



D-NOTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA✓

REGENERATE

1 AN ACT to repeal 54.40 (4) (am), 54.40 (4) (ar), 54.40 (4) (dm) and 146.40 (1) (am);
2 to renumber 55.01 (4g), 55.01 (6), 55.01 (6d), 55.01 (6g) and 55.01 (6t); to
3 consolidate and renumber 54.24 (2) (c) 4. and 5.; to amend 46.90 (1) (eg) 1.,
4 46.90 (1) (eg) 2., 46.90 (5m) (a), 46.90 (5m) (br) 2., 46.90 (6) (bt) 8., 48.368 (1),
5 48.415 (3) (a), 51.30 (4) (b) 17., 54.01 (13), 54.10 (3) (d), 54.15 (6), 54.25 (2) (b)
6 4., 54.25 (2) (d) 2. a., 54.25 (2) (d) 2. n., 54.25 (4) (b), 54.40 (4) (c), 54.40 (4) (ds),
7 54.44 (1) (a), 54.44 (2), 54.44 (4) (title), 54.44 (4) (a), 54.44 (4) (b), 54.48, 54.93
8 (1) (b), 55.01 (1f), 55.01 (6p), 55.01 (6r) (k), 55.03 (3), 55.043 (1r) (a) 2., 55.043
9 (4) (am), 55.043 (4) (b) 1., 55.043 (6) (bt) 8., 55.075 (1), 55.075 (3), 55.075 (5) (bm),
10 55.08 (2) (a), 55.08 (2) (b), 55.09 (1), 55.10 (4) (intro.), 55.10 (4) (a), 55.12 (6),
11 55.13 (2), 55.135 (4), 55.135 (5), 55.15 (2), 55.17 (1), 55.18 (2) (a), 55.18 (2) (f) 4.,
12 55.18 (3) (a), 560.9811 (1), 813.123 (2) (b), 813.123 (4) (ar) 1., 813.123 (5) (a) 3.
13 b., 813.123 (5) (ar) 1., 813.123 (5) (c) 1., 813.123 (7) and 940.285 (1m); to repeal
14 and recreate 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm), 46.23 (3) (e), 46.286
15 (3) (a) 3., 49.001 (8), 50.06 (2) (c), 51.01 (5) (a), 51.01 (14t), 51.03 (3) (a) 6., 51.10

1 (8), 51.20 (7) (d) 1., 51.40 (2) (a) 1., 51.40 (2) (a) 2., 51.42 (3) (e), 51.437 (4r) (b),
2 54.01 (8), 54.25 (1) (a), 54.25 (1) (b) (intro.), 54.36 (1), 54.38 (2) (a), 54.40 (1),
3 54.42 (1) (a) (intro.), 54.42 (1) (c), 54.46 (3) (a), 54.75, 55.01 (1v), 55.01 (2), 55.01
4 (6v), 55.02, 55.03 (1), 55.043 (1r) (b) 2., 55.043 (1r) (c) 2. c., 55.043 (4) (b) 2.,
5 55.055 (1) (a), 55.055 (1) (b), 55.055 (3) (c), 55.06, 55.075 (5) (a), 55.08 (1) (b),
6 55.08 (1) (c), 55.10 (4) (b), 55.11 (1) (c), 55.135 (1), 55.14 (1) (b) (intro.), 55.14 (2),
7 55.14 (3) (c), 55.14 (3) (e) (intro.), 55.14 (3) (e) 1., 55.14 (5), 55.14 (6), 55.14 (7),
8 55.14 (8) (a), 55.14 (9), 55.14 (10), 55.14 (11), 55.175, 55.19 (intro.), 55.19 (1) (a)
9 (intro.), 55.19 (1) (a) 1., 55.19 (1) (b), 55.19 (1) (bm), 55.19 (1) (c), 55.19 (1m),
10 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
11 (2) (g), 55.19 (3) (b) (intro.), 55.19 (3) (bm), 55.19 (3) (br), 55.19 (3) (d) (intro.),
12 55.19 (3) (e) 1., 55.19 (3) (e) 2., 55.19 (3) (e) 3., 55.195 (intro.), 55.22 (2), 146.82
13 (2) (a) 7., 609.65 (1) (intro.), 757.69 (1) (h), 813.123 (3) (b), 813.123 (4) (a) (intro.),
14 813.123 (4) (a) 2. a., 813.123 (5) (a) (intro.) and 813.123 (6) (c); and **to create**
15 54.44 (5), 54.44 (5m) (title), 940.295 (1) (cr) and 940.295 (1) (hr) of the statutes;
16 **relating to:** protective placements and protective services; involuntary
17 administration of psychotropic medication; guardianships, conservatorships,
18 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:

****NOTE: Please review the Drafter's Note that accompanies this bill; it gives a guide to numerous drafting decisions made for the bill.

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.

****NOTE: I added this provision because it was printed merged by the Revisor and appears to have no conflict, and it was decided to include in this bill other provisions merged by the Revisor. I have made no change in the version printed by the Revisor. Okay?

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.

****NOTE: I added this provision because it was printed merged by the Revisor and
appears to have no conflict, and it was decided to include in this bill other provisions
merged by the Revisor. I have made no change in the version printed by the Revisor.
Okay?

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,

1 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a subunit of a county department of social
2 services or tribal agency acting under this subsection may exchange confidential
3 information about a client, without the informed consent of the client, with any other
4 subunit of the same county department of social services or tribal agency, with a
5 resource center, a care management organization, or a family care district, with an
6 elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral
7 for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with a person
8 providing services to the client under a purchase of services contract with the county
9 department of social services or tribal agency or with a resource center, a care
10 management organization, or a family care district, if necessary to enable an
11 employee or service provider to perform his or her duties, or to enable the county
12 department of social services or tribal agency to coordinate the delivery of services
13 to the client. An agency that releases information under this paragraph shall
14 document that a request for information was received and what information was
15 provided.

****NOTE: I added this provision because it was printed merged by the Revisor and appears to have no conflict, and it was decided to include in this bill other provisions merged by the Revisor. I have made no change in the version printed by the Revisor. Okay?

16 **SECTION 4.** 46.23 (3) (e) of the statutes, as affected by 2005 Wisconsin Acts 264,
17 388 and 406, is repealed and recreated to read:

18 46.23 (3) (e) *Exchange of information; long-term care.* Notwithstanding ss.
19 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82,
20 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a subunit of a county department of
21 human services or tribal agency acting under this section may exchange confidential
22 information about a client, without the informed consent of the client, with any other
23 subunit of the same county department of human services or tribal agency, with a

1 resource center, a care management organization, or a family care district, with an
2 elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral
3 for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with a person
4 providing services to the client under a purchase of services contract with the county
5 department of human services or tribal agency or with a resource center, a care
6 management organization, or a family care district, if necessary to enable an
7 employee or service provider to perform his or her duties, or to enable the county
8 department of human services or tribal agency to coordinate the delivery of services
9 to the client. An agency that releases information under this paragraph shall
10 document that a request for information was received and what information was
11 provided.

****NOTE: I added this provision because it was printed merged by the Revisor and appears to have no conflict, and it was decided to include in this bill other provisions merged by the Revisor. I have made no change in the version printed by the Revisor. Okay?

12 SECTION 5. 46.286 (3) (a) 3. of the statutes, as affected by 2005 Wisconsin Acts
13 264 and 388, is repealed and recreated to read:

14 46.286 (3) (a) 3. Is functionally eligible at the intermediate level and is
15 determined by an elder-adult-at-risk agency under s. 46.90 (2) or an adult-at-risk
16 agency designated under s. 55.043 (1d) to be in need of protective services or
17 protective placement under ch. 55.

****NOTE: The treatment of this provision was in 2005 Senate Bill 731; I have additionally changed an incorrect cross-reference, from s. 55.02, to s. 55.043 (1d). Okay?

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

19 46.90 (1) (eg) 1. A guardian of the estate appointed under s. ~~880.03~~ s. 54.10.

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

21 46.90 (1) (eg) 2. A conservator appointed under s. ~~880.31~~ s. 54.76.

INSERT 6-21

1 **SECTION 8.** 46.90 (5m) (a) of the statutes is amended to read:

2 46.90 (5m) (a) Upon responding to a report, the elder-adult-at-risk agency or
3 the investigative agency shall determine whether the elder adult at risk or any other
4 individual involved in the alleged abuse, financial exploitation, neglect, or
5 self-neglect is in need of services under this chapter or ~~ch. 47, 49, 51, 55 or 880 ch.~~
6 47, 49, 51, 54, or 55. From the appropriation under s. 20.435 (7) (dh), the department
7 shall allocate to selected counties not less than \$25,000 in each fiscal year, and within
8 the limits of these funds and of available state and federal funds and of county funds
9 appropriated to match the state and federal funds, the elder-adult-at-risk agency
10 shall provide the necessary direct services to the elder adult at risk or other
11 individual or arrange for the provision of the direct services with other agencies or
12 individuals. Those direct services provided shall be rendered under the least
13 restrictive conditions necessary to achieve their objective.

****NOTE: I added this because it involves a changed cross-reference and it was
decided to include other provisions with necessary cross-reference changes. Okay?

14 **SECTION 9.** 46.90 (5m) (br) 2. of the statutes is amended to read:

15 46.90 (5m) (br) 2. Take appropriate emergency action, including emergency
16 protective placement under s. ~~55.06~~ s. 55.135, if the elder-adult-at-risk agency
17 determines that the emergency action is in the best interests of the elder adult at risk
18 and the emergency action is the least restrictive appropriate intervention.

****NOTE: I added this because it involves a changed cross-reference and it was
decided to include other provisions with necessary cross-reference changes. Okay?

19 **SECTION 10.** 46.90 (6) (bt) 8. of the statutes is amended to read:

20 46.90 (6) (bt) 8. To the attorney or guardian ad litem for the elder adult at risk
21 who is the alleged victim named in the record, to assist in preparing for any

1 proceeding under ~~ch. 48, 51, 55, 813, 880, 971, or 975~~ ch. 48, 51, 54, 55, 813, 971, or
2 975 pertaining to the alleged victim.

3 **SECTION 11.** 48.368 (1) of the statutes is amended to read:

4 48.368 (1) If a petition for termination of parental rights is filed under s. 48.41
5 or 48.415 or an appeal from a judgment terminating or denying termination of
6 parental rights is filed during the year in which a dispositional order under s. 48.355,
7 an extension order under s. 48.365, a voluntary agreement for placement of the child
8 under s. 48.63, or a guardianship order under ch. 880, 2003 stats. or s. 48.977 or ~~ch.~~
9 ~~880 ch. 54~~ is in effect, the dispositional or extension order, voluntary agreement, or
10 guardianship order shall remain in effect until all proceedings related to the filing
11 of the petition or an appeal are concluded.

****NOTE: I added this because it involves a changed cross-reference and it was
decided to include other provisions with necessary cross-reference changes. Okay?

12 **SECTION 12.** 48.415 (3) (a) of the statutes is amended to read:

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

****NOTE: I added this because it involves an incorrect cross-reference, and it was
decided to include other provisions with necessary cross-reference changes. Okay?

20 **SECTION 13.** 49.001 (8) of the statutes, as affected by 2005 Wisconsin Acts 264
21 and 387, is repealed and recreated to read:

1 49.001 (8) "Voluntary" means according to an individual's free choice, if
2 competent, or by choice of his or her guardian if the individual is adjudicated
3 incompetent.

****NOTE: This provision is changed from the version in 2005 Senate Bill 731 to conform to Act 387, rather than to Act 264.

4 **SECTION 14.** 50.06 (2) (c) of the statutes, as affected by 2005 Wisconsin Acts 264
5 and 387, is repealed and recreated to read:

6 50.06 (2) (c) A petition for guardianship for the individual under s. 54.34 and
7 a petition under s. 55.075 for protective placement of the individual are filed prior
8 to the proposed admission.

****NOTE: I added this provision because it was printed merged by the Revisor and appears to have no conflict, and it was decided to include in this bill other provisions merged by the Revisor. I have made no change in the version printed by the Revisor. Okay?

INSERT
9-8

9 **SECTION 15.** 51.01 (5) (a) of the statutes, as affected by 2005 Wisconsin Acts 264,
10 387 and 388, is repealed and recreated to read:

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

19 **SECTION 16.** 51.01 (14t) of the statutes, as affected by 2005 Wisconsin Acts 264,
20 387 and 388, is repealed and recreated to read:

1 51.01 (14t) "Serious and persistent mental illness" means a mental illness that
2 is severe in degree and persistent in duration, that causes a substantially diminished
3 level of functioning in the primary aspects of daily living and an inability to cope with
4 the ordinary demands of life, that may lead to an inability to maintain stable
5 adjustment and independent functioning without long-term treatment and support,
6 and that may be of lifelong duration. "Serious and persistent mental illness" includes
7 schizophrenia as well as a wide spectrum of psychotic and other severely disabling
8 psychiatric diagnostic categories, but does not include degenerative brain disorder
9 or a primary diagnosis of a developmental disability or of alcohol or drug dependence.

10 **SECTION 17.** 51.03 (3) (a) 6. of the statutes, as affected by 2005 Wisconsin Acts
11 264 and 387, is repealed and recreated to read:

12 51.03 (3) (a) 6. The number of individuals authorized to consent to involuntary
13 administration of psychotropic medication under s. 55.14 (8) or for whom guardians
14 were appointed under s. 880.33 (4m), 2003 stats.

15 **SECTION 18.** 51.10 (8) of the statutes, as affected by 2005 Wisconsin Acts 264
16 and 387, is repealed and recreated to read:

17 51.10 (8) An adult for whom, because of incompetency, a guardian of the person
18 has been appointed in this state may be voluntarily admitted to an inpatient
19 treatment facility if the guardian consents after the requirements of sub. (4m) (a) 1.
20 are satisfied or if the guardian and the ward consent to the admission under this
21 section.

****NOTE: I added this provision because it was printed merged by the Revisor and
appears to have no conflict, and it was decided to include in this bill other provisions
merged by the Revisor. I have made no change in the version printed by the Revisor.
Okay?

22 **SECTION 19.** 51.20 (7) (d) 1. of the statutes, as affected by 2005 Wisconsin Acts
23 264 and 387, is repealed and recreated to read:

the involuntary administration of

1 51.20 (7) (d) 1. If the court determines after hearing that there is probable cause
 2 to believe that the subject individual is a fit subject for guardianship and protective
 3 placement or services, the court may, without further notice, appoint a temporary
 4 guardian for the subject individual and order temporary protective placement or
 5 services under ch. 55 for a period not to exceed 30 days, and shall proceed as if
 6 petition had been made for guardianship and protective placement or services. If the
 7 court orders only temporary protective services for a subject individual under this
 8 paragraph, the individual shall be provided care only on an outpatient basis. The
 9 court may order psychotropic medication as a temporary protective service under
 10 this paragraph if it finds that there is probable cause to believe that the allegations
 11 under s. 55.14 (3) (e) apply, that the individual is not competent to refuse
 12 psychotropic medication and that the medication ordered will have therapeutic
 13 value and will not unreasonably impair the ability of the individual to prepare for
 14 and participate in subsequent legal proceedings. An individual is not competent to
 15 refuse psychotropic medication if, because of serious and persistent mental illness,
 16 and after the advantages and disadvantages of and alternatives to accepting the
 17 particular psychotropic medication have been explained to the individual, one of the
 18 following is true:

****NOTE: Should "involuntary administration of" be inserted after "The court may order"? This language existed under Act 264.

INSERT
11-18

- 19 a. The individual is incapable of expressing an understanding of the
- 20 advantages and disadvantages of accepting treatment and the alternatives.
- 21 b. The individual is substantially incapable of applying an understanding of
- 22 the advantages, disadvantages and alternatives to his or her serious and persistent

1 mental illness in order to make an informed choice as to whether to accept or refuse
2 psychotropic medication.

3 **SECTION 20.** 51.30 (4) (b) 17. of the statutes is amended to read:

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

****NOTE: I added this because it involves a changed cross-reference and it was
decided to include other provisions with necessary cross-reference changes. Okay?

14 **SECTION 21.** 51.40 (2) (a) 1. of the statutes, as affected by 2005 Wisconsin Acts
15 264 and 387, is repealed and recreated to read:

16 51.40 (2) (a) 1. 'Commitment or protective placement or protective services.'
17 If an individual is under a court order of commitment under this chapter or protective
18 placement or protective services under s. 55.06, 2003 stats., or s. 55.12, the individual
19 remains a resident of the county in which he or she has residence at the time the
20 initial commitment or initial order for protective placement or protective services is
21 made. If the court makes no specific finding of a county of residence, the individual
22 is a resident of the county in which the court is located. After notice, including notice
23 to the corporation counsel of each affected county by certified mail, after opportunity

1 to be heard has been provided to all affected counties and parties, and if there is no
2 objection, the court may make a specific finding of a county of residence. If any
3 affected county or party objects to the court's proposed finding, the county or party
4 may request the department to make a determination under par. (g). Any transfer
5 of venue may be suspended until the department's determination is final.

****NOTE: I added this provision because it was printed merged by the Revisor and appears to have no conflict, and it was decided to include in this bill other provisions merged by the Revisor. I have made no change in the version printed by the Revisor. Okay?

6 **SECTION 22.** 51.40 (2) (a) 2. of the statutes, as affected by 2005 Wisconsin Acts
7 264 and 387, is repealed and recreated to read:

8 51.40 (2) (a) 2. 'Placement by a county.' Except for the provision of emergency
9 services under s. 51.15, 51.42 (1) (b), 51.437 (4) (c), or 51.45 (11) and (12), emergency
10 protective services under s. 55.13, or emergency protective placement under s.
11 55.135, if a county department or an agency of a county department places or makes
12 arrangements for placement of the individual into a facility, the individual is a
13 resident of the county of that county department. Any agency of the county
14 department is deemed to be acting on behalf of the county department in placing or
15 making arrangements for placement. Placement of an individual by a county
16 department or an agency of a county department in a facility outside the jurisdiction
17 of the county department or agency does not transfer the individual's legal residence
18 to the county in which the facility is located. If a resident of a county is physically
19 present in another county and is in need of immediate care, the county in which the
20 individual is present may provide for his or her immediate needs under s. 51.15,
21 51.20, 51.42 (1) (b), 51.437 (4) (c), or 51.45 (11) or (12), or ch. 54 or 55, without
22 becoming the individual's county of residence.

****NOTE: I added this provision because it was printed merged by the Revisor and appears to have no conflict, and it was decided to include in this bill other provisions merged by the Revisor. I have made no change in the version printed by the Revisor. Okay?

1 **SECTION 23.** 51.42 (3) (e) of the statutes, as affected by Wisconsin Acts 264 and
2 388, is repealed and recreated to read:

3 51.42 (3) (e) *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), 253.07 (3)
5 (c) and 938.78 (2) (a), any subunit of a county department of community programs
6 or tribal agency acting under this section may exchange confidential information
7 about a client, without the informed consent of the client, with any other subunit of
8 the same county department of community programs or tribal agency, with a
9 resource center, a care management organization, or a family care district, or with
10 any person providing services to the client under a purchase of services contract with
11 the county department of community programs or tribal agency or with a resource
12 center, care management organization, or family care district, if necessary to enable
13 an employee or service provider to perform his or her duties, or to enable the county
14 department of community programs or tribal agency to coordinate the delivery of
15 services to the client. Any agency releasing information under this paragraph shall
16 document that a request was received and what information was provided.

****NOTE: I added this provision because it was printed merged by the Revisor and appears to have no conflict, and it was decided to include in this bill other provisions merged by the Revisor. I have made no change in the version printed by the Revisor. Okay?

17 **SECTION 24.** 51.437 (4r) (b) of the statutes, as affected by 2005 Wisconsin Acts
18 264 and 388, is repealed and recreated to read:

19 51.437 (4r) (b) Notwithstanding ss. 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83,
20 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.

****NOTE: I added this provision because it was printed merged by the Revisor and appears to have no conflict, and it was decided to include in this bill other provisions merged by the Revisor. I have made no change in the version printed by the Revisor. Okay?

14 **SECTION 25.** 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.

1 **SECTION 26.** 54.01 (13) of the statutes is amended to read:

2 54.01 (13) "Heir" means any person, including the surviving spouse, who is
3 entitled under the statutes of intestate succession to an interest in property of a
4 decedent. The state is an heir of the decedent and a person interested under s. 45.37
5 (10) and (11) when the decedent was a member of the Wisconsin Veterans Home at
6 King or at the facilities operated by the department of veterans affairs under s.
7 ~~45.385~~ s. 45.50 at the time of the decedent's death.

****NOTE: I added this because it involves a changed cross-reference and it was
decided to include other provisions with necessary cross-reference changes. Okay?

✓
INSERT 16-7

8 **SECTION 27.** 54.10 (3) (d) of the statutes is amended to read:

9 54.10 (3) (d) Before appointing a guardian under this subsection, declaring
10 incompetence to exercise a right under s. 54.25 (2) (c), or determining what powers
11 are appropriate for the guardian to exercise under s. 54.18, 54.20, or 54.25 (2) (d), the
12 court shall determine if additional medical, psychological, social, vocational, or
13 educational evaluation is necessary for the court to make an informed decision
14 respecting the individual's competency to exercise legal rights and may obtain
15 assistance in the manner provided in ~~s. 55.06(8)~~ s. 55.11 (1) whether or not protective
16 placement is made.

INSERT 16-16A

17 **SECTION 28.** 54.15 (6) of the statutes is amended to read:

18 54.15 (6) **TESTAMENTARY NOMINATION BY PROPOSED WARD'S PARENTS.** Subject to the
19 rights of a surviving parent, a parent may by will nominate a guardian and successor
20 guardian of the person or estate for any of his or her minor children who is in need
21 of guardianship, unless the court finds that appointment of the guardian or successor
22 guardian is not i n the minor's best interests. For an individual who is aged 18 or
23 older and is found to be in need of guardianship by reason of a developmental

INSERT 16-16B

1 disability or serious and persistent mental illness, a parent may by will nominate a
2 testamentary guardian. The parent may waive the requirement of a bond for such
3 an estate that is derived through a will.

INSERT 17-3

****NOTE: The amendment to this provision corrects a typographical error.

4 **SECTION 29.** 54.25 (1) (a) of the statutes, as affected by 2005 Wisconsin Acts 264
5 and 387, is repealed and recreated to read:

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

****NOTE: I added this provision because it was printed merged by the Revisor and appears to have no conflict, and it was decided to include in this bill other provisions merged by the Revisor. I have made no change in the version printed by the Revisor. Okay?

13 **SECTION 30.** 54.25 (1) (b) (intro.) of the statutes, as affected by 2005 Wisconsin
14 Acts 264 and 387, is repealed and recreated to read:

15 54.25 (1) (b) (intro.) Endeavor to secure any necessary care or services for the
16 ward that are in the ward's best interests, based on all of the following:

17 **SECTION 31.** 54.25 (2) (b) 4. of the statutes is amended to read:

18 54.25 (2) (b) 4. To protest a residential placement made under ~~s. 55.05 (5) s.~~
19 55.055, and to be discharged from a residential placement unless the individual is
20 protectively placed under ~~s. 55.06 ch. 55~~ or the ~~elements~~ requirements of ~~s. 55.06 (11)~~
21 s. 55.135 (1) are present met.

****NOTE: In merging this provision, the Revisor omitted reference to subsection (1) of s. 55.135; I have restored that reference.

1 **SECTION 32.** 54.25 (2) (c) 4. and 5. of the statutes are consolidated and
2 renumbered 54.25 (2) (c) 4.

****NOTE: Act 387 created an unnumbered subdivision following s. 54.25 (2) (c) 4. The Revisor renumbered the subdivision to be s. 54.25 (2) (c) 5., but it appears to be part of s. 54.25 (2) (c) 4. This section of the bill consolidates the two provisions.

3 **SECTION 33.** 54.25 (2) (d) 2. a. of the statutes is amended to read:

4 54.25 (2) (d) 2. a. Except as provided under subd. 2. b., c., and d., and except
5 for consent to psychiatric treatment and medication under ch. 51, and subject to any
6 limitation under s. 54.46 (3) (b) (2) (b), the power to give informed consent, if in the
7 ward's best interests, to ~~voluntary or the involuntary administration of a medical~~
8 examination, medication, and medical treatment ~~and to the voluntary receipt by the~~
9 ward of medication, including any appropriate ~~psychotropic medication~~ that is in the
10 ward's best interest, if the ~~guardian has first made a good-faith attempt to discuss~~
11 ~~with the ward the ward's voluntary receipt of the psychotropic medication and the~~
12 ward does not protest. For purposes of this subd. 2. a., "protest" means make more
13 than one discernible negative response, other than mere silence, to the offer of,
14 recommendation for, or other proffering of voluntary receipt of psychotropic
15 medication. "Protest" does not mean a discernible negative response to a proposed
16 method of administration of the psychotropic medication. A guardian may consent
17 to the involuntary administration of psychotropic medication only under a court
18 order under s. 55.14. In determining whether involuntary administration of a
19 medical examination, medication, or medical treatment, ~~other than psychotropic~~
20 ~~medication,~~ is in the ward's best interest, the guardian shall consider the
21 invasiveness of the medical examination, medication, or treatment and the likely
22 benefits and side effects of the medical examination, medication, or treatment.

other than psychotropic medication

guardian may, without court approval,

****NOTE: This provision, as created under Act 387, is both redundant to and in conflict with s. 54.25 (4), which was separately created under Act 264. I have reconciled the two provisions by clarifying that consent by a guardian to the involuntary administration of medical examinations, medication and treatment for a ward is subject to court approval under this provision, except that involuntary administration of psychotropic medication is subject to s. 55.14. Please also see the treatment of s. 54.25 (4) (b).

INSERT 19-1

1 SECTION 34. 54.25 (2) (d) 2. n. of the statutes is amended to read:

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

4 SECTION 35. 54.25 (4) (b) of the statutes is ^{renumbered 54.25 (2) (d) 2.} amended to read:
_{ab. and}

5 54.25 ~~(4) (b)~~ ^{(2) (d) 2. ab.} A ~~Except as provided under sub. (2) (d) 2. b., c., and d., and except~~ ^{Subd.}
6 for consent to psychiatric treatment and medication under ch. 51, and subject to any
7 limitation under s. 54.46 (2) (b), ~~a guardian may, without court approval,~~ ^{the power to} give an
8 informed consent to the voluntary receipt by the guardian's ward of a medical
9 examination, medication, and medical treatment that is in the ward's best interest,
10 including any appropriate psychotropic medication, if the guardian has first made
11 a good-faith attempt to discuss with the ward the voluntary receipt of the
12 examination, medication, or treatment and if the ward does not protest. ^{INSERT 19-12} In
13 determining whether a medical examination, medication, or medical treatment is in
14 the ward's best interest, the guardian shall consider the invasiveness of the medical
15 examination, medication, or treatment and the likely benefits and side effects of the
16 medical examination, medication, or treatment.

INS 19-3

fix component

the power to

INSERT 19-12

****NOTE: This provision, as created under Act 264, is both redundant to and in conflict with s. 54.25 (2) (d) 2. a., which was created separately under Act 387. I have reconciled the two provisions by clarifying that consent for voluntary administration of medical examinations, medication, and treatment, including voluntary administration of psychotropic medication, that is in the ward's best interest, may be given by the guardian. Please see also the treatment of s. 54.25 (2) (d) 2. a.

INSERT 19-16

17 SECTION 36. 54.36 (1) of the statutes, as affected by 2005 Wisconsin Acts 264
18 and 387, is repealed and recreated to read:

1 54.36 (1) Whenever it is proposed to appoint a guardian on the ground that a
2 proposed ward allegedly has incompetency or is a spendthrift, a physician or
3 psychologist, or both, shall examine the proposed ward and furnish a written report
4 stating the physician's or psychologist's professional opinion regarding the presence
5 and likely duration of any medical or other condition causing the proposed ward to
6 have incapacity or to be a spendthrift. The privilege under s. 905.04 does not apply
7 to the report. The petitioner shall provide a copy of the report to the proposed ward
8 or his or her counsel, the guardian ad litem, and the petitioner's attorney, if any.
9 Prior to the examination on which the report is based, the guardian ad litem,
10 physician, or psychologist shall inform the proposed ward that statements made by
11 the proposed ward may be used as a basis for a finding of incompetency or a finding
12 that he or she is a spendthrift, that he or she has a right to refuse to participate in
13 the examination, absent a court order, or speak to the physician or psychologist, and
14 that the physician or psychologist is required to report to the court even if the
15 proposed ward does not speak to the physician or psychologist. The issuance of such
16 a warning to the proposed ward prior to each examination establishes a presumption
17 that the proposed ward understands that he or she need not speak to the physician
18 or psychologist. Nothing in this section prohibits the use of a report by a physician
19 or psychologist that is based on an examination of the proposed ward by the
20 physician or psychologist before filing the petition for appointment of a guardian, but
21 the court will consider the recency of the report in determining whether the report
22 sufficiently describes the proposed ward's current state and in determining the
23 weight to be given to the report.

24 **SECTION 37.** 54.38 (2) (a) of the statutes, as affected by 2005 Wisconsin Acts 264
25 and 387, is repealed and recreated to read:

1 54.38 (2) (a) On the proposed ward or ward by personal service and an existing
2 guardian, if any, by personal service or by registered or certified mail at least 10 days
3 before the time set for hearing. If the proposed ward or ward is in custody or
4 confinement, the petitioner shall have notice served by registered or certified mail
5 on the proposed ward's or ward's custodian, who shall immediately serve it on the
6 proposed ward or ward. The process server or custodian shall inform the proposed
7 ward or ward of the complete contents of the notice and petition, motion, or other
8 required document; certify on the notice that the process server or custodian served
9 and informed the proposed ward or ward; and return the certificate and notice to the
10 court.

11 **SECTION 38.** 54.40 (1) of the statutes, as affected by 2005 Wisconsin Acts 264
12 and 387, is repealed and recreated to read:

13 54.40 (1) APPOINTMENT. The court shall appoint a guardian ad litem when a
14 petition for appointment of a guardian is brought under s. 54.34 (1), when a petition
15 for receipt and acceptance of a foreign guardianship is brought under s. 54.34 (3), to
16 review the scope of a guardianship, to provide protective placement to an individual
17 or order protective services under ch. 55, to review any protective placement under
18 s. 55.18, to terminate a protective placement under s. 55.17, to expand an order of
19 guardianship under s. 54.63, to review incompetency and terminate a guardianship
20 under s. 54.64, to review the conduct of a guardian under s. 54.68, or at any other time
21 that the court determines it is necessary.

****NOTE: I have changed this provision from the way it appeared in 2005 Senate
Bill 731, to delete inadvertent redundant language and to delete reference to a protective
service order under s. 55.18, which deals only with reviews of protective placements.

22 **SECTION 39.** 54.40 (4) (am) of the statutes is repealed.

****NOTE: This provision is redundant to s. 54.40 (4) (c).

1 **SECTION 40.** 54.40 (4) (ar) of the statutes is repealed.

****NOTE: This provision is redundant to s. 54.40 (4) (c).

2 **SECTION 41.** 54.40 (4) (c) of the statutes is amended to read:

3 54.40 (4) (c) Interview the proposed guardian, the proposed standby guardian,
4 if any, and any other person seeking appointment as guardian and report to the court
5 concerning the suitability of each individual interviewed to serve as guardian and
6 concerning the report statement under s. 54.15 (8).

****NOTE: I added this provision to correct an incorrect cross-reference, the document under s. 54.15 (8) to which this provision refers is a statement, not a report.

7 **SECTION 42.** 54.40 (4) (dm) of the statutes is repealed.

****NOTE: This provision is redundant to s. 54.40 (4) (g).

8 **SECTION 43.** 54.40 (4) (ds) of the statutes is amended to read:

9 54.40 (4) (ds) Notify the guardian of the right to be present at and participate
10 in the hearing, to present and cross-examine witnesses, to receive a copy of any
11 evaluation under s. 55.11 (1) (intro.) or (2), and to secure and present a report on an
12 independent evaluation under s. 880.33 (2) (b) s. 54.42 (3).

****NOTE: I added this provision because it involves a changed cross-reference and it was decided to include other provisions with necessary cross-reference changes. Okay?

13 **SECTION 44.** 54.42 (1) (a) (intro.) of the statutes, as affected by 2005 Wisconsin
14 Acts 264 and 387, is repealed and recreated to read:

15 54.42 (1) (a) (intro.) The proposed ward or ward has the right to counsel, if any
16 of the following occurs:

****NOTE: I added this provision because it was printed merged by the Revisor and appears to have no conflict, and it was decided to include in this bill other provisions merged by the Revisor. I have made no change in the version printed by the Revisor. Okay?

17 **SECTION 45.** 54.42 (1) (c) of the statutes, as affected by 2005 Wisconsin Acts 264
18 and 387, is repealed and recreated to read:

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

6 **SECTION 46.** 54.44 (1) (a) of the statutes is amended to read:

7 54.44 (1) (a) *Time of hearing for petition.* A petition for guardianship, other
8 than a petition under par. (b) or (c) or s. 54.50 (1), shall be heard within 90 days after
9 it is filed. The guardian ad litem and attorney for the proposed ward or ward shall
10 be provided with a copy of the report of the examining physician or psychologist
11 under s. 54.36 (1) at least 96 hours before the time of the hearing.

****NOTE: Please see the description of this provision in the Drafter's Note.

12 **SECTION 47.** 54.44 (2) of the statutes is amended to read:

13 54.44 (2) STANDARD OF PROOF. Any determination by the court as to whether the
14 proposed ward or ward is a minor, is incompetent, or is a spendthrift shall be by clear
15 and convincing evidence.

****NOTE: Please see the description of this provision in the Drafter's Note.

16 **SECTION 48.** 54.44 (4) (title) of the statutes is amended to read:

17 54.44 (4) (title) PRESENCE OF PROPOSED WARD OR WARD.

****NOTE: Please see the description of this provision in the Drafter's Note.

18 **SECTION 49.** 54.44 (4) (a) of the statutes is amended to read:

19 54.44 (4) (a) *Adult proposed ward or ward.* The petitioner shall ensure that
20 the proposed ward or ward attends the hearing unless the attendance is waived by
21 the guardian ad litem. In determining whether to waive attendance by the proposed
22 ward or ward, the guardian ad litem shall consider the ability of the proposed ward

1 or ward to understand and meaningfully participate, the effect of the proposed
2 ward's attendance of the proposed ward or ward on his or her physical or
3 psychological health in relation to the importance of the proceeding, and the
4 proposed ward's expressed desires of the proposed ward or ward. If the proposed
5 ward or ward is unable to attend the hearing because of residency in a nursing home
6 or other facility, physical inaccessibility, or a lack of transportation and if the
7 proposed ward or ward, guardian ad litem, advocate counsel, or other interested
8 person so requests, the court shall hold the hearing in a place where the proposed
9 ward or ward may attend.

****NOTE: Please see the description of this provision in the Drafter's Note.

10 **SECTION 50.** 54.44 (4) (b) of the statutes is amended to read:

11 54.44 (4) (b) *Minor proposed ward or ward.* A minor proposed ward or ward
12 is not required to attend the hearing.

****NOTE: Please see the description of this provision in the Drafter's Note.

13 **SECTION 51.** 54.44 (5) of the statutes is created to read:

14 54.44 (5) PRIVACY OF HEARING. Every hearing under this chapter shall be closed,
15 unless the proposed ward or ward or his or her attorney acting with the proposed
16 ward's or ward's consent or the attorney for a foreign ward moves that it be open. If
17 the hearing is closed, only interested persons, their attorneys, and witnesses may be
18 present.

****NOTE: Please see the description of this provision in the Drafter's Note.

19 **SECTION 52.** 54.44 (5m) (title) of the statutes is created to read:

20 54.44 (5m) (title) PARTICIPATION BY INTERESTED PERSONS.

****NOTE: 2005 Wisconsin Act 264 created s. 880.33 (2) (f), which did not require
a title. Since ch. 880 no longer exists, the Revisor renumbered s. 880.33 (2) (f) as s. 54.44
(5m), but that provision needs a title.

1 **SECTION 53.** 54.46 (3) (a) of the statutes, as affected by 2005 Wisconsin Acts 264
2 and 387, is repealed and recreated to read:

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

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

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

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

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

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

****NOTE: This paragraph is printed as merged. The differences between the acts are printed as numbering (Act 264 renumbered the provision in ch. 880, and Act 387 renumbered the provision to s. 54.46), the use of "When" or "If" in the (intro.), and a difference in s. 54.46 (3) (a) 4. I added it because it was decided to include other provisions merged by the Revisor. Our Drafting Manual indicates that "when" is used only if a condition always occurs, which is not the case here. I have made no change in the version printed by the Revisor, except for this word. Okay?

16 **SECTION 54.** 54.48 of the statutes, as affected by 2005 Wisconsin Acts 264 and
17 387, is amended to read:

18 **54.48 Protective placement and protective services.** A finding of
19 incompetency and appointment of a guardian under this chapter is not grounds for
20 involuntary protective placement or the provision of protective services. Protective

1 A protective placement and the provision of protective services may be made only in
2 accordance with ch. 55.

✓
***NOTE: This provision is in slightly different form than as it appeared in 2005 Senate Bill 731; it shows the striking of surplus language.

INSERT 26-2

3 **SECTION 55.** 54.75 of the statutes, as affected by 2005 Wisconsin Acts 264 and
4 387, is repealed and recreated to read:

5 **54.75 Access to court records.** All court records pertinent to the finding of
6 incompetency are closed but subject to access as provided in s. 51.30 or 55.22 or under
7 an order of a court under this chapter. The fact that an individual has been found
8 incompetent and the name of and contact information for the guardian is accessible
9 to any person who demonstrates to the custodian of the records a need for that
10 information.

11 **SECTION 56.** 54.93 (1) (b) of the statutes is amended to read:

12 54.93 (1) (b) In this section, "3rd party" is means a person other than a bank,
13 broker, transfer agent or issuer who with respect to a security held by an incompetent
14 or spendthrift effects a transaction otherwise than directly with the incompetent or
15 spendthrift.

***NOTE: This amendment conforms the provision to current drafting practices.

16 **SECTION 57.** 55.01 (1f) of the statutes is amended to read:

17 55.01 (1f) "Adult-at-risk agency" means the agency designated by the county
18 board of supervisors under s. ~~55.043 (1)~~ 55.043 (1d) to receive, respond to, and
19 investigate reports of abuse, neglect, self-neglect, and financial exploitation under
20 s. 55.043.

***NOTE: I added this because it involves a changed cross-reference and it was decided to include other provisions with necessary cross-reference changes. Okay?

1 **SECTION 58.** 55.01 (1v) of the statutes, as created by 2005 Wisconsin Acts 264,
2 387 and 388, is repealed and recreated to read:

3 55.01 (1v) "Degenerative brain disorder" means the loss or dysfunction of brain
4 cells to the extent that the individual is substantially impaired in his or her ability
5 to provide adequately for his or her own care or custody or to manage adequately his
6 or her property or financial affairs.

7 **SECTION 59.** 55.01 (2) of the statutes, as affected by 2005 Wisconsin Acts 264
8 and 388, is repealed and recreated to read:

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

17 **SECTION 60.** 55.01 (4g) of the statutes, as created by 2005 Wisconsin Act 388,
18 is renumbered 55.01 (4i).

19 **SECTION 61.** 55.01 (6) of the statutes, as created by 2005 Wisconsin Act 388, is
20 renumbered 55.01 (6u).

21 **SECTION 62.** 55.01 (6d) of the statutes, as created by 2005 Wisconsin Act 388,
22 is renumbered 55.01 (6vm).

23 **SECTION 63.** 55.01 (6g) of the statutes, as created by 2005 Wisconsin Act 388,
24 is renumbered 55.01 (6w).

25 **SECTION 64.** 55.01 (6p) of the statutes is amended to read:

1 55.01 (6p) "Protective placement unit" means a ward, wing, or other
2 designated part of a protective placement facility.

****NOTE: This amendment conforms the language to the definition of "protective placement facility" under s. 55.01 (6m).

3 **SECTION 65.** 55.01 (6r) (k) of the statutes is amended to read:

4 55.01 (6r) (k) Any services that, when provided to an individual with
5 developmental disabilities, degenerative brain disorder, serious and persistent
6 mental illness, or other like incapacity, keep the individual safe from abuse, financial
7 exploitation, neglect, or misappropriation of property self-neglect or prevent the
8 individual from experiencing deterioration or from inflicting harm on himself or
9 herself or another person.

****NOTE: This provision was created by Act 264; however, Act 388 in other statutes replaced the term "misappropriation of property" with "financial exploitation" and added services for self-neglect. The amendments to this provision align the two Acts.

10 **SECTION 66.** 55.01 (6t) of the statutes, as created by 2005 Wisconsin Act 387,
11 is renumbered 55.01 (6s).

****NOTE: I would suggest taking the treatment of s. 55.01 (4g), (6), (6d), (6g), and (6t) out of the bill; for numerous other statutes, the Revisor has renumbered and we have not included (see s. 54.34 (2m), 54.25 (4), 54.44 (5m), and 54.46 (4) (title)).

12 **SECTION 67.** 55.01 (6v) of the statutes, as created by 2005 Wisconsin Acts 264
13 and 387, is repealed and recreated to read:

14 55.01 (6v) "Serious and persistent mental illness" means a mental illness that
15 is severe in degree and persistent in duration, that causes a substantially diminished
16 level of functioning in the primary aspects of daily living and an inability to cope with
17 the ordinary demands of life, that may lead to an inability to maintain stable
18 adjustment and independent functioning without long-term treatment and support,
19 and that may be of lifelong duration. "Serious and persistent mental illness" includes
20 schizophrenia as well as a wide spectrum of psychotic and other severely disabling

1 psychiatric diagnostic categories, but does not include degenerative brain disorder
2 or a primary diagnosis of a developmental disability or of alcohol or drug dependence.

3 **SECTION 68.** 55.02 of the statutes, as affected by 2005 Wisconsin Acts 264, 387
4 and 388, is repealed and recreated to read:

5 **55.02 Protective services and protective placement: duties. (1)**

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

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

11 2. Monitor and supervise the implementation and operation of the protective
12 services and protective placement system.

13 3. Provide technical assistance to county departments providing protective
14 services and protective placement.

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

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

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

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

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

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

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

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

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

****NOTE: Subsection (3), as renumbered and amended by 2005 Wisconsin Act 264,
was inadvertently deleted when repealing and recreating s. 55.02.

14 SECTION 69. 55.03 (1) of the statutes, as affected by 2005 Wisconsin Acts 264 (PLAIN)
15 and 387, is repealed and recreated to read: (PLAIN) AGENCY (PLAIN) BOTH GUARDIAN AND

16 55.03 (1) ~~GUARDIAN AS PROVIDER~~ (PLAIN) PROHIBITED (PLAIN) No agency acting as a guardian appointed
17 under ch. 880, 2003 stats., or ch. 54 may be a provider of protective services or
18 protective placement for its ward under this chapter.

****NOTE: This provision is changed from the version in 2005 Senate Bill 731, to
conform to the Act 264, rather than the Act 387, version.

19 SECTION 70. 55.03 (3) of the statutes is amended to read:

20 55.03 (3) GUARDIAN AUTHORITY AND RESPONSIBILITY APPLICABLE TO PARENT OF
21 MINOR. Where any responsibility or authority is created under this chapter upon or
22 in relation to a guardian, the responsibility or authority is deemed to apply to a

INSERT
30-18

1 parent or person in the place of a parent in the case of a minor who is or who is alleged
2 to be ~~developmentally disabled~~ have a developmental disability.

3 **SECTION 71.** 55.043 (1r) (a) 2. of the statutes is amended to read:

4 55.043 (1r) (a) 2. If an agent or employee of an adult-at-risk agency required
5 to refer under this subsection is the subject of a report, or if the adult-at-risk agency
6 or an agency under contract with the county department determines that the
7 relationship between the adult-at-risk agency and the agency under contract with
8 the county department would not allow for an unbiased response, the adult-at-risk
9 agency shall, after taking any action necessary to protect the adult at risk, notify the
10 department. Upon receipt of the notice, the department or a county department
11 under s. 46.215, 46.22, 51.42, or 51.437 designated by the department shall conduct
12 an independent investigation. The powers and duties of a county department
13 making the independent investigation are those given to an adult-at-risk agency
14 under ~~pars. (b) to (g)~~ pars. (b) to (d) and sub. (6).

****NOTE: I added this because it involves a changed cross-reference and it was
decided to include other provisions with necessary cross-reference changes. Okay?

15 **SECTION 72.** 55.043 (1r) (b) 2. of the statutes, as affected by 2005 Wisconsin Acts
16 264 and 388, is repealed and recreated to read:

17 55.043 (1r) (b) 2. Observation of or an interview with the adult at risk, in
18 private to the extent practicable, and with or without consent of his or her guardian
19 or agent under an activated power of attorney for health care, if any.

20 **SECTION 73.** 55.043 (1r) (c) 2. c. of the statutes, as affected by 2005 Wisconsin
21 Acts 264 and 388, is repealed and recreated to read:

22 55.043 (1r) (c) 2. c. The examination is authorized by order of a court.

23 **SECTION 74.** 55.043 (4) (am) of the statutes is amended to read:

1 55.043 (4) (am) Upon responding to a report, the adult-at-risk agency or the
2 investigative agency shall determine whether the adult at risk or any other
3 individual involved in the alleged abuse, financial exploitation, neglect, or
4 self-neglect is in need of services under this chapter or ~~ch. 46, 47, 59, 51, or 880 ch.~~
5 46, 47, 49, 51, and or 54. If provided, direct services shall be rendered under the least
6 restrictive conditions necessary to achieve their objective.

7 **SECTION 75.** 55.043 (4) (b) 1. of the statutes, as affected by 2005 Wisconsin Acts
8 264 and 388, is amended to read:

9 55.043 (4) (b) 1. Initiate a protective services~~,~~ action or contact an investigative
10 agency, as appropriate.

****NOTE: This provision was printed merged by the Revisor and appears to have
no conflict other than inappropriate commas, which I have fixed. Okay?

11 **SECTION 76.** 55.043 (4) (b) 2. of the statutes, as affected by 2005 Wisconsin Acts
12 264 and 388, is repealed and recreated to read:

13 55.043 (4) (b) 2. Take appropriate emergency action, including provision of
14 emergency protective services under s. 55.13 or emergency protective placement
15 under s. 55.135, if the adult-at-risk agency considers that the emergency action is
16 in the best interests of the adult at risk and the emergency action is the least
17 restrictive appropriate intervention.

****NOTE: I added this provision because, as merged by the Revisor, it contained a
double mention of "including". Okay?

18 **SECTION 77.** 55.043 (6) (bt) 8. of the statutes is amended to read:

19 55.043 (6) (bt) 8. To the attorney or guardian ad litem for the adult at risk who
20 is the alleged victim named in the record, to assist in preparing for any proceeding
21 under ~~ch. 48, 51, 55, 813, 880, 971, or 975~~ this chapter or ch. 48, 51, 54, 813, 971, or
22 975 pertaining to the alleged victim.

1 **SECTION 78.** 55.055 (1) (a) of the statutes, as affected by 2005 Wisconsin Acts
2 264 and 387, is repealed and recreated to read:

3 55.055 (1) (a) The guardian of an individual who has been adjudicated
4 incompetent may consent to the individual's admission to a foster home, group home,
5 or community-based residential facility, as defined under s. 50.01 (1g), without a
6 protective placement order under s. 55.12 if the home or facility is licensed for fewer
7 than 16 beds. Prior to providing that consent, and annually thereafter, the guardian
8 shall review the ward's right to the least restrictive residential environment and may
9 consent only to admission to a home or facility that implements that right.

10 **SECTION 79.** 55.055 (1) (b) of the statutes, as affected by 2005 Wisconsin Acts
11 264 and 387, is repealed and recreated to read:

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

1 primary purpose of admission is for treatment or services related to the individual's
2 mental illness or developmental disability.

3 **SECTION 80.** 55.055 (3) (c) of the statutes is repealed and recreated to read:

4 55.055 (3) (c) Comply with s. 55.135, if the individual satisfies all criteria under
5 s. 55.135 (1) and emergency placement in that home, nursing home, or other facility
6 or another home, nursing home, or other facility is necessary, or file a petition for
7 protective placement under s. 55.075. The court, with the permission of the home,
8 nursing home, or other facility, may order the individual to remain in the home,
9 nursing home, or other facility pending the outcome of the protective placement
10 proceedings.

***NOTE: The treatment of this provision inserts language mistakenly not
underscored in Act 387 and adds the appropriate adjective "other" to "facility" in the
second sentence.

11 **SECTION 81.** 55.06 of the statutes, as affected by 2005 Wisconsin Acts 264 and
12 387, is repealed and recreated to read:

13 **55.06 Protective services and protective placement; eligibility.** To be
14 eligible for court-ordered protective placement or protective services, an individual
15 shall have filed a petition to transfer a foreign guardianship, whether present in the
16 state or not, or shall be a resident of the state; and shall have a need for protective
17 placement or protective services. The individual shall have attained the age of 18,
18 but an individual who is alleged to have a developmental disability may receive
19 protective placement or protective services upon attaining the age of 14. Protective
20 placement or protective services may be ordered under this chapter only for an
21 individual who is adjudicated incompetent in this state or for a minor who is alleged
22 to have a developmental disability, and only if there is a finding of a need for
23 protective placement under s. 55.08 (1), and ss. 55.055 (5), 55.13, and 55.135 are

1 inappropriate or do not apply. A procedure for court-ordered protective placement
2 or protective services may be initiated 6 months before a minor attains age 18.

***NOTE: Please see the Drafter's Note for an explanation of this provision.

3 **SECTION 82.** 55.075 (1) of the statutes, as affected by 2005 Wisconsin Acts 264
4 and 387, is amended to read:

5 55.075 (1) WHO MAY PETITION. The department, the county department or an
6 agency with which the county department contracts under s. 55.02 (2), a guardian,
7 or an interested person may file a petition for appointment of a guardian and for
8 protective services or protective placement for an the individual. The department
9 shall provide for a schedule of reimbursement for the cost of the proceedings based
10 upon the ability to pay of the proposed ward or individual to be protected.

***NOTE: I added this, because it was merged by the Revisor.

11 **SECTION 83.** 55.075 (3) of the statutes, as affected by 2005 Wisconsin Acts 264
12 and 387, is amended to read:

13 55.075 (3) PETITION FOR GUARDIANSHIP; REVIEW OF INCOMPETENCY. A petition for
14 guardianship described in s. 55.08 (1) (b) or (2) (a) shall be heard prior to ordering
15 protective placement or protective services. If the individual is incompetent
16 adjudicated incompetent in this state more than 12 months before the filing of an
17 application for protective placement or protective services on his or her behalf, the
18 court shall review the finding of incompetency.

19 **SECTION 84.** 55.075 (5) (a) of the statutes, as affected by 2005 Wisconsin Acts
20 264 and 387, is repealed and recreated to read:

21 55.075 (5) (a) A petition under sub. (1) shall be filed in the county of residence
22 of the individual to be protected, as determined under s. 51.40 or by the individual's
23 guardian or where the individual is physically present due to extraordinary

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

****NOTE: This provision is from 2005 Wisconsin Act 387 and is the same as in 2005
Senate Bill 731, except that "extraordinary" has been inserted to modify "circumstances."

8 **SECTION 85.** 55.075 (5) (bm) of the statutes is amended to read:

9 55.075 (5) (bm) The court in which a petition is first filed under ~~par. (e)~~ par. (a)
10 shall determine venue. The court shall direct that proper notice be given to any
11 potentially responsible or affected county. Proper notice is given to a potentially
12 responsible or affected county if written notice of the proceeding is sent by certified
13 mail to the county's clerk and corporation counsel. After all potentially responsible
14 or affected counties and parties have been given an opportunity to be heard, the court
15 shall determine that venue lies in the county in which the petition is filed under ~~par.~~
16 ~~(e)~~ par. (a) or in another county, as appropriate. If the court determines that venue
17 lies in another county, the court shall order the entire record certified to the proper
18 court. A court in which a subsequent petition is filed shall, upon being satisfied of
19 an earlier filing in another court, summarily dismiss the subsequent petition. If any
20 potentially responsible or affected county or party objects to the court's finding of
21 venue, the court may refer the issue to the department for a determination of the
22 county of residence under s. 51.40 (2) (g) and may suspend ruling on the motion for
23 change of venue until the determination under s. 51.40 (2) (g) is final.

****NOTE: I added this because it involves a changed cross-reference and it was decided to include other provisions with necessary cross-reference changes. Okay?

1 **SECTION 86.** 55.08 (1) (b) of the statutes, as affected by 2005 Wisconsin Acts 264
2 and 387, is repealed and recreated to read:

3 55.08 (1) (b) The individual is a minor who is not alleged to have a
4 developmental disability and on whose behalf a petition for guardianship has been
5 submitted, or is an adult who has been determined to be incompetent by a circuit
6 court.

****NOTE: I reworded this provision to more closely parallel the language in s. 55.08
(2) (a), stats., and to better align subject and verb. Please review.

7 **SECTION 87.** 55.08 (1) (c) of the statutes, as affected by 2005 Wisconsin Acts 264
8 and 388, is repealed and recreated to read:

9 55.08 (1) (c) As a result of developmental disability, degenerative brain
10 disorder, serious and persistent mental illness, or other like incapacities, the
11 individual is so totally incapable of providing for his or her own care or custody as
12 to create a substantial risk of serious harm to himself or herself or others. Serious
13 harm may be evidenced by overt acts or acts of omission.

****NOTE: I added this provision, because it was merged by the Revisor. I also
changed "disabilities" to the singular. Okay?

14 **SECTION 88.** 55.08 (2) (a) of the statutes is amended to read:

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

****NOTE: This amendment is necessary because of the changed definition of
"developmental disability."

19 **SECTION 89.** 55.08 (2) (b) of the statutes is amended to read:

1 55.08 (2) (b) As a result of developmental ~~disabilities~~ disability, degenerative
2 brain disorder, serious and persistent mental illness, or other like incapacities, the
3 individual will incur a substantial risk of physical harm or deterioration or will
4 present a substantial risk of physical harm to others if protective services are not
5 provided.

****NOTE: In this provision I changed "disabilities" to the singular, to be consistent
with other provisions.

6 **SECTION 90.** 55.09 (1) of the statutes, as affected by 2005 Wisconsin Acts 264
7 and 387, is amended to read:

8 55.09 (1) NOTICE TO INDIVIDUAL. Notice of a petition for protective placement
9 or protective services shall be served upon the individual sought to be protected, by
10 personal service, at least 10 days before the time set for a hearing. The person
11 serving the notice shall inform the individual sought to be protected of the complete
12 contents of the notice and shall return a certificate to the circuit judge verifying that
13 the petition has been delivered and notice given. The notice shall include the names
14 of all petitioners. ~~individual adjudicated for a determination of incompetency~~

15 **SECTION 91.** 55.10 (4) (intro.) of the statutes is amended to read:

16 55.10 (4) RIGHTS. (intro.) The Sections 54.42, 54.44, and 54.46 and the
17 following provisions apply to all hearings under this chapter except transfers of
18 placement under s. 55.15 and summary hearings under ss. 55.18 (3) (d) and 55.19 (3)
19 (d):

****NOTE: This amendment fixes up the deletion of mention of ss. 54.42, 54.44, and
54.46 by the Revisor from s. 55.10 (4) (b); have I amended it as you intend?

20 **SECTION 92.** 55.10 (4) (a) of the statutes is amended to read:

21 55.10 (4) (a) *Counsel; costs.* The individual sought to be protected has the right
22 to counsel whether or not the individual is present at the hearing on the petition.

1 The court shall require representation by full legal counsel whenever the petition
2 alleges that the individual is not competent to refuse psychotropic medication under
3 s. 55.14, the individual sought to be protected requested such representation at least
4 72 hours before the hearing, the guardian ad litem or any other person states that
5 the individual sought to be protected is opposed to the petition, or the court
6 determines that the interests of justice require it. If the individual sought to be
7 protected or any other person on his or her behalf requests but is unable to obtain
8 legal counsel, the court shall appoint legal counsel. Counsel shall be provided at
9 public expense, as provided under s. 967.06 and ch. 977, if the individual is indigent.
10 If the individual sought to be protected is an adult who is indigent, and if counsel was
11 not appointed under s. 977.08, the county in which the hearing is held is liable for
12 any fees due the individual's legal counsel. If the individual sought to be protected
13 is represented by counsel appointed under s. 977.08 in a proceeding for the
14 appointment of a guardian under s. 880.33 ch. 54, the court shall order the counsel
15 appointed under s. 977.08 to represent under this section the individual sought to
16 be protected.

****NOTE: This provision has a changed cross reference, to ch. 54, rather than to s. 54.10, from the 2005 Senate Bill 731 version. The expanded cross reference is necessary because guardians are appointed under several provisions in ch. 54 (reappointment, etc.), rather than under just s. 54.10.

17 **SECTION 93.** 55.10 (4) (b) of the statutes, as affected by 2005 Wisconsin Acts 264
18 and 387, is repealed and recreated to read:

19 55.10 (4) (b) *Guardian ad litem; costs.* The court shall in all cases require the
20 appointment of an attorney as guardian ad litem in accordance with s. 757.48 (1).
21 The responsibilities and duties of a guardian ad litem on behalf of a proposed ward
22 or individual who is alleged incompetent specified in s. 54.40 apply to a guardian ad
23 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).

****NOTE: Note my deletion of the first sentence of this paragraph from the version in SB 731; this deletion corresponds to the amendment of s. 55.10 (4) (intro.) above. I repealed and recreated this provision because the Revisor's version did not include the word "and" inserted by Act 387. Note also that I removed the Revisor's proposed reference to sub. (4) of s. 54.40, which would be far narrower than intended.

12 **SECTION 94.** 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 95.** 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

1 order under this section, the county department or agency, or, if s. 46.279 (4m) applies
2 to the individual, the department or the department's contractor shall develop a plan
3 under s. 46.279 (4) and furnish the plan to the county department or agency and to
4 the individual's guardian. The county department or agency with which it contracts
5 under s. 55.02 (2) shall ~~plae~~ provide protective placement to the individual in a
6 noninstitutional community setting in accord with the plan unless the court finds
7 that protective placement in the intermediate facility or nursing facility is the most
8 integrated setting, as defined in s. 46.279 (1) (bm), that is appropriate to the needs
9 of the individual, taking into account information presented by all affected parties.

***NOTE: The Revisor found that "place," as stricken in this provision, was surplusage to the phrase "provide protective placement to," so I included an amendment deleting it. Okay?

10 **SECTION 96.** 55.13 (2) of the statutes is amended to read:

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

1 **SECTION 97.** 55.135 (1) of the statutes, as affected by 2005 Wisconsin Acts 253,
2 264 and 388, is repealed and recreated to read:

3 55.135 (1) If, from personal observation of, or a reliable report made by a person
4 who identifies himself or herself to, a sheriff, police officer, fire fighter, guardian, if
5 any, or authorized representative of a county department or an agency with which
6 it contracts under s. 55.02 (2), it appears probable that an individual is so totally
7 incapable of providing for his or her own care or custody as to create a substantial
8 risk of serious physical harm to himself or herself or others as a result of
9 developmental disability, degenerative brain disorder, serious and persistent mental
10 illness, or other like incapacities if not immediately placed, the individual who
11 personally made the observation or to whom the report is made may take into custody
12 and transport the individual to an appropriate medical or protective placement
13 facility. The person making emergency protective placement shall prepare a
14 statement at the time of detention providing specific factual information concerning
15 the person's observations or reports made to the person and the basis for emergency
16 placement. The statement shall be filed with the director of the facility and with any
17 petition under s. 55.075. At the time of emergency protective placement the
18 individual shall be informed by the director of the facility or the director's designee,
19 orally and in writing, of his or her right to contact an attorney and a member of his
20 or her immediate family and the right to have an attorney provided at public
21 expense, as provided under s. 967.06 and ch. 977, if the individual is a minor or is
22 indigent. The director or designee shall also provide the individual with a copy of the
23 statement by the person making emergency protective placement.

****NOTE: I repealed and recreated this provision because, as merged by the Revisor, it contained a double comma and a phrase that was redundant to other language; I also deleted bracketed language. I also changed "disabilities" to the singular. Okay?

1 **SECTION 98.** 55.135 (4) of the statutes is amended to read:

2 55.135 (4) When an individual is detained under this section, a petition shall
3 be filed under s. 55.075 by the person making the emergency protective placement
4 and a preliminary hearing shall be held within 72 hours, excluding Saturdays,
5 Sundays and legal holidays, to establish probable cause to believe the grounds for
6 protective placement under s. 55.08 (1). The sheriff or other person making
7 emergency protective placement under sub. (1) shall provide the individual with
8 written notice and orally inform him or her of the time and place of the preliminary
9 hearing. If the detainee is not under guardianship, a petition for guardianship shall
10 accompany the protective placement petition, except in the case of a minor who is
11 alleged to be ~~developmentally disabled~~ have a developmental disability. In the event
12 that protective placement is not appropriate, the court may elect to treat a petition
13 for protective placement as a petition for commitment under s. 51.20 or 51.45 (13).

****NOTE: This amendment is necessary because of the changed definition of
"developmental disability."

14 **SECTION 99.** 55.135 (5) of the statutes is amended to read:

15 55.135 (5) Upon finding probable cause under sub. (4), the court may order
16 temporary protective placement up to 30 days pending the hearing for a permanent
17 protective placement, or the court may order such protective services as may be
18 required. If the court orders under this subsection an individual who has a
19 developmental disability to receive temporary protective placement in an
20 intermediate facility or in a nursing facility, and if at the hearing for permanent
21 protective placement the court orders that the individual be ~~provide~~ provided
22 protective placement, the court may, before commencement of permanent protective
23 placement, extend the temporary protective placement order for not more than 90

1 days if necessary for the county department that is participating in the program
2 under s. 46.278 or, if s. 46.279 (4m) applies, the department's contractor to develop
3 the plan required under s. 46.279 (4).

****NOTE: The amendment of this provision corrects a grammatical error. Okay?

4 **SECTION 100.** 55.14 (1) (b) (intro.) of the statutes, as affected by 2005 Wisconsin
5 Acts 264 and 387, is repealed and recreated to read:

6 55.14 (1) (b) (intro.) "Not competent to refuse psychotropic medication" means
7 that, as a result of developmental disability, degenerative brain disorder, serious and
8 persistent mental illness, or other like incapacities, and after the advantages and
9 disadvantages of and alternatives to accepting the particular psychotropic
10 medication have been explained to an individual, one of the following is true:

****NOTE: This provision is printed as mutually inconsistent by the Revisor; this
bill gives effect to the Act 264 version and changes "disabilities" to the singular.

11 **SECTION 101.** 55.14 (2) of the statutes, as created by 2005 Wisconsin Acts 264
12 and 387, is repealed and recreated to read:

13 55.14 (2) Involuntary administration of psychotropic medication, with consent
14 of a guardian, may be ordered as a protective service only under the requirements
15 of this section.

16 **SECTION 102.** 55.14 (3) (c) of the statutes, as created by 2005 Wisconsin Acts
17 264 and 387, is repealed and recreated to read:

18 55.14 (3) (c) The individual has refused to take the psychotropic medication
19 voluntarily or attempting to administer psychotropic medication to the individual
20 voluntarily is not feasible or is not in the best interests of the individual. If the
21 petition alleges that the individual has refused to take psychotropic medication
22 voluntarily, the petition shall identify the reasons, if known, for the individual's
23 refusal to take psychotropic medication voluntarily. The petition also shall provide

1 evidence showing that a reasonable number of documented attempts to administer
2 psychotropic medication voluntarily using appropriate interventions that could
3 reasonably be expected to increase the individual's willingness to take psychotropic
4 medication voluntarily have been made and have been unsuccessful. If the petition
5 alleges that attempting to administer psychotropic medications to the individual
6 voluntarily is not feasible or is not in the best interests of the individual, the petition
7 shall identify specific reasons supporting that allegation.

8 **SECTION 103.** 55.14 (3) (e) (intro.) of the statutes, as created by 2005 Wisconsin
9 Acts 264 and 387, is repealed and recreated to read:

10 55.14 (3) (e) (intro.) Unless psychotropic medication is administered
11 involuntarily, the individual will incur a substantial probability of physical harm,
12 impairment, injury, or debilitation or will present a substantial probability of
13 physical harm to others. The substantial probability of physical harm, impairment,
14 injury, or debilitation shall be evidenced by one of the following:

15 **SECTION 104.** 55.14 (3) (e) 1. of the statutes, as created by 2005 Wisconsin Acts
16 264 and 387, is repealed and recreated to read:

17 55.14 (3) (e) 1. The individual's history of at least 2 episodes, one of which has
18 occurred within the previous 24 months, that indicate a pattern of overt activity,
19 attempts, threats to act, or omissions that resulted from the individual's failure to
20 participate in treatment, including psychotropic medication, and that resulted in a
21 finding of probable cause for commitment under s. 51.20 (7), a settlement agreement
22 approved by a court under s. 51.20 (8) (bg), or commitment ordered under s. 51.20
23 (13).

****NOTE: Acts 264 and 387 created almost identical versions of this provision. The only difference was a cross-reference to s. 51.20 (8) (bg) in the Act 264 version as opposed

to a cross-reference to s. 51.20 (8) (b) in the Act 387 version. I have chosen the cross-reference to s. 51.20 (8) (bg) but have made no other changes.

1 **SECTION 105.** 55.14 (5) of the statutes, as created by 2005 Wisconsin Acts 264
2 and 387, is repealed and recreated to read:

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

****NOTE: Acts 264 and 387 created almost identical versions of this provision. The difference was the cross-reference; I have chosen the renumbered and more current cross-references.

8 **SECTION 106.** 55.14 (6) of the statutes, as created by 2005 Wisconsin Acts 264
9 and 387, is repealed and recreated to read:

10 **55.14 (6)** If requested by an individual who is the subject of a petition under
11 this section or anyone on his or her behalf, the individual has the right at his or her
12 own expense, or if indigent at the expense of the county in which the petition is filed,
13 to secure an independent medical or psychological examination relevant to the issues
14 of whether the allegations in the petition required under sub. (3) are true, and
15 whether involuntary administration of psychotropic medication is in the best
16 interest of the individual, and to present a report of this independent evaluation or
17 the evaluator's personal testimony as evidence at the hearing.

****NOTE: Acts 264 and 387 created nearly identical versions of this provision. The difference was that Act 264 used "issues," whereas Act 387 used the singular; I have chosen the Act 264 version.

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

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

4 **SECTION 108.** 55.14 (8) (a) of the statutes, as created by 2005 Wisconsin Acts
5 264 and 387, is repealed and recreated to read:

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

****NOTE: Nearly identical versions of this provision were created by Acts 264 and
387; I have chosen the Act 264 version, which requires a county department to ensure that
psychotropic medication, but not all protective services, are administered in accordance
with the treatment plan.

18 **SECTION 109.** 55.14 (9) of the statutes, as created by 2005 Wisconsin Acts 264
19 and 387, is repealed and recreated to read:

20 55.14 (9) If an individual who is subject to an order under this section is not
21 in compliance with the order because he or she refuses to take psychotropic
22 medication as ordered under the treatment plan, and it is necessary for the
23 individual to be transported to an appropriate facility for forcible restraint for

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

****NOTE: This provision is as specified in 2005 Senate Bill 731, except that I have added the phrase "that constitute the basis" in the first sentence.

15 **SECTION 110.** 55.14 (10) of the statutes, as created by 2005 Wisconsin Acts 264
16 and 387, is repealed and recreated to read:

17 55.14 (10) Nothing in this section prohibits the involuntary administration of
18 psychotropic medication as an emergency protective service under s. 55.13.

19 **SECTION 111.** 55.14 (11) of the statutes, as created by 2005 Wisconsin Acts 264
20 and 387, is repealed and recreated to read:

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

1 **SECTION 112.** 55.15 (2) of the statutes is amended to read:

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

INSERT
49-7

8 **SECTION 113.** 55.17 (1) of the statutes is amended to read:

9 55.17 (1) PETITION. An individual, the individual's guardian or guardian ad
10 litem, the department, a county department or agency with which it contracts under
11 s. 55.02 (2), or any other interested person may file a petition at any time for
12 termination of an order for protective placement or protective services. The petition
13 shall be served on the individual; the individual's guardian; the individual's attorney
14 and guardian ad litem, if any; and the county department. The petition shall allege
15 that the individual no longer meets the standards under s. 55.08 (1) for
16 court-ordered protective placement or under s. 55.08 (2) for court-ordered protective
17 services.

****NOTE: This amendment fixes a grammatical error. Okay?

18 **SECTION 114.** 55.175 of the statutes, as affected by 2005 Wisconsin Acts 264 and
19 387, is repealed and recreated to read:

20 **55.175 Discharge from protective placement.** Prior to discharge of an
21 individual from a protective placement, the county department that is responsible
22 for protective placement shall review the need for continuing protective services,
23 continuation of full or limited guardianship, or, if the individual has no guardian,
24 guardianship. If the county department's recommendation includes a course of

1 action for which court approval would be required, the county department shall
2 make the recommendation to the court. Prior to discharge of the individual from any
3 mental health institute or center for the developmentally disabled, the department
4 shall make the review under s. 51.35 (7).

INSERT 50-4

5 **SECTION 115.** 55.18 (2) (a) of the statutes is amended to read:

6 55.18 (2) (a) Review the report filed under sub. (1) (a) 1., the report required
7 under s. 880.38 (3) s. 54.25 (1) (a), and any other relevant reports on the individual's
8 condition and placement.

INSERT 50-8

9 **SECTION 116.** 55.18 (2) (f) 4. of the statutes is amended to read:

10 55.18 (2) (f) 4. The individual or the individual's guardian or guardian ad litem
11 requests a full due process hearing under this section that meets the requirements
12 of s. 55.10 (4) for the individual.

****NOTE: I amended this provision to conform to the references to hearings under
s. 55.19 (1) (b), (2) (b) 6. and (f) 4., and (3) (d) (intro.). Okay?

INSERT 50-12

13 **SECTION 117.** 55.18 (3) (a) of the statutes is amended to read:

14 55.18 (3) (a) The court that ordered protective placement for an individual
15 under s. 55.12 shall review the report of the guardian ad litem under sub. (2) (f), the
16 report filed under sub. (1) (a) 1., and the report required under s. 880.38 (3) s. 54.25
17 (1) (a).

INSERT 50-17

18 **SECTION 118.** 55.19 (intro.) of the statutes, as created by 2005 Wisconsin Acts
19 264 and 387, is repealed and recreated to read:

20 **55.19 Annual review of order authorizing involuntary administration**
21 **of psychotropic medication.** (intro.) All of the following shall be performed
22 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 119.** 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:

****NOTE: Acts 264 and 387 created nearly identical versions of this provision; I
have chosen the version printed by the Revisor, but have added a comma after "review"
in the fourth sentence.

19 **SECTION 120.** 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:

1 a. Whether the individual continues to meet the standards for protective
2 services.

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

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

9 d. Whether the individual's condition for which psychotropic medication has
10 been prescribed has been improved by psychotropic medication and the individual
11 has responded positively to psychotropic medication.

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

15 f. The comments of the individual and the individual's guardian during the
16 performance of the review, as summarized by the county department, and the
17 response of the county department to the comments.

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

21 **SECTION 121.** 55.19 (1) (b) of the statutes, as created by 2005 Wisconsin Acts
22 264 and 387, is repealed and recreated to read:

23 55.19 (1) (b) If, in an annual review of an individual's status under par. (a), the
24 individual or the individual's guardian or guardian ad litem requests termination of
25 the order and a hearing that meets the requirements of s. 55.10 (4) is provided, or if

1 a hearing under the requirements of s. 55.10 (4) is provided pursuant to a petition
2 for modification or termination of the order, the county department is not required
3 to initiate a subsequent review under par. (a) until the first day of the 11th month
4 after the date that the court issues a final order after the hearing.

5 **SECTION 122.** 55.19 (1) (bm) of the statutes, as created by 2005 Wisconsin Acts

6 264 and 387, is repealed and recreated to read:

7 55.19 (1) (bm) If the individual is subject to a protective placement order, the
8 review under par. (a) shall be conducted simultaneously with the review under s.
9 55.18 of the individual's protective placement.

10 **SECTION 123.** 55.19 (1) (c) of the statutes, as created by 2005 Wisconsin Acts

11 264 and 387, is repealed and recreated to read:

12 55.19 (1) (c) The review under par. (a) may not be conducted by a person who
13 is an employee of a facility in which the individual resides or from which the
14 individual receives services.

15 **SECTION 124.** 55.19 (1m) of the statutes, as created by 2005 Wisconsin Acts 264

16 and 387, is repealed and recreated to read:

17 55.19 (1m) The county of residence of an individual who is subject to an order
18 under s. 55.14 and is provided protective placement in a different county may enter
19 into an agreement with that county under which the county of the individual's
20 placement performs all or part of the duties of the county of residence under this
21 section.

22 **SECTION 125.** 55.19 (2) (b) 3. of the statutes, as created by 2005 Wisconsin Acts

23 264 and 387, is repealed and recreated to read:

24 55.19 (2) (b) 3. The right to an evaluation under sub. (3) (b).

INSERT
53-4

***NOTE: This provision differs from the version shown in 2005 Senate Bill 731, so as to conform to Act 264, rather than Act 387.

1 **SECTION 126.** 55.19 (2) (b) 5. of the statutes, as created by 2005 Wisconsin Acts
2 264 and 387, is repealed and recreated to read:

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

6 **SECTION 127.** 55.19 (2) (b) 6. of the statutes, as created by 2005 Wisconsin Acts
7 264 and 387, is repealed and recreated to read:

8 55.19 (2) (b) 6. The right to a hearing under sub. (3) (d) and an explanation that
9 the individual or the individual's guardian may request a hearing that meets the
10 requirements under s. 55.10 (4).

INSERT 54-10

11 **SECTION 128.** 55.19 (2) (c) of the statutes, as created by 2005 Wisconsin Acts
12 264 and 387, is repealed and recreated to read:

13 55.19 (2) (c) Provide the information required under par. (b) to the individual
14 and to the individual's guardian in writing.

15 **SECTION 129.** 55.19 (2) (f) 4. of the statutes, as created by 2005 Wisconsin Acts
16 264 and 387, is repealed and recreated to read:

17 55.19 (2) (f) 4. The individual or the individual's guardian or guardian ad litem
18 requests a hearing that meets the requirements of s. 55.10 (4) for the individual.

***NOTE: This provision was created by both Act 264 and 387; I have chosen the Act 264 version (using "individual's," rather than "his or her"). However, I have also changed the reference to a "full due process hearing under this section" to a hearing "that meets the requirements of s. 55.10 (4)," to align this provision with others within s. 55.19.

INSERT 54-18

19 **SECTION 130.** 55.19 (2) (g) of the statutes, as created by 2005 Wisconsin Acts
20 264 and 387, is repealed and recreated to read:

1 55.19 (2) (g) Certify to the court that he or she has complied with the
2 requirements of pars. (a) to (e).

3 **SECTION 131.** 55.19 (3) (b) (intro.) of the statutes, as created by 2005 Wisconsin
4 Acts 264 and 387, is repealed and recreated to read:

5 55.19 (3) (b) (intro.) The court shall order an evaluation, by a person who is not
6 an employee of the county department, of the physical, mental, and social condition
7 of the individual that is relevant to the issue of the continued need for the order under
8 s. 55.14 and that is independent of the review performed under sub. (1) (a) if any of
9 the following apply:

10 **SECTION 132.** 55.19 (3) (bm) of the statutes, as created by 2005 Wisconsin Acts
11 264 and 387, is repealed and recreated to read:

12 55.19 (3) (bm) If an evaluation is ordered under par. (b), it shall be performed
13 at the expense of the individual or, if the individual is indigent, at the expense of the
14 county of residence under sub. (1) (a).

15 **SECTION 133.** 55.19 (3) (br) of the statutes, as created by 2005 Wisconsin Acts
16 264 and 387, is repealed and recreated to read:

17 55.19 (3) (br) The court shall order that the county department obtain any
18 other necessary information with respect to the individual.

19 **SECTION 134.** 55.19 (3) (d) (intro.) of the statutes, as created by 2005 Wisconsin
20 Acts 264 and 387, is repealed and recreated to read:

21 55.19 (3) (d) (intro.) The court shall order either a summary hearing or a
22 hearing that meets the requirements of s. 55.10~~(4)~~. A summary hearing shall be held
23 on the record, may be held in court or by other means, including by telephone or
24 videoconference, is not an evidentiary hearing, and does not require attendance by

1 the individual. The court shall hold a hearing under the requirements of s. 55.10 (4)
2 if any of the following apply:

3 **SECTION 135.** 55.19 (3) (e) 1. of the statutes, as created by 2005 Wisconsin Acts
4 264 and 387, is repealed and recreated to read:

5 55.19 (3) (e) 1. If the court finds that the individual continues to meet the
6 standards for an order under s. 55.14 (8), the court shall order the continuation of the
7 order. The court shall include in the decision the information relied upon as a basis
8 for continuation of the order and shall make findings based on the requirements for
9 allegations of a petition under s. 55.14 (3) in support of the need for continuation of
10 the order.

11 **SECTION 136.** 55.19 (3) (e) 2. of the statutes, as created by 2005 Wisconsin Acts
12 264 and 387, is repealed and recreated to read:

13 55.19 (3) (e) 2. If the court finds that the individual continues to meet the
14 standards for an order under s. 55.14 (8) but that modification of the order or the
15 treatment plan would be in the best interests of the individual, the court shall modify
16 the order, order modifications to the individual's treatment plan, or both. Any
17 modifications to the treatment plan are subject to the approval of the guardian. The
18 court shall include in the decision the information relied upon as a basis for
19 continuation of the order and shall make findings based on the requirements for
20 allegations of a petition under s. 55.14 (3) in support of the need for authorizing the
21 guardian to consent to involuntary administration of psychotropic medication.

22 **SECTION 137.** 55.19 (3) (e) 3. of the statutes, as created by 2005 Wisconsin Acts
23 264 and 387, is repealed and recreated to read:

24 55.19 (3) (e) 3. If the court finds that the individual no longer meets the
25 standards for an order under s. 55.14 (8), the court shall terminate the order. If the

1 order is terminated, the court shall review the needs of the individual with respect
2 to other protective services. If the court determines that the individual meets the
3 standards under s. 55.08 (2) for other protective services that are not currently being
4 provided to the individual, the court may order those protective services for the
5 individual.

6 **SECTION 138.** 55.195 (intro.) of the statutes, as affected by 2005 Wisconsin Acts
7 264 and 387, is repealed and recreated to read:

8 **55.195 Duties of guardian ad litem for protective services reviews.**

9 (intro.) In any review of a protective services order made under s. 55.12, except as
10 provided in s. 55.19 (2), the guardian ad litem shall do all of the following:

****NOTE: Please review this provision very carefully. I have added it because it was merged by the Revisor. As so merged, it applies only to reviews of protective services orders, and not also to reviews of protective placements (the Act 264 version). I assume that this generally works because the GAL's duties for reviews of protective placements are set forth in s. 55.18 (2). However, because the Act 387 version covered both protective placements and protective services, parts of s. 55.195 (1) to (9) may now be inconsistent with the merger, particularly the mention of "placement" in s. 55.195 (4), (5), and (6). Should these provisions be amended to refer instead to "services"?

11 **SECTION 139.** 55.22 (2) of the statutes, as affected by 2005 Wisconsin Acts 264
12 and 387, is repealed and recreated to read:

13 **55.22 (2)** If the individual is a minor, consent for release of information from
14 and access to the court records may be given only as provided in s. 51.30. If the
15 individual is an adult who has been adjudicated incompetent in this state, consent
16 for release of information from and access to court records may be given only as
17 provided in s. 54.75.

18 **SECTION 140.** 146.40 (1) (am) of the statutes is repealed.

****NOTE: This provision refers to the definition of "developmentally disabled person" in s. 55.01 (2); under this bill, s. 55.01 (2) is changed to be a definition of "developmental disability." Neither term is used currently in s. 146.40, so I have repealed this definition; okay?

19 **SECTION 141.** 146.82 (2) (a) 7. of the statutes is repealed and recreated to read:

INSERT
57-10

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

****NOTE: Note that I have added this provision; it has the same cross-reference problem as s. 51.30 (4) (b) 17. This provision also inserts a word that was not underscored properly in Act 388.

8 **SECTION 142.** 560.9811 (1) of the statutes is amended to read:

9 560.9811 (1) In this section, "~~mental illness~~ serious and persistent mental
10 illness" has the meaning given in s. 51.01 (14t).

****NOTE: I added this provision to correct an incorrectly transposed phrase.

11 **SECTION 143.** 609.65 (1) (intro.) of the statutes, as affected by 2005 Wisconsin
12 Acts 264 and 387, is repealed and recreated to read:

13 609.65 (1) (intro.) If an enrollee of a limited service health organization,
14 preferred provider plan, or defined network plan is examined, evaluated, or treated
15 for a nervous or mental disorder pursuant to a court order under s. 880.33 (4m) or
16 (4r), 2003 stats., an emergency detention under s. 51.15, a commitment or a court
17 order under s. 51.20, an order for protective placement or protective services under
18 ch. 55, an order under s. 55.14 or 55.19 (3) (e), or an order under ch. 980, then,
19 notwithstanding the limitations regarding participating providers, primary
20 providers, and referrals under ss. 609.01 (2) to (4) and 609.05 (3), the limited service
21 health organization, preferred provider plan, or defined network plan shall do all of
22 the following:

1 **SECTION 144.** 757.69 (1) (h) of the statutes, as affected by 2005 Wisconsin Acts
2 264 and 387, is repealed and recreated to read:

3 757.69 (1) (h) Hear petitions for commitment and conduct probable cause
4 hearings under ss. 51.20, 51.45, 55.13, and 55.135, conduct reviews of guardianships
5 under ch. 54 and reviews of protective placements and protective services under ch.
6 55, advise a person alleged to be mentally ill of his or her rights under the United
7 States and Wisconsin constitutions, and, if the person claims or appears to be unable
8 to afford counsel, refer the person to the authority for indigency determinations
9 specified under s. 977.07 (1) or, if the person is a child, refer that child to the state
10 public defender who shall appoint counsel for the child without a determination of
11 indigency, as provided in s. 48.23 (4).

****NOTE: I added this provision because it was printed merged by the Revisor and appears to have no conflict, and it was decided to include in this bill other provisions merged by the Revisor. I have made no change in the version printed by the Revisor. Okay?

12 **SECTION 145.** 813.123 (2) (b) of the statutes is amended to read:

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

17 **SECTION 146.** 813.123 (3) (b) of the statutes, as affected by 2005 Wisconsin Acts
18 387 and 388, is repealed and recreated to read:

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

1 **SECTION 147.** 813.123 (4) (a) (intro.) of the statutes, as affected by 2005
2 Wisconsin Acts 264 and 388, is repealed and recreated to read:

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

8 **SECTION 148.** 813.123 (4) (a) 2. a. of the statutes, as affected by 2005 Wisconsin
9 Acts 264 and 388, is repealed and recreated to read:

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

17 **SECTION 149.** 813.123 (4) (ar) 1. of the statutes is amended to read:

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

****NOTE: This provision is in slightly different form than as it appeared in 2005 Senate Bill 731; it shows the striking of surplus language.

1 **SECTION 150.** 813.123 (5) (a) (intro.) of the statutes, as affected by 2005
2 Wisconsin Acts 264 and 388, is repealed and recreated to read:

3 813.123 (5) (a) (intro.) Unless the individual at risk, guardian, or guardian ad
4 litem consents in writing to a contact and the judge agrees that the contact is in the
5 best interests of the individual at risk, a judge may grant an injunction ordering the
6 respondent as specified in par. (ar), if all of the following occur:

7 **SECTION 151.** 813.123 (5) (a) 3. b. of the statutes, as affected by Wisconsin Acts
8 264 and 388, is amended to read:

9 813.123 (5) (a) 3. b. That the respondent has interfered with the delivery
10 individual at risk of protective services to or a protective placement of the individual
11 at risk under ch. 55 after the offer of protective services or protective placement has
12 been made and the individual at risk or his or her guardian, if any, has consented to
13 receipt of the protective services or protective placement; or that the respondent has
14 interfered with the delivery of services to an elder adult at risk under s. 46.90 (5m).

****NOTE: I added this amendment; I believe this version makes more sense than
the version printed by the Revisor. Please review.

15 **SECTION 152.** 813.123 (5) (ar) 1. of the statutes is amended to read:

16 813.123 (5) (ar) 1. Avoid interference with an investigation of the elder adult
17 at risk under s. 46.90 or the adult at risk under s. 55.043, the delivery of protective
18 services to ~~the individual at risk under s. 55.05~~ or a protective placement of the
19 individual at risk under s. ~~55.06~~ ch. 55, or the delivery of services to the elder adult
20 at risk under s. 46.90 (5m).

****NOTE: This provision was amended in 2005 Senate Bill 731, to change the
cross-reference from s. 55.06 to ch. 55; in this bill, I have also struck "the individual at
risk under s. 55.05," because it is redundant.

21 **SECTION 153.** 813.123 (5) (c) 1. of the statutes is amended to read:

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

****NOTE: The amendment to this provision inserts a comma.

3 **SECTION 154.** 813.123 (6) (c) of the statutes, as affected by 2005 Wisconsin Acts
4 264 and 388, is repealed and recreated to read:

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

****NOTE: I have repealed and recreated this provision to correct a minor omission
and addition by the Revisor, as well as to eliminate the redundant phrase "individual at
risk."

13 **SECTION 155.** 813.123 (7) of the statutes, as affected by Wisconsin Acts 264 and
14 388, is amended to read:

15 813.123 (7) INTERFERENCE ORDER. Any order under ~~or ch. 55~~ sub. (4) (ar) 1. or
16 2. or (5) (ar) 1. or 2. also shall prohibit the respondent from intentionally preventing
17 a representative or employee of the county protective services agency from meeting,
18 communicating, or being in visual or audio contact with the adult at risk, except as
19 provided in the order.

20 **SECTION 156.** 940.285 (1m) of the statutes, as created by 2005 Wisconsin Act
21 388, is amended to read:

✓
INSERT 6-21

1 **SECTION 1.** 46.90 (1) (eg) 3. of the statutes is amended to read:
2 46.90 (1) (eg) 3. An agent under a financial power of attorney under s. 243.07
3 ch. 243.

History: 1983 a. 398, 1985 a. 176; 1989 a. 31; 1991 a. 39, 235; 1993 a. 27; 1995 a. 27 ss. 2334, 9130 (4); 1995 a. 225; 1997 a. 3, 131; 1999 a. 82; 2003 a. 33; 2005 a. 264, 388.

****NOTE: The reference to s. 243.07, stats., is made broader, because more than one relevant power of attorney is included in ch. 243, stats.

✓
INSERT 9-8

4 **SECTION 2.** 50.06 (2) (d) 3. of the statutes is amended to read:
5 50.06 (2) (d) 3. Comply with s. 55.135 if the requirements of s. 55.135 (1) are
6 met and emergency protective placement in that facility or another facility is
7 necessary ~~or file a petition for protective placement under s. 55.075.~~ The court, with
8 the permission of the facility, may order the incapacitated individual to remain in the
9 facility pending the outcome of the protective placement proceedings.

History: 1993 a. 187; 1999 a. 9; 2005 a. 264, 387; s. 13.93 (2) (c).

****NOTE: Reference to filing a petition is removed because a protective placement petition would already have been filed.

INSERT 11-18

****NOTE: The words "the involuntary administration of," which originally existed under 2005 Wisconsin Act 264 but were deleted by action of 2005 Wisconsin Act 387, were added in the third sentence for clarification.

✓
INSERT 16-7

10 **SECTION 3.** 54.10 (3) (a) 1. of the statutes is amended to read:
11 54.10 (3) (a) 1. The individual is aged at least 17 years and 9 6 months.

History: 2005 a. 387.

****NOTE: The age of the individual is changed to make it consistent with s. 55.06, stats., which permits filing of a petition for protective placement for an individual six months before his or her 18th birthday. Please review this carefully; although s. 55.06 permits filing at age 17 years and six months, it retains the eligibility for protective placement as age 18. Instead of this amendment, should s. 54.10 (3) (a) 1., stats., be amended to refer to 18 years?

✓
INSERT 16-16A

12 **SECTION 4.** 54.15 (intro.) of the statutes is amended to read:

(B)

Selection of guardian; nominations; preferences; other criteria.

1 **54.15** (intro.) The court shall ~~do one of the following and shall consider all of~~
2 the following nominations, applicable preferences, and criteria in determining who
3 is appointed as guardian:

History: 2005 a. 387 ss. 100, 346, 348, 349, 351, 354, 356, 469, 470, 506.

****NOTE: This amendment deletes inconsistent and unnecessary wording.

INSERT 17-3

4 **SECTION 5.** 54.19 (1) of the statutes is amended to read:

5 **54.19 (1)** Take possession of the ward's real and personal property, of any rents,
6 income, and benefits accruing from the property, and of any proceeds arising from the
7 sale, mortgage, lease, or exchange of the property, and prepare an inventory of these.
8 Subject to this possession, the title of all the income and assets of the ward and the
9 increment and proceeds of the income and assets of the ward remains in the name
10 of the ward and is not in the name of the guardian.

vested

History: 2005 a. 387 ss. 100, 388, 413.

****NOTE: This amendment inserts missing language, for clarity.

11 **SECTION 6.** 54.19 (8) of the statutes is amended to read:

12 **54.19 (8)** File, with the register of deeds of any county in which the ward
13 possesses real property of which the guardian has actual knowledge, a sworn and
14 notarized statement that specifies the legal description of the property, the date that
15 the ward is determined to be an incompetent, and the name, address, and telephone
16 number of the ward's guardian and any surety on the guardian's bond.

History: 2005 a. 387 ss. 100, 388, 413.

****NOTE: This amendment deletes "an," so as to avoid potentially demeaning language.

INSERT 19-1

****NOTE: This provision, in accordance with Ellen Henningsen's e-mail of January 16, is part of a reconciliation between Acts 264 and 387 that also affects s. 54.25 (4), part of which is repealed and part of which is renumbered and amended in this draft. This provision requires an initial court determination that an individual lacks evaluative capacity before the court authorizes a guardian to give informed consent to involuntary administration of a medical examination, medication (other than psychotropic medication, which can only be ordered by a court under s. 55.14, stats.), and medical treatment.

with respect to
the voluntary receipt
of psychotropic
medications

INSERT 19-3

1 **SECTION 7.** 54.25 (4) (a) of the statutes is repealed.

***NOTE: Because of the renumbering and amendment of s. 54.25 (4) (b), stats., below, this paragraph is no longer necessary.

INSERT 19-12

wo 9

2 For purposes of this subd. 2. ab., "protest" means make more than one
3 discernible negative response, other than mere silence, to the offer of,
4 recommendation for, or other proffering of voluntary receipt of psychotropic
5 medication. "Protest" does not mean a discernible negative response to a proposed
6 method of administration of the psychotropic medication.

INSERT 19-16

***NOTE: This provision, in accordance with Ellen Henningsen's e-mail of January 16, 2007, is part of a reconciliation of 2005 Wisconsin Acts 264 and 387 that also affects s. 54.25 (2) (d) 2. a., stats. This provision now requires an initial court determination that an individual lacks evaluative capacity before the court authorizes a guardian to give informed consent to voluntary administration of a medical examination, medication (including psychotropic medication), and medical treatment. ✓

***NOTE: Should the definition of "protest" apply to voluntary receipt of everything (a medical examination, medication, and medical treatment), rather than just psychotropic medication? ✓

INSERT 26-2

7 **SECTION 8.** 54.52 (2) of the statutes is amended to read:

8 54.52 (2) At any hearing conducted under this section the court may designate
9 one or more standby guardians of the person or estate whose appointment shall
10 become effective immediately upon the death, unwillingness, or inability to act, or
11 resignation or court's removal of the initially appointed guardian or during a period,
12 as determined by the initially appointed guardian, when the initially appointed
13 guardian ~~or the court~~ is temporarily unable to fulfill his or her duties, including
14 during an extended vacation or illness. The powers and duties of the standby
15 guardian shall be the same as those of the initially appointed guardian. The standby
16 guardian shall receive a copy of the court order establishing or modifying the initial

1 guardianship, and the order designating the standby guardian. Upon assuming
2 office, the standby guardian shall so notify the court. Upon notification, the court
3 shall issue new letters of guardianship that specify that the standby guardianship
4 is permanent or that specify the time period for a limited standby guardianship.

History: 1973 c. 284; 1993 a. 486; 1997 a. 334; 2005 a. 387 ss. 507 to 509; Stats. 2005 s. 54.52.

****NOTE: This amendment eliminates the erroneous language "or the court" in the first sentence.

5 **SECTION 9.** 54.62 (1) (title) of the statutes is amended to read:

6 54.62 (1) (title) ANNUAL REPORTS ACCOUNTS.

History: 2005 a. 387 ss. 100, 426, 428, 429, 431, 432, 434, 435.

****NOTE: This amendment fixes an erroneous subsection title to conform to the actual subject matter of the subsection.

7 **SECTION 10.** 54.64 (3) (a) of the statutes is amended to read:

8 54.64 (3) (a) The court adjudicates a ward who was formerly found to be
9 incompetent to be no longer incompetent ~~or a ward who was formerly found to be a~~
10 ~~spendthrift to be capable of handling his or her income and assets~~, or terminates the
11 guardianship under sub. (2) (d).

History: 2005 a. 387 ss. 100, 437 to 446, 449, 499, 500, 501, 503, 504.

****NOTE: This amendment removes inappropriate language concerning termination of guardianships of the person; only a guardian of the estate, and not also a guardian of the person, may be appointed for a spendthrift.

INSERT 30-18

****NOTE: Is the wording of the title for s. 55.03 (1) now what you want?

INSERT 50-12

****NOTE: Reference to subsection (4) of s. 55.10, stats., is deleted from this provision, because requirements for a hearing are specified throughout s. 55.10, stats., not just under subsection (4).

INSERT 53-4

****NOTE: Please see the ****Note under s. 55.18 (2) (f) 4.

INSERT 54-10

****NOTE: Please see the ****Note under s. 55.18 (2) (f) 4.

INSERT 54-18

****NOTE: Please see the ****Note under s. 55.18 (2) (f) 4.

INSERT 56-2

****NOTE: Please see the ****Note under s. 55.18 (2) (f) 4.

INSERT 57-10

1 **SECTION 11.** 55.195 (4) of the statutes is amended to read:

2 55.195 (4) Review the annual report and relevant reports on the ward's
3 condition and placement protective services.

History: 2005 a. 387 ss. 123, 124, 488 to 495; Stats. 2005 s. 55.195; s. 13.93 (2) (c).

NOTE: This amendment corrects an erroneous reference to protective placement, rather than protective services, under the duties of a guardian ad litem for protective services reviews.

4 **SECTION 12.** 55.195 (5) of the statutes is amended to read:

5 55.195 (5) Review the ward's condition, placement protective services, and
6 rights with the guardian.

History: 2005 a. 387 ss. 123, 124, 488 to 495; Stats. 2005 s. 55.195; s. 13.93 (2) (c).

NOTE: This amendment corrects an erroneous reference to protective placement, rather than protective services, under the duties of a guardian ad litem for protective services reviews.

7 **SECTION 13.** 55.195 (6) of the statutes is amended to read:

8 55.195 (6) If relevant, report to the court that the ward objects to the finding
9 of continuing incompetency, the present or proposed placement protective services,
10 the position of the guardian, or the recommendation of the guardian ad litem as to
11 the best interests of the ward or if there is ambiguity about the ward's position on
12 these matters.

History: 2005 a. 387 ss. 123, 124, 488 to 495; Stats. 2005 s. 55.195; s. 13.93 (2) (c).

NOTE: This amendment corrects an erroneous reference to protective placement, rather than protective services, under the duties of a guardian ad litem for protective services reviews.

INSERT 16-16B

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

History: 2005 a. 387 ss. 100, 346, 348, 349, 351, 354, 356, 469, 470, 506.

ward's

*** NOTE: This amendment to this provision ^{replaces} ~~fixes~~ a misplaced comma with an apostrophe.

INSERT 49-7

Section #. 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).

↓
↑ plain period

History: 2005 a. 264.

*** NOTE : Please see the ^{no CS} NOTE under
s. 55.18 (2) (f) 4.

INSERT 50-4

Section #. 55.18 (1) (b) of the statutes is amended to read:

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

History: 2005 a. 264 ss. 140, 141, 169.

*** NOTE: Please see the ^{no CS} NOTE under s. 55.18 (2) (f) 4.

INSERT 50-8

Section #. 55.18 (2) (b) 6. of the statutes is amended to read:

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).

History: 2005 a. 264 ss. 140, 141, 169.

↓
plain
period
↑

no cs

***NOTE: Please see the ***Note under s. 55.18 (2) (f) 4.

INSERT 50-17

Section #. 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:

History: 2005 a. 264 ss. 140, 141, 169.

**** NOTE: Please see the **** ~~NOTE~~ ^{no CS} Note
under s. 55.18 (2) (f) 4.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0121/P2dn

DAK:cjs:awn

Slays

To Representative Townsend:

This redraft continues to reconcile differences resulting from the enactment of 2005 Wisconsin Acts 264, 388~~7~~, and 388. It makes additional changes in light of a meeting held on January 11, 2007, with Minette Lawrence, Sandy Lonergan, Laura Rose, Betsy Abramson, Ellen Henningsen, Margaret Resan, and me, and in light of a January 11, 2007, memo and January 16, 2007, e-mail from Ellen Henningsen. These changes are specified in ****NOTES in this redraft.

Note that I did not amend SECTION 584 (15) of 2005 Wisconsin Act 387, as suggested by Ellen in No. 9 of her January 11 memo. She and I agreed that this provision, an initial applicability that applied to submittal of certain reports, was unnecessary to change, since it applied before the act was effective and the issue is now irrelevant.

Please let me know if I may provide you with further assistance in connection with this bill.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0121/P2dn
DAK:cjs:nwn

February 22, 2007

To Representative Townsend:

This redraft continues to reconcile differences resulting from the enactment of 2005 Wisconsin Acts 264, 387, and 388. It makes additional changes in light of a meeting held on January 11, 2007, with Minette Lawrence, Sandy Lonergan, Laura Rose, Betsy Abramson, Ellen Henningsen, Margaret Resan, and me, and in light of a January 11, 2007, memo and January 16, 2007, e-mail from Ellen Henningsen. These changes are specified in ****NOTES in this redraft.

Note that I did not amend SECTION 584 (15) of 2005 Wisconsin Act 387, as suggested by Ellen in No. 9 of her January 11 memo. She and I agreed that this provision, an initial applicability that applied to submittal of certain reports, was unnecessary to change, since it applied before the act was effective and the issue is now irrelevant.

Please let me know if I may provide you with further assistance in connection with this bill.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.wisconsin.gov

2/26/07 Minette Lawrence, Laura Rose, Eileen Henningsen, Sandy Louergan

① Delete SEC 29

② SEC 43 - p. 20, l. 5 - expand def of "protest" to cover med, med exam, + med treatment

make §4.25 (2)(d) 2. a voluntary
ab involuntary