



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2007 Wisconsin Act 45
[2007 Assembly Bill 279]

**Reconciliation of 2005 Wisconsin
Acts 264, 387, and 388**

2007 Wisconsin Act 45 reconciles conflicts between 2005 Wisconsin Acts 264, 387, and 388. These three Acts did the following:

- Act 264 recodified and revised ch. 55, relating to protective placements and services for adults with disabilities.
- Act 387 revised ch. 880, relating to guardianship, and moved it to newly created ch. 54.
- Act 388 revised the elder abuse reporting and investigation system in ch. 46, and created parallel provisions in ch. 55 to provide protections from abuse for non-elderly adults who have disabilities.

The provisions of Act 45 fall into the following categories:

A. Statutory Sections Merged by Revisor With No Conflict, but Included to Ratify Revisor Decisions

SECTION 83 of the Act is an example of a case where the Revisor merged two treatments of the same statutory section. This SECTION repeals and recreates s. 55.055 (1) (a), Stats. The repeal and recreate of this section is identical to the language in current law but is included in the Act in order to reinforce the Revisor's treatment of the merger of the provisions in Acts 264 and 387.

Other sections in the Act that fall into this category are SECTIONS 84, 85, 92, 99, 106, 109, 110, 111, 128, 135, 137, 141, and 147.

B. Sections That Correct Incorrect Cross-References

The Act corrects numerous incorrect cross-references in the statutes that were affected by Acts 264, 387, and 388. SECTIONS of this draft that correct cross-references are: 6, 7, 8, 9, 10, 11, 15, 22, 28,

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

29, 37, 40, 50, 67, 76, 79, 86, 90, 96, 97, 115, 117, 121, 122, 124, 125, 126, 130, 136, 143, 153, 156, 157, 158, 161, 167, 169, and 170.

C. Technical Changes to Fix Terms, Grammar Errors, and Erroneous Language

Many of the provisions in the Act make technical corrections to the statutes. An example of this is in SECTION 31 of the Act, where the word “wards” has a comma instead of an apostrophe. Other SECTIONS of the Act that have similar corrections include: 13, 32, 33, 34, 53, 54, 55, 56, 57, 59, 63, 65, 69, 71, 75, 87, 88, 91, 93, 94, 100, 103, 104, 119, 124, 154, 163, 165, and 168.

Other SECTIONS of the Act correct erroneous language. For example, SECTION 70 changes a reference to a minor “who is alleged to be developmentally disabled” to a minor “who is alleged to have a developmental disability.” Other SECTIONS that correct erroneous language are SECTIONS 62, 66, 75, 95, 100, 133, and 150.

D. Possible Revisor Errors

Possible Revisor errors in the printing of the statutes were noted and fixed in SECTIONS 38 and 80.

E. Provisions That Are Redundant to Another Provision in the Statutes

SECTIONS 16, 41, 46, 17, and 49 delete statutory provisions that are redundant to other provisions in the statutes.

F. Guardian as a Provider of Protective Services

SECTION 74 of the Act repeals and recreates s. 55.03 (1), Stats., to provide as follows:

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

This represents a merger of the provisions in Acts 264 and 387.

G. Changes to Provisions Relating to Psychotropic Medication

The Legislative Council Special Committee on the Recodification of Chapter 55 created the legislation that became 2005 Wisconsin Act 264. A component of this legislation contained substantial revisions to the procedures which outlined a guardian’s ability to give consent to the administration of medications to a ward. However, when 2005 Wisconsin Act 387 was enacted later in the session, many of these provisions were deleted from the law or, when merged with Act 264, resulted in the procedures no longer being understandable. This Act clarifies the treatment of these procedures. These provisions are in SECTIONS 19, 21, 39, 42, 10 to 116, 125, 127, 129, 130, 131, 133, 135, 137, and 140 to 146 of the Act.

H. Conflicts Between 2005 Wisconsin Acts 264 and 387; Where Act 264 Prevails

When the Revisor printed the 2005-06 Statutes and attempted to merge the three Acts, the last enacted Act's provisions superseded prior provisions. An example of this is in s. 55.14, Stats., that relates to the procedure for involuntary administration of psychotropic medications. The Legislative Council special committee spent an extensive period of time revising these statutes and creating a procedure that meets due process requirements. However, because Act 387 was enacted later than Act 264, many of these new provisions were removed from the statutes.

Provisions of this Act which restore the Act 264 provisions are SECTIONS 86, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 118, 127, 129, 130, 131, 132, 136, 140, 142, 143, and 146.

I. Conflicts Between 2005 Wisconsin Acts 264 and 387; Where Act 387 Prevails

In some cases, current law contains conflicting provisions that were created between Acts 264 and 387. SECTION 14 of the Act is an example where the Act 387 provisions take precedence over Act 264's provisions. This SECTION defines "voluntary" for the purposes of determining a person's presence in a county for the purposes of financial responsibility. Other provisions in the Act where Act 387 takes precedence are SECTIONS 20, 35, 36, 43, 44, 45, 60, 61, 68, 72, 134, 144, and 145.

J. Conflicts Between 2005 Wisconsin Acts 264 and 388; Where Act 388 Prevails

SECTIONS 159, 160, 162, 164, and 166 in the Act reconcile conflicts between Acts 264 and 388 by choosing the Act 388 provisions.

K. Conflicts Between 2005 Wisconsin Acts 264 and 388; Where Act 264 Prevails

SECTION 102 of the Act repeals and recreates s. 55.135 (1), Stats., in order to delete superfluous language that remained in the statute when the two Acts were merged by the Revisor.

L. Conflicts Between 2005 Wisconsin Acts 387 and 388; Where Act 388 Prevails

SECTION 158 of the Act repeals and recreates s. 813.123 (3) (b), Stats., relating to a restraining order to protect an individual at risk of abuse, to incorporate the changes made by Act 388.

M. Conflicts Between 2005 Wisconsin Acts 264 and 387; Where Acts are Merged

SECTIONS 44, 45, 52, 61, 65, 72, 86, and 120 in the act merge conflicting provisions in Acts 264 and 387.

N. Conflicts Between 2005 Wisconsin Acts 264 and 388; Where Acts Are Merged

SECTIONS 7, 78, 159, 160, 162, and 166 merge conflicting provisions in Acts 264 and 388.

O. Conflicts Between All Three Acts; Where Act 264 Prevails

SECTIONS 17 and 73 reconcile conflicts between all three acts by choosing the Act 264 provisions.

P. Conflicts Between All Three Acts; Where Act 387 Prevails

SECTIONS 18, 27, and 43 reconcile conflicts between all three acts by choosing the Act 387 provisions.

Effective Date: 2007 Wisconsin Act 45 takes effect on February 1, 2008.

Prepared by: Laura Rose, Deputy Director

March 26, 2008

LR:ksm