# *2009 DRAFTING REQUEST*

## Bill

Received: **01/06/2010**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Lena Taylor (608) 266-5810**

By/Representing: **Frederic in Pasch's office**

This file may be shown to any legislator: **NO**

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Mental Health - detent/commit**
**Mental Health - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Taylor@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

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**Topic:**

Inmate involuntary mental health commitments

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**Instructions:**

See attached--companion to -3243/2

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**Drafting History:**

| Vers. | Drafted | Reviewed | Typed | Proofed | Submitted | Jacketed | Required |
|---|---|---|---|---|---|---|---|
| /? | chanaman 01/06/2010 | kfollett 01/06/2010 | | _____ _____ | | | State |
| /1 | | | rschluet 01/06/2010 | _____ _____ | cduerst 01/06/2010 | cduerst 01/06/2010 | |

FE Sent For:

↳ At Intro.

<END>

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|---|---|---|---|---|---|---|---|
| /? | chanaman | 1/15 1/16 | 1/6 | _____ _____ | | | |

FE Sent For:

**<END>**

-4079/1

# State of Wisconsin
## 2009 – 2010 LEGISLATURE

TODAY

LRB-~~3243/2~~
CMH:kjf:md

# 2009 BILL

companion bill
no changes

regen cat

AN ACT ***to repeal*** 51.20 (1) (av), 51.20 (13) (g) 2g., 302.383 (1), 302.383 (2) (a) 2. and 302.383 (2) (c); and ***to amend*** 51.20 (1) (a) (intro.), 51.20 (11) (a), 51.20 (13) (a) 4m., 51.20 (13) (g) 2m., 51.20 (13) (g) 2r., 51.20 (13) (g) 3. and 51.20 (19) (b) 1m. of the statutes; **relating to:** orders to commit state prison inmates to a mental health facility.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the procedure to commit a person involuntarily to a mental health facility begins by filing a petition alleging that the person is mentally ill, drug dependent, or developmentally disabled, is a proper subject for treatment, and is dangerous. If these allegations are proven, the person may initially be committed for treatment for a period not to exceed six months, and any consecutive commitment order may not exceed 12 months.

In addition, a procedure to commit an inmate of a prison may begin under an alternative petition, which must allege all of the following: 1) that the inmate is mentally ill, is a proper subject for treatment, and is in need of treatment; 2) that the inmate is informed about his treatment needs; and 3) that less restrictive forms of treatment have been unsuccessful. If these allegations are proven, the inmate may be committed under this alternative petition for not more than 180 days in a 365–day period.

Under this bill, under the alternative petition, an inmate of a prison may initially be committed for treatment for a period not to exceed six months, and any consecutive commitment order may not exceed 12 months.

Current law also contains a provision describing an alternative petition procedure for committing an inmate of a jail or house of corrections, but this provision does not apply to petitions filed after July 1, 1990. This bill repeals this provision.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 51.20 (1) (a) (intro.) of the statutes is amended to read:

2 51.20 **(1)** (a) (intro.) Except as provided in pars. (ab), (am), <u>and</u> (ar) ~~and (av)~~,
3 every written petition for examination shall allege that all of the following apply to
4 the subject individual to be examined:

5 **SECTION 2.** 51.20 (1) (av) of the statutes is repealed.

6 **SECTION 3.** 51.20 (11) (a) of the statutes is amended to read:

7 51.20 **(11)** (a) If before involuntary commitment a jury is demanded by the
8 individual against whom a petition has been filed under sub. (1) or by the individual's
9 counsel if the individual does not object, the court shall direct that a jury of 6 people
10 be selected to determine if the allegations specified in sub. (1) (a)~~,~~ <u>or</u> (ar) ~~or (av)~~ are
11 true. A jury trial is deemed waived unless demanded at least 48 hours in advance
12 of the time set for final hearing, if notice of that time has been previously provided
13 to the subject individual or his or her counsel. If a jury trial demand is filed within
14 5 days of detention, the final hearing shall be held within 14 days of detention. If a
15 jury trial demand is filed later than 5 days after detention, the final hearing shall
16 be held within 14 days of the date of demand. If an inmate of a state prison, county
17 jail or house of correction demands a jury trial within 5 days after the probable cause
18 hearing, the final hearing shall be held within 28 days of the probable cause hearing.
19 If an inmate of a state prison, county jail or house of correction demands a jury trial

later than 5 days after the probable cause hearing, the final hearing shall be held within 28 days of the date of demand.

**SECTION 4.** 51.20 (13) (a) 4m. of the statutes is amended to read:

51.20 **(13)** (a) 4m. If the individual is an inmate of a county jail or house of correction and the allegations under sub. (1) (a) ~~or (av)~~ are proven, order commitment to the county department under s. 51.42 or 51.437 serving the inmate's county of residence or, if the inmate is a nonresident, order commitment to the department. The order shall either authorize the transfer of the inmate to a state or county treatment facility or, if inpatient care is not needed, authorize treatment on an outpatient basis in the jail or house of correction; or

**SECTION 5.** 51.20 (13) (g) 2g. of the statutes is repealed.

**SECTION 6.** 51.20 (13) (g) 2m. of the statutes is amended to read:

51.20 **(13)** (g) 2m. In addition to the provisions under subds. 1.~~,~~ and 2. ~~and 2g.~~, no commitment ordered under par. (a) 4. or 4m. may continue beyond the inmate's date of release on parole or extended supervision, as determined under s. 302.11 or 302.113, whichever is applicable.

**SECTION 7.** 51.20 (13) (g) 2r. of the statutes is amended to read:

51.20 **(13)** (g) 2r. Twenty–one days prior to expiration of the period of commitment under subd. 1., 2., ~~2g.~~ or 2m., the department, if the individual is committed to the department, or the county department to which an individual is committed shall file an evaluation of the individual and the recommendation of the department or county department regarding the individual's recommitment with the committing court and provide a copy of the evaluation and recommendation to the individual's counsel and the counsel designated under sub. (4). If the date for filing an evaluation and recommendation under this subdivision falls on a Saturday,

Sunday or legal holiday, the date which is not a Saturday, Sunday or legal holiday and which most closely precedes the evaluation and recommendation filing date shall be the filing date. A failure of the department or the county department to which an individual is committed to file an evaluation and recommendation under this subdivision does not affect the jurisdiction of the court over a petition for recommitment.

**SECTION 8.** 51.20 (13) (g) 3. of the statutes is amended to read:

51.20 **(13)** (g) 3. The county department under s. 51.42 or 51.437 to whom the individual is committed under par. (a) 3. may discharge the individual at any time, and shall place a committed individual in accordance with par. (f). Upon application for extension of a commitment by the department or the county department having custody of the subject, the court shall proceed under subs. (10) to (13). If the court determines that the individual is a proper subject for commitment as prescribed in sub. (1) (a) 1. and evidences the conditions under sub. (1) (a) 2. or (am) or is a proper subject for commitment as prescribed in sub. (1) (ar) ~~or (av)~~, it shall order judgment to that effect and continue the commitment. The burden of proof is upon the county department or other person seeking commitment to establish evidence that the subject individual is in need of continued commitment.

**SECTION 9.** 51.20 (19) (b) 1m. of the statutes is amended to read:

51.20 **(19)** (b) 1m. Establishing standards and procedures for use of and periodic review of the use of psychotropic drugs on inmates in a county jail or house of correction who are being treated in the jail or house of correction under a commitment based on a petition under sub. (1) (a) ~~or (av)~~.

**SECTION 10.** 302.383 (1) of the statutes is repealed.

**SECTION 11.** 302.383 (2) (a) 2. of the statutes is repealed.

1 **SECTION 12.** 302.383 (2) (c) of the statutes is repealed.

2 **SECTION 13. Initial applicability.**

3 (1) The treatment of section 51.20 (13) (g) 2g. of the statutes first applies to a
4 petition filed under section 51.20 (1) of the statutes on the effective date of this
5 subsection.

6 **(END)**

## Duerst, Christina

**From:** Peterson, Eric
**Sent:** Wednesday, January 06, 2010 12:21 PM
**To:** LRB.Legal
**Subject:** Draft Review: LRB 09-4079/1 Topic: Inmate involuntary mental health commitments

Please Jacket LRB 09-4079/1 for the SENATE.