treatments of s. 55.19 (1) (b), (2) (b) 6., and (3) (d) (intro.) at 29-15, 30-23, and 32-8 in the bill. *Yes! Thanks!*

Also, should s. 55.18 (2) (f) 4. be amended to make the same change? *Yes; see INSERT ADD 33-4*

*34-14, 4-star note*

See my change—correct? *Yes; thanks*

✓ 37-10 and 37-11

✓ See my changes. "to the" is not part of the preexisting text and so it does not need to be struck; "to" is part of the preexisting text and so it does not need to be scored. *ok*

✓ 38-6

✓ See my changes. "the" is not part of the preexisting text and so it does not need to be struck. Also, the revisor left unprinted a comma that was scored in by Act 388. Since the revisor did not print the text correctly, would a repeal and recreate, and maybe a 4-star note, be better here? *See changes + INSERT ADD 38-10*

Other

✓ I have put sticky notes on the pages of the bill and the insert where I wasn't sure if a 4-star note should be added or removed.

✓ It might be helpful to add a 4-star note at the beginning of the bill, right after the enacting clause, stating that the bill is based on SB 731 and describing the situations in which notes are included, so that a reader who did not have access to the d-note or did not look at the d-note first would have that information at the outset. (Note: I didn't read the d-note first, and could not tell from the notes themselves in what situations they would or would not appear. One thing that threw me was the phrase "I included" that was used in a lot of the notes, which could mean "I added [to what was in SB 731]" but could also mean "I retained [from SB 731]". I don't think it's necessary to change the phrase, but a note right after the enacting clause, as described above, would likely make everything clear.) *See INSERT ADD 1-1 and my changes to \*NOTES*

✓ If you look at the revisor's note under s. 54.25 (2) (c) 5. in the galley proofs, you will see that the revisor has assigned a subdivision number—5.—to what appeared in 2005 Act 387 as an unnumbered, but initially indented, block of material. However, it seems possible—especially when you look at the content—that this block of material was accidentally pushed down and indented, and really should have been part of subd. 4.

✓ Would you consider consolidating the two subdivisions? *Yes; see INSERT ADD 13-7*

✓ The revisor merged treatments of s. 757.69 (1) (h) by 2005 Acts 264 and 387, but, unlike other mergers by the revisor, this one is not repealed and recreated in the bill. Should it be? *Yes; see INSERT ADD 36-10*

✓ Section 560.9811 (1) has a mistake (word order jumbled in the defined term) that came in from 2005 Act 264. Do you want to fix it in this bill? *Yes; see INSERT ADD 35-12*

✓ Section 54.40 (4) (c) refers to a "report" under s. 54.15 (8), but the term "report" does not appear there, only the term "statement". Should s. 54.40 (4) (c) be amended? *Yes; see D-Note 4 + INSERT ADD 15-2*

✓ On pages 20, 25, 34, 35, 38, and 39 of the insert, the bill attempts to fix occasions in which text was added without being underscored or duplicated text that was already there



(the treatments of ss. 55.055 (3) (c), 55.12 (4), 55.22 (1) (b), 146.82 (2) (a) 7., 753.30 (1), and 885.17). The revisor has a different way of doing this—see attached. In addition, the revisor has for now retained these sections in the corrections bills that you have seen.

Would you want to remove these sections from your bill and let the revisor take care of them with his bills? Or would you want to use special action phrases like the revisor has done and make the changes in your bill that way? (Please note that I have not reviewed all of the attached revisor material for accuracy, in case you should see a mistake.) One complication: there is an x-ref in 146.82 (2) (a) 7. that this bill amends, in addition to correcting the addition of text without scoring; however, I think you could continue to amend the x-ref but leave the other correction for the revisor. *I made both corrections*

*See my explanation on the following pages.*

I think section 54.44 (2) is missing the word “is” between “proposed ward” and “a minor” (the word is missing in Act 387, which created the provision, too). Do you want to fix this? *See INSERT ADD 15-12*

**D-note**

See my changes (in red) and my proposed changes (in pencil)—OK?

*Yes; thanks.*

treating  
51.437  
(4)(c)

*I did not  
add to bill*

**SECTION 336.** 2005 Wisconsin Act 264, section 62 is amended by replacing “s. 51.15, ~~55.05 (4) or 55.06 (11) (a), 55.13,~~” with “s. 51.15, 55.05 (4) or 55.06 (11) (a) 55.13.”.

NOTE: A comma was inserted where a comma already existed.

treating  
55.055  
(3)(c)

*Kept in,  
repealed + accepted*

**SECTION 337.** 2005 Wisconsin Act 264, section 108, is amended by replacing “or another home, nursing home, or other facility” with “or another home, nursing home, or other facility”.

NOTE: Text was inserted without being underscored. The change was intended.

treating  
55.12(4)

*Deleted  
from bill*

**SECTION 338.** 2005 Wisconsin Act 264, section 135, is amended by replacing “individuals who will need protective placement or protective services and given the limited funds available” with “individuals who will need protective placement or protective services and given the limited funds available”.

NOTE: Text was inserted without being underscored. The change was intended.

treating  
55.22(1)(b)

*Deleted  
from bill*

**SECTION 339.** 2005 Wisconsin Act 264, section 154, is amended by replacing “individual’s protective services or protective placement” with “individual’s protective services or protective placement”.

NOTE: Text was inserted without being underscored. The change was intended.

**SECTION 340.** 2005 Wisconsin Act 295, section 8 is amended by replacing “~~the type of prisoner supervision, and the delivery of services and programs to prisoners how to supervise and provide services and programs to a prisoner, and what services and programs to provide a prisoner~~” with “how to supervise and provide services and programs to a prisoner, and what services and programs to provide a prisoner”.

NOTE: In 2005 Wis. Act 295, section 8, the underscored text was preexisting and should not have been underscored. Drafting records show that the stricken text was inserted in an earlier draft and should have been removed rather than stricken.

**SECTION 341.** 2005 Wisconsin Act 297 section 6, is repealed.

NOTE: 2005 Wis. Act 297 purports to renumber s. 449.03 (2) to s. 449.03, but that action cannot be carried out because s. 449.03 contains another subsection that is not treated by the act.

**SECTION 347.** 2005 Wisconsin Act 347, section 27, is amended by replacing "281.48 (3) (d) (intro.) A farmer" with "281.48 (3) (d) A farmer".

NOTE: Removes unnecessary "(intro.)."

**SECTION 348.** 2005 Wisconsin Act 387, section 185 is amended by replacing "chs. 48, 54, and 851 to ~~880~~ 879" with "chs. 48, 54, and 851 to 880 879".

NOTE: "879" was inserted without underscoring. The change was intended.

**SECTION 349.** 2005 Wisconsin Act 387, section 574 is amended by replacing "party's interest or title ~~shall~~, may be examined" with "party's interest or title, shall may be examined".

NOTE: A comma was incorrectly placed and underscored.

**SECTION 350.** 2005 Wisconsin Act 388, section 175 is amended by replacing "information from the ~~county~~ elder-adult-at-risk agency or ~~county~~ protective services adult-at-risk agency" with "information from the county elder-adult-at-risk agency or county protective services adult-at-risk agency".

NOTE: "Adult-at-risk agency" was inserted without being underscored. The change was intended.

**SECTION 351.** 2005 Wisconsin Act 391, section 13 (1) is amended to read:

[2005 Wisconsin Act 391] Section 13. (1) DISSOLUTION OF VILLAGES. The treatment of section ~~66.187~~ 61.187 (2) (a), (b), and (c) of the statutes first applies to an election for the dissolution of a village that is held on the effective date of this subsection.

NOTE: Corrects cross-reference. Act 391 treats s. 61.187 and does not treat 66.187.

**SECTION 352.** 2005 Wisconsin Act 434, section 34 is amended by replacing "974.06, or 974.07 (2)" with "974.06, or 974.07 (2)".

NOTE: A comma was inserted without underscoring. The change was intended.

**SECTION 353.** 2005 Wisconsin Act 434, section 70 is amended by replacing "disease, defect, or illness" with "disease, defect, or illness".

*treating 753.30(1)*

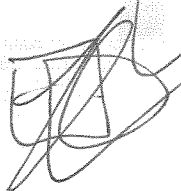
*deleted from bill*

*treating 885.17*

*deleted from bill*

*treating 146.82 (2)(a) 7.*

*kept in; repealed + recreated*



in the facility for being adjudicated delinquent under s. 48.34, 1993 stats., or under s. 938.183 or 938.34 on the basis of a sexually violent offense.

NOTE: Corrects cross-references and conforms text to changes in defined terms made by 2005 Wis. Act 434.

**SECTION 236.** 980.02 (1) (b) 3. of the statutes, as created by 2005 Wisconsin Acts 434, is amended to read:

980.02 (1) (b) 3. The county in which the person is in custody under a sentence, a placement to a secured juvenile correctional facility, as defined in s. 938.02 (15m), (10p) or a secured child caring institution residential care center for children and youth, as defined in s. 938.02 (15g), or a secured group home, as defined in s. 938.02 (15p), or a commitment order.

NOTE: Corrects cross-references and conforms text to changes in defined terms made by 2005 Wis. Act 434.

**SECTION 237.** 980.07 (7) of the statutes, as created by 2005 Wisconsin Act 431, is renumbered 980.07 (9).

NOTE: Confirms renumbering by the revisor under s. 13.93 (1) (b). 2005 Wis Act 434 amended s. 980.07 (6m) which resulted in it being divided into 3 separate subsections, s. 980.08 (6m), (7), (8).

**SECTION 238.** 2005 Wisconsin Act 387, section 372 is amended by replacing "54.50 (4) (d) CESSATION OF POWERS." with "54.50 (4) CESSATION OF POWERS."

*treating I did not add to bill 54.50(4)*

NOTE: Removes incorrect paragraph designation. 2005 Wis. Act 387, s. 372 renumbered s. 880.15 (3) to s. 54.40 (4). Former s. 880.13 (5) was not divided into paragraphs.

**SECTION 239.** 2005 Wisconsin Act 441, section 20, is amended by replacing "telecommunication service, gas, light, heat, or power" with "telecommunications service, gas, light, heat, or power".

NOTE: A comma was inserted without underscoring. The change was intended. The stricken "telecommunication" should have been "telecommunications."

**SECTION 240.** 2005 Wisconsin Act 443, section 265, is amended by replacing