

1 **SECTION 61.** 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2 and 387, is repealed and recreated to read: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.

16 **SECTION 62.** 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
21 A protective placement and the provision of protective services may be made only in
22 accordance with ch. 55.

23 **SECTION 63.** 54.52 (2) of the statutes is amended to read:

24 54.52 (2) At any hearing conducted under this section the court may designate
25 one or more standby guardians of the person or estate whose appointment shall

1 become effective immediately upon the death, unwillingness, or inability to act, or
2 resignation or court's removal of the initially appointed guardian or during a period,
3 as determined by the initially appointed guardian, when the initially appointed
4 guardian ~~or the court~~ is temporarily unable to fulfill his or her duties, including
5 during an extended vacation or illness. The powers and duties of the standby
6 guardian shall be the same as those of the initially appointed guardian. The standby
7 guardian shall receive a copy of the court order establishing or modifying the initial
8 guardianship, and the order designating the standby guardian. Upon assuming
9 office, the standby guardian shall so notify the court. Upon notification, the court
10 shall issue new letters of guardianship that specify that the standby guardianship
11 is permanent or that specify the time period for a limited standby guardianship.

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

12 **SECTION 64.** 54.62 (1) (title) of the statutes is amended to read:

13 54.62 (1) (title) ANNUAL REPORTS ACCOUNTS.

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

14 **SECTION 65.** 54.64 (3) (a) of the statutes is amended to read:

15 54.64 (3) (a) The court adjudicates a ward who was formerly found to be
16 incompetent to be no longer incompetent ~~or a ward who was formerly found to be a~~
17 ~~spendthrift to be capable of handling his or her income and assets~~, or terminates the
18 guardianship under sub. (2) (d).

****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.

19 **SECTION 66.** 54.75 of the statutes, as affected by 2005 Wisconsin Acts 264 and
20 387, is repealed and recreated to read:

1 **54.75 Access to court records.** All court records pertinent to the finding of
2 incompetency are closed but subject to access as provided in s. 51.30 or 55.22 or under
3 an order of a court under this chapter. The fact that an individual has been found
4 incompetent and the name of and contact information for the guardian is accessible
5 to any person who demonstrates to the custodian of the records a need for that
6 information.

7 **SECTION 67.** 54.93 (1) (b) of the statutes is amended to read:

8 54.93 (1) (b) In this section, "3rd party" is means a person other than a bank,
9 broker, transfer agent or issuer who with respect to a security held by an incompetent
10 or spendthrift effects a transaction otherwise than directly with the incompetent or
11 spendthrift.

12 **SECTION 68.** 55.01 (1f) of the statutes is amended to read:

13 55.01 (1f) "Adult-at-risk agency" means the agency designated by the county
14 board of supervisors under ~~s. 55.043 (1)~~ s. 55.043 (1d) to receive, respond to, and
15 investigate reports of abuse, neglect, self-neglect, and financial exploitation under
16 s. 55.043.

17 **SECTION 69.** 55.01 (1v) of the statutes, as created by 2005 Wisconsin Acts 264,
18 387 and 388, is repealed and recreated to read:

19 55.01 (1v) "Degenerative brain disorder" means the loss or dysfunction of brain
20 cells to the extent that the individual is substantially impaired in his or her ability
21 to provide adequately for his or her own care or custody or to manage adequately his
22 or her property or financial affairs.

23 **SECTION 70.** 55.01 (2) of the statutes, as affected by 2005 Wisconsin Acts 264
24 and 388, is repealed and recreated to read:

1 55.01 (2) "Developmental disability" means a disability attributable to mental
2 retardation, cerebral palsy, epilepsy, autism or another neurological condition
3 closely related to mental retardation or requiring treatment similar to that required
4 for individuals with mental retardation, which has continued or can be expected to
5 continue indefinitely, substantially impairs an individual from adequately providing
6 for his or her own care or custody, and constitutes a substantial handicap to the
7 afflicted individual. The term does not include dementia that is primarily caused by
8 degenerative brain disorder.

9 **SECTION 71.** 55.01 (6p) of the statutes is amended to read:

10 55.01 (6p) "Protective placement unit" means a ward, wing, or other
11 designated part of a protective placement facility.

12 **SECTION 72.** 55.01 (6r) (k) of the statutes is amended to read:

13 55.01 (6r) (k) Any services that, when provided to an individual with
14 developmental disabilities, degenerative brain disorder, serious and persistent
15 mental illness, or other like incapacity, keep the individual safe from abuse, financial
16 exploitation, neglect, or ~~misappropriation of property~~ self-neglect or prevent the
17 individual from experiencing deterioration or from inflicting harm on himself or
18 herself or another person.

19 **SECTION 73.** 55.01 (6v) of the statutes, as created by 2005 Wisconsin Acts 264
20 and 387, is repealed and recreated to read:

21 55.01 (6v) "Serious and persistent mental illness" means a mental illness that
22 is severe in degree and persistent in duration, that causes a substantially diminished
23 level of functioning in the primary aspects of daily living and an inability to cope with
24 the ordinary demands of life, that may lead to an inability to maintain stable
25 adjustment and independent functioning without long-term treatment and support,

1 and that may be of lifelong duration. "Serious and persistent mental illness" includes
2 schizophrenia as well as a wide spectrum of psychotic and other severely disabling
3 psychiatric diagnostic categories, but does not include degenerative brain disorder
4 or a primary diagnosis of a developmental disability or of alcohol or drug dependence.

5 **SECTION 74.** 55.02 of the statutes, as affected by 2005 Wisconsin Acts 264, 387
6 and 388, is repealed and recreated to read:

7 **55.02 Protective services and protective placement: duties. (1)**

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

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

13 2. Monitor and supervise the implementation and operation of the protective
14 services and protective placement system.

15 3. Provide technical assistance to county departments providing protective
16 services and protective placement.

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

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

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

1 a contract under s. 46.036 with a responsible agency for the provision of protective
2 services, protective placement, or both.

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

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

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

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

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

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

16 SECTION 75. 55.03 (1) of the statutes, as affected by 2005 Wisconsin Acts 264
17 and 387, is repealed and recreated to read:

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

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

21 SECTION 76. 55.03 (3) of the statutes is amended to read:

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

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 77.** 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).

15 **SECTION 78.** 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 79.** 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 80.** 55.043 (4) (am) of the statutes is amended to read:

24 55.043 (4) (am) Upon responding to a report, the adult-at-risk agency or the
25 investigative agency shall determine whether the adult at risk or any other

1 individual involved in the alleged abuse, financial exploitation, neglect, or
2 self-neglect is in need of services under this chapter or ~~ch. 46, 47, 59, 51, or 880~~ ch.
3 46, 47, 49, 51, and or 54. If provided, direct services shall be rendered under the least
4 restrictive conditions necessary to achieve their objective.

5 **SECTION 81.** 55.043 (4) (b) 1. of the statutes, as affected by 2005 Wisconsin Acts
6 264 and 388, is amended to read:

7 55.043 (4) (b) 1. Initiate a protective services~~,,~~ action or contact an investigative
8 agency, as appropriate.

9 **SECTION 82.** 55.043 (4) (b) 2. of the statutes, as affected by 2005 Wisconsin Acts
10 264 and 388, is repealed and recreated to read:

11 55.043 (4) (b) 2. Take appropriate emergency action, including provision of
12 emergency protective services under s. 55.13 or emergency protective placement
13 under s. 55.135, if the adult-at-risk agency considers that the emergency action is
14 in the best interests of the adult at risk and the emergency action is the least
15 restrictive appropriate intervention.

16 **SECTION 83.** 55.043 (6) (bt) 8. of the statutes is amended to read:

17 55.043 (6) (bt) 8. To the attorney or guardian ad litem for the adult at risk who
18 is the alleged victim named in the record, to assist in preparing for any proceeding
19 under ~~ch. 48, 51, 55, 813, 880, 971, or 975~~ this chapter or ch. 48, 51, 54, 813, 971, or
20 975 pertaining to the alleged victim.

21 **SECTION 84.** 55.055 (1) (a) of the statutes, as affected by 2005 Wisconsin Acts
22 264 and 387, is repealed and recreated to read:

23 55.055 (1) (a) The guardian of an individual who has been adjudicated
24 incompetent may consent to the individual's admission to a foster home, group home,
25 or community-based residential facility, as defined under s. 50.01 (1g), without a

1 protective placement order under s. 55.12 if the home or facility is licensed for fewer
2 than 16 beds. Prior to providing that consent, and annually thereafter, the guardian
3 shall review the ward's right to the least restrictive residential environment and may
4 consent only to admission to a home or facility that implements that right.

5 **SECTION 85.** 55.055 (1) (b) of the statutes, as affected by 2005 Wisconsin Acts
6 264 and 387, is repealed and recreated to read:

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

23 **SECTION 86.** 55.055 (3) (c) of the statutes is repealed and recreated to read:

24 55.055 (3) (c) Comply with s. 55.135, if the individual satisfies all criteria under
25 s. 55.135 (1) and emergency placement in that home, nursing home, or other facility

1 or another home, nursing home, or other facility is necessary, or file a petition for
2 protective placement under s. 55.075. The court, with the permission of the home,
3 nursing home, or other facility, may order the individual to remain in the home,
4 nursing home, or other facility pending the outcome of the protective placement
5 proceedings.

6 SECTION 87. 55.06 of the statutes, as affected by 2005 Wisconsin Acts 264 and
7 387, is repealed and recreated to read:

8 **55.06 Protective services and protective placement; eligibility.** To be
9 eligible for court-ordered protective placement or protective services, an individual
10 shall have filed a petition to transfer a foreign guardianship, whether present in the
11 state or not, or shall be a resident of the state; and shall have a need for protective
12 placement or protective services. The individual shall have attained the age of 18,
13 but an individual who is alleged to have a developmental disability may receive
14 protective placement or protective services upon attaining the age of 14. Protective
15 placement or protective services may be ordered under this chapter only for an
16 individual who is adjudicated incompetent in this state or for a minor who is alleged
17 to have a developmental disability, and only if there is a finding of a need for
18 protective placement under s. 55.08 (1), and ss. 55.055 (5), 55.13, and 55.135 are
19 inappropriate or do not apply. A procedure for court-ordered protective placement
20 or protective services may be initiated 6 months before a minor attains age 18.

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

23 55.075 (1) WHO MAY PETITION. The department, the county department or an
24 agency with which the county department contracts under s. 55.02 (2), a guardian,
25 or an interested person may file a petition for appointment of a guardian and for

1 protective services or protective placement for an the individual. The department
2 shall provide for a schedule of reimbursement for the cost of the proceedings based
3 upon the ability to pay of the proposed ward or individual to be protected.

4 **SECTION 89.** 55.075 (3) of the statutes, as affected by 2005 Wisconsin Acts 264
5 and 387, is amended to read:

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

12 **SECTION 90.** 55.075 (5) (a) of the statutes, as affected by 2005 Wisconsin Acts
13 264 and 387, is repealed and recreated to read:

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

24 **SECTION 91.** 55.075 (5) (bm) of the statutes is amended to read:

1 55.075 (5) (bm) The court in which a petition is first filed under ~~par. (e)~~ par. (a)
2 shall determine venue. The court shall direct that proper notice be given to any
3 potentially responsible or affected county. Proper notice is given to a potentially
4 responsible or affected county if written notice of the proceeding is sent by certified
5 mail to the county's clerk and corporation counsel. After all potentially responsible
6 or affected counties and parties have been given an opportunity to be heard, the court
7 shall determine that venue lies in the county in which the petition is filed under ~~par.~~
8 ~~(e)~~ par. (a) or in another county, as appropriate. If the court determines that venue
9 lies in another county, the court shall order the entire record certified to the proper
10 court. A court in which a subsequent petition is filed shall, upon being satisfied of
11 an earlier filing in another court, summarily dismiss the subsequent petition. If any
12 potentially responsible or affected county or party objects to the court's finding of
13 venue, the court may refer the issue to the department for a determination of the
14 county of residence under s. 51.40 (2) (g) and may suspend ruling on the motion for
15 change of venue until the determination under s. 51.40 (2) (g) is final.

16 **SECTION 92.** 55.08 (1) (b) of the statutes, as affected by 2005 Wisconsin Acts 264
17 and 387, is repealed and recreated to read:

18 55.08 (1) (b) The individual is a minor who is not alleged to have a
19 developmental disability and on whose behalf a petition for guardianship has been
20 submitted, or is an adult who has been determined to be incompetent by a circuit
21 court.

22 **SECTION 93.** 55.08 (1) (c) of the statutes, as affected by 2005 Wisconsin Acts 264
23 and 388, is repealed and recreated to read:

24 55.08 (1) (c) As a result of developmental disability, degenerative brain
25 disorder, serious and persistent mental illness, or other like incapacities, the

1 individual is so totally incapable of providing for his or her own care or custody as
2 to create a substantial risk of serious harm to himself or herself or others. Serious
3 harm may be evidenced by overt acts or acts of omission.

4 **SECTION 94.** 55.08 (2) (a) of the statutes is amended to read:

5 55.08 (2) (a) The individual has been determined to be incompetent by a circuit
6 court or is a minor who is alleged to be ~~developmentally disabled~~ have a
7 developmental disability and on whose behalf a petition for a guardianship has been
8 submitted.

9 **SECTION 95.** 55.08 (2) (b) of the statutes is amended to read:

10 55.08 (2) (b) As a result of developmental ~~disabilities~~ disability, degenerative
11 brain disorder, serious and persistent mental illness, or other like incapacities, the
12 individual will incur a substantial risk of physical harm or deterioration or will
13 present a substantial risk of physical harm to others if protective services are not
14 provided.

15 **SECTION 96.** 55.09 (1) of the statutes, as affected by 2005 Wisconsin Acts 264
16 and 387, is amended to read:

17 55.09 (1) NOTICE TO INDIVIDUAL. Notice of a petition for protective placement
18 or protective services shall be served upon the individual sought to be protected, by
19 personal service, at least 10 days before the time set for a hearing. The person
20 serving the notice shall inform the individual sought to be protected of the complete
21 contents of the notice and shall return a certificate to the circuit judge verifying that
22 the petition has been delivered and notice given. The notice shall include the names
23 of all petitioners. ~~individual adjudicated for a determination of incompetency~~

24 **SECTION 97.** 55.10 (4) (intro.) of the statutes is amended to read:

1 55.10 (4) RIGHTS. (intro.) The Sections 54.42, 54.44, and 54.46 and the
2 following provisions apply to all hearings under this chapter except transfers of
3 placement under s. 55.15 and summary hearings under ss. 55.18 (3) (d) and 55.19 (3)
4 (d):

5 **SECTION 98.** 55.10 (4) (a) of the statutes is amended to read:

6 55.10 (4) (a) *Counsel; costs.* The individual sought to be protected has the right
7 to counsel whether or not the individual is present at the hearing on the petition.
8 The court shall require representation by full legal counsel whenever the petition
9 alleges that the individual is not competent to refuse psychotropic medication under
10 s. 55.14, the individual sought to be protected requested such representation at least
11 72 hours before the hearing, the guardian ad litem or any other person states that
12 the individual sought to be protected is opposed to the petition, or the court
13 determines that the interests of justice require it. If the individual sought to be
14 protected or any other person on his or her behalf requests but is unable to obtain
15 legal counsel, the court shall appoint legal counsel. Counsel shall be provided at
16 public expense, as provided under s. 967.06 and ch. 977, if the individual is indigent.
17 If the individual sought to be protected is an adult who is indigent, and if counsel was
18 not appointed under s. 977.08, the county in which the hearing is held is liable for
19 any fees due the individual's legal counsel. If the individual sought to be protected
20 is represented by counsel appointed under s. 977.08 in a proceeding for the
21 appointment of a guardian under s. ~~880.33~~ ch. 54, the court shall order the counsel
22 appointed under s. 977.08 to represent under this section the individual sought to
23 be protected.

24 **SECTION 99.** 55.10 (4) (b) of the statutes, as affected by 2005 Wisconsin Acts 264
25 and 387, is repealed and recreated to read:

1 55.10 (4) (b) *Guardian ad litem; costs.* The court shall in all cases require the
2 appointment of an attorney as guardian ad litem in accordance with s. 757.48 (1).
3 The responsibilities and duties of a guardian ad litem on behalf of a proposed ward
4 or individual who is alleged incompetent specified in s. 54.40 apply to a guardian ad
5 litem appointed in a proceeding for protective services or protective placement on
6 behalf of an individual sought to be protected. If a guardian has been appointed for
7 an individual who is the subject of a petition for court-ordered protective placement
8 or protective services, the guardian ad litem shall interview the guardian. The
9 guardian ad litem shall be present at all hearings under this chapter if the individual
10 sought to be protected does not have full legal counsel. The court may, however,
11 excuse a personal appearance by a guardian ad litem based on information contained
12 in a written report by the guardian ad litem to the court. If the individual sought to
13 be protected is an adult who is indigent, the county shall be liable for any fees due
14 the guardian ad litem. If the individual sought to be protected is a minor, the minor's
15 parents or the county in which the hearing is held shall be liable for any fees due the
16 guardian ad litem as provided in s. 48.235 (8).

17 **SECTION 100.** 55.11 (1) (c) of the statutes, as affected by 2005 Wisconsin Acts
18 264 and 387, is repealed and recreated to read:

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

24 **SECTION 101.** 55.12 (6) of the statutes is amended to read:

1 55.12 (6) If the county department or agency with which it contracts under s.
2 55.02 (2) proposes to provide protective placement to an individual who has a
3 developmental disability in an intermediate facility or a nursing facility under an
4 order under this section, the county department or agency, or, if s. 46.279 (4m) applies
5 to the individual, the department or the department's contractor shall develop a plan
6 under s. 46.279 (4) and furnish the plan to the county department or agency and to
7 the individual's guardian. The county department or agency with which it contracts
8 under s. 55.02 (2) shall place provide protective placement to the individual in a
9 noninstitutional community setting in accord with the plan unless the court finds
10 that protective placement in the intermediate facility or nursing facility is the most
11 integrated setting, as defined in s. 46.279 (1) (bm), that is appropriate to the needs
12 of the individual, taking into account information presented by all affected parties.

13 **SECTION 102.** 55.13 (2) of the statutes is amended to read:

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

1 **SECTION 103.** 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.

24 **SECTION 104.** 55.135 (4) of the statutes is amended to read:

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

13 **SECTION 105.** 55.135 (5) of the statutes is amended to read:

14 55.135 (5) Upon finding probable cause under sub. (4), the court may order
15 temporary protective placement up to 30 days pending the hearing for a permanent
16 protective placement, or the court may order such protective services as may be
17 required. If the court orders under this subsection an individual who has a
18 developmental disability to receive temporary protective placement in an
19 intermediate facility or in a nursing facility, and if at the hearing for permanent
20 protective placement the court orders that the individual be ~~provide~~ provided
21 protective placement, the court may, before commencement of permanent protective
22 placement, extend the temporary protective placement order for not more than 90
23 days if necessary for the county department that is participating in the program
24 under s. 46.278 or, if s. 46.279 (4m) applies, the department's contractor to develop
25 the plan required under s. 46.279 (4).

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

3 55.14 (1) (b) (intro.) "Not competent to refuse psychotropic medication" means
4 that, as a result of developmental disability, degenerative brain disorder, serious and
5 persistent mental illness, or other like incapacities, and after the advantages and
6 disadvantages of and alternatives to accepting the particular psychotropic
7 medication have been explained to an individual, one of the following is true:

8 **SECTION 107.** 55.14 (2) of the statutes, as created by 2005 Wisconsin Acts 264
9 and 387, is repealed and recreated to read:

10 55.14 (2) Involuntary administration of psychotropic medication, with consent
11 of a guardian, may be ordered as a protective service only under the requirements
12 of this section.

13 **SECTION 108.** 55.14 (3) (c) of the statutes, as created by 2005 Wisconsin Acts
14 264 and 387, is repealed and recreated to read:

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

1 voluntarily is not feasible or is not in the best interests of the individual, the petition
2 shall identify specific reasons supporting that allegation.

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

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

10 **SECTION 110.** 55.14 (3) (e) 1. of the statutes, as created by 2005 Wisconsin Acts
11 264 and 387, is repealed and recreated to read:

12 55.14 (3) (e) 1. The individual's history of at least 2 episodes, one of which has
13 occurred within the previous 24 months, that indicate a pattern of overt activity,
14 attempts, threats to act, or omissions that resulted from the individual's failure to
15 participate in treatment, including psychotropic medication, and that resulted in a
16 finding of probable cause for commitment under s. 51.20 (7), a settlement agreement
17 approved by a court under s. 51.20 (8) (bg), or commitment ordered under s. 51.20
18 (13).

19 **SECTION 111.** 55.14 (5) of the statutes, as created by 2005 Wisconsin Acts 264
20 and 387, is repealed and recreated to read:

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

1 **SECTION 112.** 55.14 (6) of the statutes, as created by 2005 Wisconsin Acts 264
2 and 387, is repealed and recreated to read:

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

11 **SECTION 113.** 55.14 (7) of the statutes, as created by 2005 Wisconsin Acts 264
12 and 387, is repealed and recreated to read:

13 **55.14 (7)** Upon the filing of a petition under this section, the court shall appoint
14 counsel as required under s. 55.10 (4) (a). A petition under this section shall be heard
15 within 30 days after it is filed.

16 **SECTION 114.** 55.14 (8) (a) of the statutes, as created by 2005 Wisconsin Acts
17 264 and 387, is repealed and recreated to read:

18 **55.14 (8) (a)** Direct the development of a treatment plan for the individual
19 specifying the protective services, including psychotropic medication as ordered by
20 the treating physician, that the individual should receive. If the individual resides
21 in a nursing home or hospital, the nursing home or hospital shall develop the
22 treatment plan. If the individual resides elsewhere, the county department or an
23 agency with which it contracts under s. 55.02 (2) shall develop the treatment plan.
24 The treatment plan shall include a plan for the involuntary administration of
25 psychotropic medication to the individual. The treatment plan is subject to the

1 approval of the guardian and to review and approval by the court. If the court
2 approves the plan, the court shall order the county department or an agency with
3 which it contracts under s. 55.02 (2) to ensure that psychotropic medication is
4 administered in accordance with the treatment plan.

5 **SECTION 115.** 55.14 (9) of the statutes, as created by 2005 Wisconsin Acts 264
6 and 387, is repealed and recreated to read:

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

1 **SECTION 116.** 55.14 (10) of the statutes, as created by 2005 Wisconsin Acts 264
2 and 387, is repealed and recreated to read:

3 55.14 (10) Nothing in this section prohibits the involuntary administration of
4 psychotropic medication as an emergency protective service under s. 55.13.

5 **SECTION 117.** 55.14 (11) of the statutes, as created by 2005 Wisconsin Acts 264
6 and 387, is repealed and recreated to read:

7 55.14 (11) The county department or an agency with which it contracts under
8 s. 55.02 (2) shall provide to the department a copy of any order issued under this
9 section that applies to any protectively placed individual in the county.

10 **SECTION 118.** 55.15 (2) of the statutes is amended to read:

11 55.15 (2) WHO MAY TRANSFER. A guardian, a county department or agency with
12 which it contracts under s. ~~55.03 (2)~~ s. 55.02 (2) that provided protective placement
13 to the individual pursuant to the order of the court, the department, or a protective
14 placement facility may transfer an individual under a protective placement order
15 under the requirements of this section, notwithstanding the fact that a court order
16 has named a specific facility for the protective placement of the individual.

17 **SECTION 119.** 55.16 (3) (c) of the statutes is amended to read:

18 55.16 (3) (c) The hearing shall be subject to s. 55.10 (4).

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

19 **SECTION 120.** 55.17 (1) of the statutes is amended to read:

20 55.17 (1) PETITION. An individual, the individual's guardian or guardian ad
21 litem, the department, a county department or agency with which it contracts under
22 s. 55.02 (2), or any other interested person may file a petition at any time for
23 termination of an order for protective placement or protective services. The petition
24 shall be served on the individual; the individual's guardian; the individual's attorney

1 and guardian ad litem, if any; and the county department. The petition shall allege
2 that the individual no longer meets the standards under s. 55.08 (1) for
3 court-ordered protective placement or under s. 55.08 (2) for court-ordered protective
4 services.

5 **SECTION 121.** 55.175 of the statutes, as affected by 2005 Wisconsin Acts 264 and
6 387, is repealed and recreated to read:

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

16 **SECTION 122.** 55.18 (1) (b) of the statutes is amended to read:

17 55.18 (1) (b) If, following an annual review of an individual's status under par.
18 (a), the individual or the individual's guardian or guardian ad litem requests
19 modification or termination of the individual's protective placement and a hearing
20 under the requirements of s. 55.10 (4) is provided, or if a hearing under the
21 requirements of s. 55.10 (4) is provided pursuant to a petition for modification or
22 termination of the protective placement, the county is not required to initiate a
23 subsequent review of the individual's status under par. (a) until the first day of the
24 11th month after the date that the court issues a final order after the hearing.

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

1 **SECTION 123.** 55.18 (2) (a) of the statutes is amended to read:

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

5 **SECTION 124.** 55.18 (2) (b) 6. of the statutes is amended to read:

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

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

9 **SECTION 125.** 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 for the individual.

****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).

13 **SECTION 126.** 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).

18 **SECTION 127.** 55.18 (3) (d) (intro.) of the statutes is amended to read:

19 55.18 (3) (d) (intro.) The court shall order either a summary hearing or a
20 hearing under the requirements of s. 55.10 (4). A summary hearing shall be held on
21 the record, may be held in court or by other means, including by telephone or
22 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:

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

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

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

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

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

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

3 **SECTION 130.** 55.19 (1) (a) 1. of the statutes, as created by 2005 Wisconsin Acts
4 264 and 387, is repealed and recreated to read:

5 55.19 (1) (a) 1. File a report of the review with the court that issued the order.

6 The report of the review shall include information on all of the following:

7 a. Whether the individual continues to meet the standards for protective
8 services.

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

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

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

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

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

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

4 **SECTION 131.** 55.19 (1) (b) of the statutes, as created by 2005 Wisconsin Acts
5 264 and 387, is repealed and recreated to read:

6 55.19 (1) (b) If, in an annual review of an individual's status under par. (a), the
7 individual or the individual's guardian or guardian ad litem requests termination of
8 the order and a hearing that meets the requirements of s. 55.10 is provided, or if a
9 hearing under the requirements of s. 55.10 is provided pursuant to a petition for
10 modification or termination of the order, the county department is not required to
11 initiate a subsequent review under par. (a) until the first day of the 11th month after
12 the date that the court issues a final order after the hearing.

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

13 **SECTION 132.** 55.19 (1) (bm) of the statutes, as created by 2005 Wisconsin Acts
14 264 and 387, is repealed and recreated to read:

15 55.19 (1) (bm) If the individual is subject to a protective placement order, the
16 review under par. (a) shall be conducted simultaneously with the review under s.
17 55.18 of the individual's protective placement.

18 **SECTION 133.** 55.19 (1) (c) of the statutes, as created by 2005 Wisconsin Acts
19 264 and 387, is repealed and recreated to read:

20 55.19 (1) (c) The review under par. (a) may not be conducted by a person who
21 is an employee of a facility in which the individual resides or from which the
22 individual receives services.

23 **SECTION 134.** 55.19 (1m) of the statutes, as created by 2005 Wisconsin Acts 264
24 and 387, is repealed and recreated to read:

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

6 **SECTION 135.** 55.19 (2) (b) 3. of the statutes, as created by 2005 Wisconsin Acts
7 264 and 387, is repealed and recreated to read:

8 **55.19 (2) (b) 3.** The right to an evaluation under sub. (3) (b).

9 **SECTION 136.** 55.19 (2) (b) 5. of the statutes, as created by 2005 Wisconsin Acts
10 264 and 387, is repealed and recreated to read:

11 **55.19 (2) (b) 5.** That a termination or modification of the order or modification
12 of the treatment plan for involuntary administration of psychotropic medication may
13 be ordered by the court.

14 **SECTION 137.** 55.19 (2) (b) 6. of the statutes, as created by 2005 Wisconsin Acts
15 264 and 387, is repealed and recreated to read:

16 **55.19 (2) (b) 6.** The right to a hearing under sub. (3) (d) and an explanation that
17 the individual or the individual's guardian may request a hearing that meets the
18 requirements under s. 55.10.

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

19 **SECTION 138.** 55.19 (2) (c) of the statutes, as created by 2005 Wisconsin Acts
20 264 and 387, is repealed and recreated to read:

21 **55.19 (2) (c)** Provide the information required under par. (b) to the individual
22 and to the individual's guardian in writing.

23 **SECTION 139.** 55.19 (2) (f) 4. of the statutes, as created by 2005 Wisconsin Acts
24 264 and 387, is repealed and recreated to read:

1 55.19 (2) (f) 4. The individual or the individual's guardian or guardian ad litem
2 requests a hearing that meets the requirements of s. 55.10 for the individual.

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

3 **SECTION 140.** 55.19 (2) (g) of the statutes, as created by 2005 Wisconsin Acts
4 264 and 387, is repealed and recreated to read:

5 55.19 (2) (g) Certify to the court that he or she has complied with the
6 requirements of pars. (a) to (e).

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

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

14 **SECTION 142.** 55.19 (3) (bm) of the statutes, as created by 2005 Wisconsin Acts
15 264 and 387, is repealed and recreated to read:

16 55.19 (3) (bm) If an evaluation is ordered under par. (b), it shall be performed
17 at the expense of the individual or, if the individual is indigent, at the expense of the
18 county of residence under sub. (1) (a).

19 **SECTION 143.** 55.19 (3) (br) of the statutes, as created by 2005 Wisconsin Acts
20 264 and 387, is repealed and recreated to read:

21 55.19 (3) (br) The court shall order that the county department obtain any
22 other necessary information with respect to the individual.

23 **SECTION 144.** 55.19 (3) (d) (intro.) of the statutes, as created by 2005 Wisconsin
24 Acts 264 and 387, is repealed and recreated to read:

1 55.19 (3) (d) (intro.) The court shall order either a summary hearing or a
2 hearing that meets the requirements of s. 55.10. A summary hearing shall be held
3 on the record, may be held in court or by other means, including by telephone or
4 videoconference, is not an evidentiary hearing, and does not require attendance by
5 the individual. The court shall hold a hearing under the requirements of s. 55.10 if
6 any of the following apply:

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

7 **SECTION 145.** 55.19 (3) (e) 1. of the statutes, as created by 2005 Wisconsin Acts
8 264 and 387, is repealed and recreated to read:

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

15 **SECTION 146.** 55.19 (3) (e) 2. of the statutes, as created by 2005 Wisconsin Acts
16 264 and 387, is repealed and recreated to read:

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

1 allegations of a petition under s. 55.14 (3) in support of the need for authorizing the
2 guardian to consent to involuntary administration of psychotropic medication.

3 **SECTION 147.** 55.19 (3) (e) 3. of the statutes, as created by 2005 Wisconsin Acts
4 264 and 387, is repealed and recreated to read:

5 55.19 (3) (e) 3. If the court finds that the individual no longer meets the
6 standards for an order under s. 55.14 (8), the court shall terminate the order. If the
7 order is terminated, the court shall review the needs of the individual with respect
8 to other protective services. If the court determines that the individual meets the
9 standards under s. 55.08 (2) for other protective services that are not currently being
10 provided to the individual, the court may order those protective services for the
11 individual.

12 **SECTION 148.** 55.195 (intro.) of the statutes, as affected by 2005 Wisconsin Acts
13 264 and 387, is repealed and recreated to read:

14 **55.195 Duties of guardian ad litem for protective services reviews.**
15 (intro.) In any review of a protective services order made under s. 55.12, except as
16 provided in s. 55.19 (2), the guardian ad litem shall do all of the following:

17 **SECTION 149.** 55.195 (4) of the statutes is amended to read:

18 55.195 (4) Review the annual report and relevant reports on the ward's
19 condition and placement protective services.

****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.

20 **SECTION 150.** 55.195 (5) of the statutes is amended to read:

21 55.195 (5) Review the ward's condition, placement protective services, and
22 rights with the guardian.

****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.

1 **SECTION 151.** 55.195 (6) of the statutes is amended to read:

2 55.195 (6) If relevant, report to the court that the ward objects to the finding
3 of continuing incompetency, the present or proposed placement protective services,
4 the position of the guardian, or the recommendation of the guardian ad litem as to
5 the best interests of the ward or if there is ambiguity about the ward's position on
6 these matters.

****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 152.** 55.22 (2) of the statutes, as affected by 2005 Wisconsin Acts 264
8 and 387, is repealed and recreated to read:

9 55.22 (2) If the individual is a minor, consent for release of information from
10 and access to the court records may be given only as provided in s. 51.30. If the
11 individual is an adult who has been adjudicated incompetent in this state, consent
12 for release of information from and access to court records may be given only as
13 provided in s. 54.75.

14 **SECTION 153.** 146.40 (1) (am) of the statutes is repealed.

15 **SECTION 154.** 146.82 (2) (a) 7. of the statutes is repealed and recreated to read:

16 146.82 (2) (a) 7. To an elder-adult-at-risk agency designated under s. 46.90
17 (2) or other investigating agency under s. 46.90 for purposes of s. 46.90 (4) and (5) or
18 to an adult-at-risk agency designated under s. 55.043 (1d) for purposes of s. 55.043.
19 The health care provider may release information by initiating contact with the
20 elder-adult-at-risk agency or adult-at-risk agency without receiving a request for

1 release of the information from the elder-adult-at-risk agency or adult-at-risk
2 agency.

3 **SECTION 155.** 560.9811 (1) of the statutes is amended to read:

4 560.9811 (1) In this section, “~~mental illness~~ serious and persistent mental
5 illness” has the meaning given in s. 51.01 (14t).

6 **SECTION 156.** 609.65 (1) (intro.) of the statutes, as affected by 2005 Wisconsin
7 Acts 264 and 387, is repealed and recreated to read:

8 609.65 (1) (intro.) If an enrollee of a limited service health organization,
9 preferred provider plan, or defined network plan is examined, evaluated, or treated
10 for a nervous or mental disorder pursuant to a court order under s. 880.33 (4m) or
11 (4r), 2003 stats., an emergency detention under s. 51.15, a commitment or a court
12 order under s. 51.20, an order for protective placement or protective services under
13 ch. 55, an order under s. 55.14 or 55.19 (3) (e), or an order under ch. 980, then,
14 notwithstanding the limitations regarding participating providers, primary
15 providers, and referrals under ss. 609.01 (2) to (4) and 609.05 (3), the limited service
16 health organization, preferred provider plan, or defined network plan shall do all of
17 the following:

18 **SECTION 157.** 757.69 (1) (h) of the statutes, as affected by 2005 Wisconsin Acts
19 264 and 387, is repealed and recreated to read:

20 757.69 (1) (h) Hear petitions for commitment and conduct probable cause
21 hearings under ss. 51.20, 51.45, 55.13, and 55.135, conduct reviews of guardianships
22 under ch. 54 and reviews of protective placements and protective services under ch.
23 55, advise a person alleged to be mentally ill of his or her rights under the United
24 States and Wisconsin constitutions, and, if the person claims or appears to be unable
25 to afford counsel, refer the person to the authority for indigency determinations

1 specified under s. 977.07 (1) or, if the person is a child, refer that child to the state
2 public defender who shall appoint counsel for the child without a determination of
3 indigency, as provided in s. 48.23 (4).

4 **SECTION 158.** 813.123 (2) (b) of the statutes is amended to read:

5 813.123 (2) (b) The court may go forward with a petition filed under sub. (6) if
6 the individual at risk has been adjudicated incompetent under ~~ch. 880~~ ch. 880, 2003
7 stats., or ch. 54, notwithstanding an objection by an individual at risk who is the
8 subject of the petition, or an objection by the guardian of the individual at risk.

9 **SECTION 159.** 813.123 (3) (b) of the statutes, as affected by 2005 Wisconsin Acts
10 387 and 388, is repealed and recreated to read:

11 813.123 (3) (b) The court or circuit court commissioner, on its or his or her own
12 motion or the motion of any party, shall order that a guardian ad litem be appointed
13 for the individual at risk, if the petition under sub. (6) was filed by a person other than
14 the individual at risk, and may order that a guardian ad litem be appointed in other
15 instances when justice so requires.

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

18 813.123 (4) (a) (intro.) Unless the individual at risk, guardian, or guardian ad
19 litem consents in writing and the judge or circuit court commissioner agrees that the
20 contact is in the best interests of the individual at risk, a judge or circuit court
21 commissioner shall issue a temporary restraining order, as specified in par. (ar), if
22 all of the following occur:

23 **SECTION 161.** 813.123 (4) (a) 2. a. of the statutes, as affected by 2005 Wisconsin
24 Acts 264 and 388, is repealed and recreated to read:

1 813.123 (4) (a) 2. a. That the respondent has interfered with or, based on prior
2 conduct of the respondent, may interfere with an investigation of the individual at
3 risk, the delivery of protective services to or a protective placement of the individual
4 at risk under ch. 55, or the delivery of services to an elder adult at risk under s. 46.90
5 (5m); and that the interference complained of, if continued, would make it difficult
6 to determine whether abuse, financial exploitation, neglect, or self-neglect has
7 occurred, is occurring, or may recur.

8 **SECTION 162.** 813.123 (4) (ar) 1. of the statutes is amended to read:

9 813.123 (4) (ar) 1. Avoid interference with an investigation of the elder adult
10 at risk under s. 46.90 or the adult at risk under s. 55.043, the delivery of protective
11 services to ~~the individual at risk under s. 55.05~~ or a protective placement of the
12 individual at risk under s. ~~55.06~~ ch. 55, or the delivery of services to the elder adult
13 at risk under s. 46.90 (5m).

14 **SECTION 163.** 813.123 (5) (a) (intro.) of the statutes, as affected by 2005
15 Wisconsin Acts 264 and 388, is repealed and recreated to read:

16 813.123 (5) (a) (intro.) Unless the individual at risk, guardian, or guardian ad
17 litem consents in writing to a contact and the judge agrees that the contact is in the
18 best interests of the individual at risk, a judge may grant an injunction ordering the
19 respondent as specified in par. (ar), if all of the following occur:

20 **SECTION 164.** 813.123 (5) (a) 3. b. of the statutes, as affected by Wisconsin Acts
21 264 and 388, is amended to read:

22 813.123 (5) (a) 3. b. That the respondent has interfered with the delivery
23 ~~individual at risk~~ of protective services to or a protective placement of the individual
24 at risk under ch. 55 after the offer of protective services or protective placement has
25 been made and the individual at risk or his or her guardian, if any, has consented to

1 receipt of the protective services or protective placement; or that the respondent has
2 interfered with the delivery of services to an elder adult at risk under s. 46.90 (5m).

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

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

9 **SECTION 166.** 813.123 (5) (c) 1. of the statutes is amended to read:

10 813.123 (5) (c) 1. An injunction under this subsection is effective according to
11 its terms, but for not more than 4 years.

12 **SECTION 167.** 813.123 (6) (c) of the statutes, as affected by 2005 Wisconsin Acts
13 264 and 388, is repealed and recreated to read:

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

22 **SECTION 168.** 813.123 (7) of the statutes, as affected by Wisconsin Acts 264 and
23 388, is amended to read:

24 813.123 (7) INTERFERENCE ORDER. Any order under ~~or ch. 55~~ sub. (4) (ar) 1. or
25 2. or (5) (ar) 1. or 2. also shall prohibit the respondent from intentionally preventing

1 a representative or employee of the county protective services agency from meeting,
2 communicating, or being in visual or audio contact with the adult at risk, except as
3 provided in the order.

4 **SECTION 169.** 940.285 (1m) of the statutes, as created by 2005 Wisconsin Act
5 388, is amended to read:

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

10 **SECTION 170.** 940.295 (1) (cr) of the statutes is created to read:

11 940.295 (1) (cr) "Elder adult at risk" has the meaning given in s. 46.90 (1) (br).

12 **SECTION 171.** 940.295 (1) (hr) of the statutes is created to read:

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

15 **SECTION 172. Effective date.**

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

18 (END)

D-NOTE

D-NOTE

To Representative Townsend:

This redraft deletes the treatment of s. 54.10(3)(a) 1., stats., from the last bill version, because it was determined to be unnecessary in a meeting held on February 26, 2007, with Minette Lawrence, Cory Bruce, Jamie Kuhn, Laura Rose, Betsy Abramson, Jamie Kuhn, Laura Rose, Betsy Abramson, Ellen Henningsen, Sandy Lonergan, and me. Ellen Henningsen, Sandy Lonergan, and me.

The redraft also renumbers s. 54.25(2)(d) 2. a. to be s. 54.25(2)(d) 2. ac., and expands the definition of "protest" in s. 54.25(4)(b), stats., as renumbered in the bill.

I would be happy to meet with you or provide other assistance concerning this bill.

DAK

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

LRB-0121/1dn
DAK:cjs:nwn

February 27, 2007

To Representative Townsend:

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I would be happy to meet with you or provide other assistance concerning this bill.

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Please jacket -0121 for
Townsend (Assembly) and
-0122 for Olsen (Senate).

Thanks very much.

DAK