

2013 DRAFTING REQUEST

Bill

Received: 1/16/2013 Received By: tdodge
Wanted: As time permits Same as LRB:
For: Legislative Council - JLC 266-9791 By/Representing: Laura Rose
May Contact: Drafter: tdodge
Subject: Mental Health - detent/commit Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: laura.rose@legis.wisconsin.gov
Carbon copy (CC) to: tamara.dodge@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Admission of minors for inpatient treatment

Instructions:

WLC: 0114/1

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tdodge 2/27/2013			_____			
/P1	tdodge 3/22/2013	scalvin 3/18/2013	phenry 3/18/2013	_____	lparisi 3/18/2013		State S&L
/1		scalvin 3/25/2013	phenry 3/25/2013	_____	sbasford 3/25/2013	sbasford 4/2/2013	State S&L

FE Sent For:

At
intro.

<END>

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FE Sent For:		11 sac 03/25/2013	3/25 ph X				

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/?	tdodge		1/30 dx LC conversion				
			1/18 sac 3/18 03/18/2013	ph	ph	am	

FE Sent For:

<END>

1 **AN ACT** *to repeal* 51.13 (1) (c) 2. and 3.; *to renumber and amend* 51.13 (1) (c) 1.; *to*
2 *amend* 51.13 (1) (a) and (b), 51.13 (4) (a) (intro.) and 6., 51.13 (4) (d), 51.13 (4) (g)
3 (intro.) and 1. c., 51.13 (6) (a) 3. and 51.13 (7) (b) (title) and 1. to 3.; and *to create*
4 51.13 (1) (bm), 51.13 (1) (d) (title), 51.13 (1) (e) (title), 51.13 (1) (em) (title), 51.13
5 (3) (am) (title), 51.13 (3) (b) (title), 51.13 (3) (d) (title), 51.13 (3) (e) (title), 51.13 (4)
6 (b) (title), 51.13 (4) (c) (title), 51.13 (4) (e) (title), 51.13 (4) (f) (title), 51.13 (4) (g)
7 4., 51.13 (4) (h) (title), 51.13 (6) (a) (title), 51.13 (6) (b) (title), 51.13 (6) (c) (title),
8 51.13 (7) (a) (title) and 51.13 (7) (c) (title) of the statutes; **relating to:** admission of
9 minors for inpatient treatment.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Review of Emergency Detention and Admission of Minors Under Chapter 51.

Under current law, s. 51.13, stats., governs inpatient mental health treatment of minors. Section 51.13 (4), stats., requires a petition to be filed for the review of an admission of a minor of any age for treatment of mental illness, alcoholism or drug abuse, or developmental disability. Included in the petition must be a notation of any statement made or conduct demonstrated by the minor in the presence of the director or staff of the facility indicating that inpatient treatment is against the minor's wishes.

Also, under current law, a minor may be admitted to an inpatient treatment facility without following the review procedures for diagnosis and evaluation or for dental, medical, or psychiatric services, for no longer than 12 days. A minor's parent or guardian must execute the application for short-term admission. However, if the minor is age 14 or older, the minor just join in the application if it is for mental health or developmental disability services or treatment. If the minor refuses to do so, then the parent or guardian may do so. In that case, the review

procedures outlined above apply, and the facility's treatment director must file a petition for review of the short-term admission.

An application for short-term admission must be reviewed by the facility's treatment director, who may approve it only if the treatment director determines that the admission provides the least restrictive means of providing the diagnosis or evaluation, or provision of dental, medical, or psychiatric services. The minor must be released at the end of the 12-day period unless a regular application for admission has been filed. Only one short-term admission under this procedure may be made every 120 days.

Finally, testimony provided to the special committee indicated that, in some areas of the state, there is little awareness of the ability of a parent of a minor age 14 or older to obtain treatment for the minor if the minor does not want treatment. In some cases, this lack of awareness has resulted in necessary treatment not being provided that could have prevented harm to a minor.

This bill draft does the following:

- Eliminates the need to file a petition for review of an admission of a minor under age 14 for treatment of mental illness, alcoholism or drug abuse, or developmental disability. Because under current law, parents have the authority to consent to inpatient admission for minors under age 14 without the minor joining in the petition, the committee recommended that the petition and hearing requirements in current law for minors under age 14 are unnecessary and should be eliminated. A petition would still be required if the minor wanted treatment but the parent refused; if a parent with legal custody or guardian cannot be found; or if there is no parent or guardian.
- Eliminates the need to file a petition for a minor age 14 to 17 who is voluntarily participating in inpatient treatment for mental illness. A petition would still have to be filed if the minor refused to join in the application, or if the parent with legal custody or guardian cannot be found, or there is no parent with legal custody or guardian. A petition would also still be required if the minor wanted treatment but the parent refused. It should be noted that a minor age 14 or older may request discharge from the inpatient facility at any time. If the request is denied, current law sets forth a procedure for determining the continued appropriateness of the admission. This provides protection of the minor's rights if the minor withdraws his or her consent to the treatment.
- Eliminates the petition requirement at the expiration of the 12-day time period if the admission was voluntary on the part of the minor and the parent.

- Eliminates the provision that allows for no more than one short-term (up to 12 days) voluntary admission of a minor every 120 days.
- Creates subsection and paragraph titles within s. 51.13 to provide guidance to the reader regarding the subject matter of the subsections and paragraphs and eliminates some redundant language in s. 51.13.

1 **SECTION 1.** 51.13 (1) (a) and (b) of the statutes are amended to read:

2 51.13 (1) (title) ADMISSION FOR TREATMENT OF MENTAL ILLNESS, DEVELOPMENTAL DISABILITY,
3 ALCOHOLISM, OR DRUG ABUSE. (a) Minors under 14 years of age. Except as provided in par.
4 (c) and ss. 51.45 (2m) and 51.47, the application for admission of a minor who is 14 years of
5 age or older to an approved inpatient treatment facility for the primary purpose of treatment
6 for alcoholism or drug abuse and the application for admission of a minor who is under 14
7 years of age to an approved inpatient treatment facility for the primary purpose of treatment
8 for mental illness, developmental disability, alcoholism, or drug abuse shall be executed by
9 a parent who has legal custody of the minor or the minor's guardian. Any statement or conduct
10 by a minor who is the subject of an application for admission under this paragraph indicating
11 that the minor does not agree to admission to the facility shall be noted on the face of the
12 application and shall be noted in the petition required by sub. (4).

13 (b) (title) Minors 14 years of age or older: mental illness or developmental disability.

14 The application for admission of a minor who is 14 years of age or older to an approved
15 inpatient treatment facility for the primary purpose of treatment for mental illness or
16 developmental disability shall be executed by the minor and a parent who has legal custody
17 of the minor or the minor's guardian, except as provided in par. (c) ~~+, except that, if,~~ If the
18 minor refuses to execute the application, a parent who has legal custody of the minor or the
19 minor's guardian may execute the application on the minor's behalf, and the petition shall be
20 filed as required under sub. (4).

21 **SECTION 2.** 51.13 (1) (bm) of the statutes is created to read:

1 51.13 (1) (bm) *Minors 14 years of age or older: alcoholism or drug abuse treatment.*
2 Except as provided in par. (c) and ss. 51.42 (2m) and 51.47, the application for admission of
3 a minor who is 14 years of age or older to an approved inpatient facility for the primary purpose
4 of treatment for alcoholism or drug abuse shall be executed by a parent who has legal custody
5 of the minor or the minor's guardian. Any statement or conduct by a minor who is the subject
6 of an application for admission under this paragraph indicating that the minor does not agree
7 to admission to the facility shall be noted on the face of the application and shall be noted in
8 the petition required under sub. (4).

COMMENT: Should a petition and court review be required if a minor age
 14 or older indicates unwillingness to agree to inpatient alcohol and
 other drug abuse (AODA) treatment? If not, is there any situation where
 a petition and court review is necessary for inpatient AODA treatment?

9 **SECTION 3.** 51.13 (1) (c) 1. of the statutes is renumbered 51.13 (1) (c) and amended to
10 read:

11 51.13 (1) (c) (title) *Minor's parent or guardian will not consent to treatment; minor has*
12 *no parent or guardian; or minor's parent or guardian cannot be found.* If a minor 14 years
13 of age or older wishes to be admitted to an approved inpatient treatment facility but a parent
14 with legal custody or the guardian refuses to execute the application for admission or cannot
15 be found, ~~or~~ if there is no parent with legal custody or guardian, or if the parent with legal
16 custody or guardian of a minor 14 years of age or older refuses to execute the application, the
17 minor or a person acting on the minor's behalf may petition the court ~~assigned to exercise~~
18 ~~jurisdiction under chs. 48 and 938 in the county of residence of the parent or guardian for~~
19 ~~approval of the admission. A copy of the petition and a notice of hearing shall be served upon~~
20 ~~the parent or guardian at his or her last-known address. If, after a hearing, the court determines~~
21 ~~that the consent of the parent or guardian is being unreasonably withheld, that the parent or~~

1 guardian cannot be found, or that there is no parent with legal custody, and that the admission
2 is proper under the standards prescribed in sub. (4) (d), the court shall approve the minor's
3 admission without the consent of the parent or guardian under sub. (4). The court may, at the
4 minor's request, temporarily approve the admission pending hearing on the petition, if such
5 a hearing is required under sub. (4).

6 SECTION 4. 51.13 (1) (c) 2. and 3. of the statutes are repealed.

7 SECTION 5. 51.13 (1) (d) (title) of the statutes is created to read:

8 51.13 (1) (d) *Other petition filed.*

9 SECTION 6. 51.13 (1) (e) (title) of the statutes is created to read:

10 51.13 (1) (e) *Admission on approval of application.*

11 SECTION 7. 51.13 (1) (em) (title) of the statutes is created to read:

12 51.13 (1) (em) *Standards for approval of admission.*

13 SECTION 8. 51.13 (3) (am) (title) of the statutes is created to read:

14 51.13 (3) (am) *Rights.*

15 SECTION 9. 51.13 (3) (b) (title) of the statutes is created to read:

16 51.13 (3) (b) *Rights to request discharge.*

17 SECTION 10. 51.13 (3) (d) (title) of the statutes is created to read:

18 51.13 (3) (d) *Explanation of rights.*

19 SECTION 11. 51.13 (3) (e) (title) of the statutes is created to read:

20 51.13 (3) (e) *Availability of writing materials.*

21 SECTION 12. 51.13 (4) (a) (intro.) and 6. of the statutes are amended to read:

22 51.13 (4) (title) PETITION REQUIREMENT; REVIEW PROCEDURE. (a) (intro.) (title) When
23 petition filed. Within 3 days after the admission of a minor under sub. (1) (b), or within 3 days
24 after an application is executed for admission of the minor, whichever occurs first, the

1 treatment director of the facility or the center for the developmentally disabled to which the
2 minor is admitted, or his or her designee ~~or, in the case of a center for the developmentally~~
3 ~~disabled, the director of the center or his or her designee~~, shall file a verified petition for review
4 of the admission in the court assigned to exercise jurisdiction under chs. 48 and 938 in the
5 county in which the facility is located, provided the minor is 14 years of age or older and
6 refuses to join in the application; if the minor wants treatment and the minor's parent with legal
7 custody or guardian refuses to join in the application; there is no parent with legal custody or
8 guardian; or the parent with legal custody or guardian cannot be found. If the parent or
9 guardian is not the petitioner, a copy of the petition and a notice of hearing shall be served on
10 the parent or guardian at his or her last known address. A copy of the application for admission
11 and of any relevant professional evaluations shall be attached to the petition. The petition shall
12 contain all of the following:

13 6. Notation of any ~~statement made or conduct demonstrated by the minor in the presence~~
14 ~~of the director or staff of the facility indicating that inpatient treatment is against the wishes~~
15 ~~of the minor~~ refusal of the minor 14 years of age or older to join in the application.

16 SECTION 13. 51.13 (4) (b) (title) of the statutes is created to read:

17 51.13 (4) (b) *Removal of petition.*

18 SECTION 14. 51.13 (4) (c) (title) of the statutes is created to read:

19 51.13 (4) (c) *Copy of petition.*

20 SECTION 15. 51.13 (4) (d) of the statutes is amended to read:

21 51.13 (4) (d) (title) *Criteria for approving admission.* Within 5 days after the filing of
22 the petition, the court assigned to exercise jurisdiction under chs. 48 and 938 shall determine,
23 based on the allegations of the petition and accompanying documents, whether there is a prima
24 facie showing that the minor is in need of psychiatric services, or services for developmental

1 disability, alcoholism, or drug abuse, whether the treatment facility offers inpatient therapy
2 or treatment that is appropriate to the minor's needs; whether inpatient care in the treatment
3 facility is the least restrictive therapy or treatment consistent with the needs of the minor; and,
4 if the minor is 14 years of age or older and has been admitted to the treatment facility for the
5 primary purpose of treatment for mental illness or developmental disability, whether the
6 admission was made under an application executed by the minor and the minor's parent or
7 guardian. If such a showing is made, the court shall permit admission. If the court is unable
8 to make those determinations based on the petition and accompanying documents, the court
9 may dismiss the petition as provided in par. (h); order additional information, including an
10 independent evaluation, to be produced as necessary for the court to make those
11 determinations within 7 days, exclusive of weekends and legal holidays, after admission or
12 application for admission, whichever is sooner; or hold a hearing within 7 days, exclusive of
13 weekends and legal holidays, after admission or application for admission, whichever is
14 sooner. ~~If a notation of the minor's unwillingness appears on the face of the petition,~~ if the
15 admission was made under an application executed by the minor's parent or guardian despite
16 the minor's refusal, or if a hearing has been requested by the minor or by the minor's counsel,
17 parent, or guardian, the court shall order an independent evaluation of the minor and hold a
18 hearing to review the admission, within 7 days, exclusive of weekends and legal holidays, after
19 admission or application for admission, whichever is sooner, and shall appoint counsel to
20 represent the minor if the minor is unrepresented. If the court considers it necessary, the court
21 shall also appoint a guardian ad litem to represent the minor. The minor shall be informed
22 about how to contact the state protection and advocacy agency designated under s. 51.62 (2)
23 (a).

24 **SECTION 16.** 51.13 (4) (e) (title) of the statutes is created to read:

1 51.13 (4) (e) *Notice of hearing.*

2 **SECTION 17.** 51.13 (4) (f) (title) of the statutes is created to read:

3 51.13 (4) (f) *Rules, records, and findings.*

4 **SECTION 18.** 51.13 (4) (g) (intro.) and 1. c. of the statutes are amended to read:

5 51.13 (4) (g) (intro.) (title) *Approval of admission.* If the court finds, under a hearing
6 under par. (d), that the minor is in need of psychiatric services or services for developmental
7 disability, alcoholism, or drug abuse in an inpatient facility, that the inpatient facility to which
8 the minor is admitted offers therapy or treatment that is appropriate for the minor's needs and
9 that is the least restrictive therapy or treatment consistent with the minor's needs, the court
10 shall permit admission. If the court finds that the therapy or treatment in the inpatient facility
11 to which the minor is admitted is not appropriate or is not the least restrictive therapy or
12 treatment consistent with the minor's needs, the court may order placement in or transfer to
13 another more appropriate or less restrictive inpatient facility, if the placement or transfer is
14 first approved by all of the following, ~~except that placement in or transfer to a center for the~~
15 ~~developmentally disabled shall first be approved by all of the following and the department:~~

16 1. c. For a minor admitted under sub. (1) (c) ~~1. or 2.~~, the minor.

17 **SECTION 19.** 51.13 (4) (g) 4. of the statutes is created to read:

18 51.13 (4) (g) 4. The department, if the placement or transfer is to a center for the
19 developmentally disabled.

20 **SECTION 20.** 51.13 (4) (h) (title) of the statutes is created to read:

21 51.13 (4) (h) *Actions if petition not approved.*

22 **SECTION 21.** 51.13 (6) (a) (title) of the statutes is created to read:

23 51.13 (6) (a) *Admission procedure.*

24 **SECTION 22.** 51.13 (6) (a) 3. of the statutes is amended to read:

1 51.13 (6) (a) 3. A If a minor 14 years of age or older who refused to execute the
2 application under subd. 2. is admitted after court review under sub. (4) (d), the minor may not
3 be readmitted to an inpatient treatment facility for psychiatric services under this paragraph
4 within 120 days of a previous admission under this paragraph.

5 **SECTION 23.** 51.13 (6) (b) (title) of the statutes is created to read:

6 51.13 (6) (b) *Review and acceptance of application.*

7 **SECTION 24.** 51.13 (6) (c) (title) of the statutes is created to read:

8 51.13 (6) (c) *Release.*

9 **SECTION 25.** 51.13 (7) (a) (title) of the statutes is created to read:

10 51.13 (7) (a) *Minor reaches age 14 during admission.*

11 **SECTION 26.** 51.13 (7) (b) (title) and 1. to 3. of the statutes are amended to read:

12 51.13 (7) (b) (title) Discharge procedure. 1. Any minor who is voluntarily admitted
13 under sub. (1) (c) ~~1- or 2-~~, may request discharge in writing.

14 2. For a minor 14 years of age or older who is admitted under sub. (1) ~~(a) or (b)~~ (bm)
15 for the primary purpose of treatment for alcoholism or drug abuse or a minor under 14 years
16 of age who is admitted under sub. (1) ~~(a) or (b)~~ for the primary purpose of treatment for mental
17 illness, developmental disability, alcoholism, or drug abuse, the parent or guardian of the
18 minor may request discharge in writing.

19 3. For a minor 14 years of age or older who is admitted under sub. (1) ~~(a) or (b)~~ for the
20 primary purpose of treatment for mental illness or developmental disability, the minor and the
21 minor's parent or guardian may request discharge in writing. If the parent or guardian of the
22 minor refuses to request discharge and if the director of the facility to which the minor is
23 admitted or his or her designee avers, in writing, that the minor is in need of psychiatric
24 services or services for developmental disability, that the facility's therapy or treatment is

1 appropriate to the minor's needs, and that inpatient care in the treatment facility is the least
2 restrictive therapy or treatment consistent with the needs of the minor, the minor may not be
3 discharged under this paragraph.

4 **SECTION 27.** 51.13 (7) (c) (title) of the statutes is created to read:

5 51.13 (7) (c) *Request for hearing when not discharged.*

6 (END)

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

LRB-1212/P1dn

TJD:j:...

Sac

Date

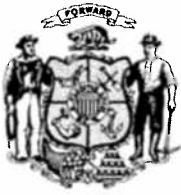
To Laura Rose:

Please see the notes embedded in the draft. Also, please

Please note that I changed a few of the titles to conform better to our drafting style and conventions since the titles have no legal effect. Please review the titles and confirm that they meet the committee's intent.

Should you have any questions or redraft instructions, please contact me.

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1212/P1
TJD:j..ph
Sac

In 2/27 FM (cmh)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note
pufv

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill. For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

State & local Fiscal sub

gen cat

1 **AN ACT to repeal** 51.13 (1) (c) 2. and 3.; **to renumber and amend** 51.13 (1) (c)
2 1.; **to amend** 51.13 (1) (a) and (b), 51.13 (4) (a) (intro.) and 6., 51.13 (4) (d), 51.13
3 (4) (g) (intro.) and 1. c., 51.13 (6) (a) 3. and 51.13 (7) (b) (title) and 1. to 3.; and
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7 (title), 51.13 (4) (g) 4., 51.13 (4) (h) (title), 51.13 (6) (a) (title), 51.13 (6) (b) (title),
8 51.13 (6) (c) (title), 51.13 (7) (a) (title) and 51.13 (7) (c) (title) of the statutes;
9 **relating to:** admission of minors for inpatient treatment.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Review of Emergency Detention and Admission of Minors Under Chapter 51.

Under current law, s. 51.13, stats., governs inpatient mental health treatment of minors. Section 51.13 (4), stats., requires a petition to be filed for the review of an admission of a minor of any age for treatment of mental illness, alcoholism or drug abuse, or developmental disability. Included in the petition must be a notation of any statement made or conduct demonstrated by the minor in the presence of the director or staff of the facility indicating that inpatient treatment is against the minor's wishes.

Also, under current law, a minor may be admitted to an inpatient treatment facility without following the review procedures for diagnosis and evaluation or for dental, medical, or psychiatric services, for no longer than 12 days. A minor's parent or guardian must execute the application for short-term admission. However, if the minor is age 14 or older, the minor ~~must~~ join in the application if it is for mental health or developmental disability services or treatment. If the minor refuses to do so, then the parent or guardian may do so. In that case, the review procedures outlined above apply, and the facility's treatment director must file a petition for review of the short-term admission.

An application for short-term admission must be reviewed by the facility's treatment director, who may approve it only if the treatment director determines that the admission provides the least restrictive means of providing the diagnosis or evaluation, or provision of dental, medical, or psychiatric services. The minor must be released at the end of the 12-day period unless a regular application for admission has been filed. Only one short-term admission under this procedure may be made every 120 days.

Finally, testimony provided to the special committee indicated that, in some areas of the state, there is little awareness of the ability of a parent of a minor age 14 or older to obtain treatment for the minor if the minor does not want treatment. In some cases, this lack of awareness has resulted in necessary treatment not being provided that could have prevented harm to a minor.

This bill ~~draft~~ does the following:

- Eliminates the need to file a petition for review of an admission of a minor under age 14 for treatment of mental illness, alcoholism or drug abuse, or developmental disability. Because under current law, parents have the authority to consent to inpatient admission for minors under age 14 without the minor joining in the petition, the committee recommended that the petition and hearing requirements in current law for minors under age 14 are unnecessary and should be eliminated. A petition would still be required if the minor wanted treatment but the parent refused; if a parent with legal custody or guardian cannot be found; or if there is no parent or guardian.
- Eliminates the need to file a petition for a minor age 14 to 17 who is voluntarily participating in inpatient treatment for mental illness. A petition would still have to be filed if the minor refused to join in the application, or if the parent with legal custody or guardian cannot be found, or there is no parent with legal custody or guardian. A petition would also still be required if the minor wanted treatment but the parent refused. It should be noted that a minor age 14 or older may request discharge from the inpatient facility at any time. If the request is denied, current law sets forth a procedure for determining the continued appropriateness of the admission. This provides protection of the minor's rights if the minor withdraws his or her consent to the treatment.
- Eliminates the petition requirement at the expiration of the 12-day time period if the admission was voluntary on the part of the minor and the parent.
- Eliminates the provision that allows for no more than one short-term (up to 12 days) voluntary admission of a minor every 120 days.

Insert 3-1

•Creates subsection and paragraph titles within s. 51.13 to provide guidance to the reader regarding the subject matter of the subsections and paragraphs and eliminates some redundant language in s. 51.13.

1 SECTION 1. 51.13 (1) (a) and (b) of the statutes are amended to read:

2 51.13 (1) (title) ADMISSION FOR TREATMENT OF MENTAL ILLNESS, DEVELOPMENT

3 DISABILITY, ALCOHOLISM, OR DRUG ABUSE. (a) Minors under 14 years of age. Except as
4 provided in par. (c) and ss. 51.45 (2m) and 51.47, the application for admission of a
5 minor who is 14 years of age or older to an approved inpatient treatment facility for
6 the primary purpose of treatment for alcoholism or drug abuse and the application
7 for admission of a minor who is under 14 years of age to an approved inpatient
8 treatment facility for the primary purpose of treatment for mental illness,
9 developmental disability, alcoholism, or drug abuse shall be executed by a parent
10 who has legal custody of the minor or the minor's guardian. Any statement or
11 conduct by a minor who is the subject of an application for admission under this
12 paragraph indicating that the minor does not agree to admission to the facility shall
13 be noted on the face of the application and shall be noted in the petition required by
14 sub. (4).

15 (b) (title) Minors 14 years of age or older: mental illness or developmental
16 disability. The application for admission of a minor who is 14 years of age or older
17 to an approved inpatient treatment facility for the primary purpose of treatment for
18 mental illness or developmental disability shall be executed by the minor and a
19 parent who has legal custody of the minor or the minor's guardian, except as provided
20 in par. (c) ~~1., except that, if.~~ If the minor refuses to execute the application, a parent
21 who has legal custody of the minor or the minor's guardian may execute the
22 application on the minor's behalf, and the petition shall be filed as required under
23 sub. (4).

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SECTION 2. 51.13^x (1) (bm) of the statutes is created to read:

51.13 (1) (bm) *Minors 14 years of age or older* alcoholism or drug abuse treatment. Except as provided in par. (c) and ss. 51.42 (2m) and 51.47, the application for admission of a minor who is 14 years of age or older to an approved inpatient facility for the primary purpose of treatment for alcoholism or drug abuse shall be executed by a parent who has legal custody of the minor or the minor's guardian. Any statement or conduct by a minor who is the subject of an application for admission under this paragraph indicating that the minor does not agree to admission to the facility shall be noted on the face of the application and shall be noted in the petition required under sub. (4).

COMMENT: Should a petition and court review be required if a minor age 14 or older indicates unwillingness to agree to inpatient alcohol and other drug abuse (AODA) treatment? If not, is there any situation where a petition and court review is necessary for inpatient AODA treatment?

SECTION 3. 51.13[✓] (1) (e) 1 of the statutes is renumbered 51.13 (1) (c) and amended to read:

Lack of parent or guardian consent to treatment

51.13 (1) (c) (title) Minor's parent or guardian will not consent to treatment.
minor has no parent or guardian; or minor's parent or guardian cannot be found. If a minor 14 years of age or older wishes to be admitted to an approved inpatient treatment facility but a parent with legal custody or the guardian refuses to execute the application for admission or cannot be found, ^{strike} or if there is no parent with legal custody or guardian, or if the parent with legal custody or guardian of a minor 14 years of age or older refuses to execute the application, the minor or a person acting on the minor's behalf may petition the court assigned to exercise jurisdiction under chs. 48 and 938 in the county of residence of the parent or guardian for approval of the admission. A copy of the petition and a notice of hearing shall be served upon the

1 ~~parent or guardian at his or her last known address. If, after a hearing, the court~~
 2 ~~determines that the consent of the parent or guardian is being unreasonably~~
 3 ~~withheld, that the parent or guardian cannot be found, or that there is no parent with~~
 4 ~~legal custody, and that the admission is proper under the standards prescribed in~~
 5 ~~sub. (4) (d), the court shall approve the minor's admission without the consent of the~~
 6 ~~parent or guardian under sub. (4). The court may, at the minor's request, temporarily~~
 7 ~~approve the admission pending hearing on the petition, if such a hearing is required~~
 8 ~~under sub. (4).~~

9 SECTION 4. 51.13 (1) (c) 2. and 3. of the statutes are repealed.

10 SECTION 5. 51.13 (1) (d) (title) of the statutes is created to read:
 11 51.13 (1) (d) *(title)* *Other petition filed.*

12 SECTION 6. 51.13 (1) (e) (title) of the statutes is created to read:
 13 51.13 (1) (e) *Admission on approval of application.*

14 SECTION 7. 51.13 (1) (em) (title) of the statutes is created to read:
 15 51.13 (1) (em) *Standards for approval of admission.*

16 SECTION 8. 51.13 (3) (am) (title) of the statutes is created to read:
 17 51.13 (3) (am) *Rights.*

18 SECTION 9. 51.13 (3) (b) (title) of the statutes is created to read:
 19 51.13 (3) (b) *Rights to request discharge.*

20 SECTION 10. 51.13 (3) (d) (title) of the statutes is created to read:
 21 51.13 (3) (d) *Explanation of rights.*

22 SECTION 11. 51.13 (3) (e) (title) of the statutes is created to read:
 23 51.13 (3) (e) *Availability of writing materials.*

24 SECTION 12. 51.13 (4) (a) (intro.) and 6. of the statutes are amended to read:

Insert
5-19-TP

Insert
6-1

1 51.13 (4) (title) PETITION REQUIREMENT, REVIEW PROCEDURE. (a) (intro.) (title)

2 When petition filed. Within 3 days after the admission of a minor under sub. (1) (b),
3 or within 3 days after an application is executed for admission of the minor,
4 whichever occurs first, the treatment director of the facility or the center for the
5 developmentally disabled to which the minor is admitted, or his or her designee ~~or,~~
6 in the case of a center for the developmentally disabled, the director of the center or
7 his or her designee, shall file a verified petition for review of the admission in the
8 court assigned to exercise jurisdiction under chs. 48 and 938 in the county in which
9 the facility is located, provided the minor is 14 years of age or older and refuses to
10 join in the application; if the minor wants treatment and the minor's parent with
11 legal custody or guardian refuses to join in the application; there is no parent with
12 legal custody or guardian; or the parent with legal custody or guardian cannot be
13 found. If the parent or guardian is not the petitioner, a copy of the petition and a
14 notice of hearing shall be served on the parent or guardian at his or her last known
15 address. A copy of the application for admission and of any relevant professional
16 evaluations shall be attached to the petition. The petition shall contain all of the
17 following:

if
H

18 6. Notation of any ~~statement made or conduct demonstrated by the minor in~~
19 ~~the presence of the director or staff of the facility indicating that inpatient treatment~~
20 ~~is against the wishes of the minor~~ refusal of the minor 14 years of age or older to join
21 in the application.

22 SECTION 13. 51.13 (4) (b) (title) of the statutes is created to read:

23 (title) 51.13 (4) (b) Removal of petition.

24 SECTION 14. 51.13 (4) (c) (title) of the statutes is created to read:

25 51.13 (4) (c) Copy of petition.

1 SECTION 15. 51.13^x (4) (d) of the statutes is amended to read:

2 51.13 (4) (d) (title) Criteria for approving admission. Within 5 days after the
3 filing of the petition, the court assigned to exercise jurisdiction under chs. 48 and 938
4 shall determine, based on the allegations of the petition and accompanying
5 documents, whether there is a prima facie showing that the minor is in need of
6 psychiatric services, or services for developmental disability, alcoholism, or drug
7 abuse, whether the treatment facility offers inpatient therapy or treatment that is
8 appropriate to the minor's needs; whether inpatient care in the treatment facility is
9 the least restrictive therapy or treatment consistent with the needs of the minor; and,
10 if the minor is 14 years of age or older and has been admitted to the treatment facility
11 for the primary purpose of treatment for mental illness or developmental disability,
12 whether the admission was made under an application executed by the minor and
13 the minor's parent or guardian. If such a showing is made, the court shall permit
14 admission. If the court is unable to make those determinations based on the petition
15 and accompanying documents, the court may dismiss the petition as provided in par.
16 (h); order additional information, including an independent evaluation, to be
17 produced as necessary for the court to make those determinations within 7 days,
18 exclusive of weekends and legal holidays, after admission or application for
19 admission, whichever is sooner; or hold a hearing within 7 days, exclusive of
20 weekends and legal holidays, after admission or application for admission,
21 whichever is sooner. ~~If a notation of the minor's unwillingness appears on the face~~
22 ~~of the petition,~~ if the admission was made under an application executed by the
23 minor's parent or guardian despite the minor's refusal, or if a hearing has been
24 requested by the minor or by the minor's counsel, parent, or guardian, the court shall
25 order an independent evaluation of the minor and hold a hearing to review the

1 admission, within 7 days, exclusive of weekends and legal holidays, after admission
2 or application for admission, whichever is sooner, and shall appoint counsel to
3 represent the minor if the minor is unrepresented. If the court considers it necessary,
4 the court shall also appoint a guardian ad litem to represent the minor. The minor
5 shall be informed about how to contact the state protection and advocacy agency
6 designated under s. 51.62 (2) (a).

7 SECTION 16. 51.13 (4) (e) (title) of the statutes is created to read:

8 51.13 (4) (e) *Notice of hearing.*

9 SECTION 17. 51.13 (4) (f) (title) of the statutes is created to read:

10 51.13 (4) (f) *Rules, records, and findings.*

11 SECTION 18. 51.13 (4) (g) (intro.) and 1. c. of the statutes are amended to read:

12 51.13 (4) (g) (intro.) *Approval of admission.* If the court finds, under a
13 hearing under par. (d), that the minor is in need of psychiatric services or services
14 for developmental disability, alcoholism, or drug abuse in an inpatient facility, that
15 the inpatient facility to which the minor is admitted offers therapy or treatment that
16 is appropriate for the minor's needs and that is the least restrictive therapy or
17 treatment consistent with the minor's needs, the court shall permit admission. If the
18 court finds that the therapy or treatment in the inpatient facility to which the minor
19 is admitted is not appropriate or is not the least restrictive therapy or treatment
20 consistent with the minor's needs, the court may order placement in or transfer to
21 another more appropriate or less restrictive inpatient facility, if the placement or
22 transfer is first approved by all of the following, ~~except that placement in or transfer~~
23 ~~to a center for the developmentally disabled shall first be approved by all of the~~
24 following and the department:

25 1. c. For a minor admitted under sub. (1) (c) ~~1- or 2-~~, the minor.

1 SECTION 19. 51.13^x (4) (g) 4. of the statutes is created to read:

2 51.13 (4) (g) 4. The department, if the placement or transfer is to a center for
3 the developmentally disabled.

Insert
9-6

4 SECTION 20. 51.13^x (4) (h) (title) of the statutes is created to read:

5 51.13 (4) (h) *Actions if petition not approved.* (title)

6 SECTION 21. 51.13^x (6) (a) (title) of the statutes is created to read:

7 51.13 (6) (a) *Admission procedure.*

8 SECTION 22. 51.13^x (6) (a) 3. of the statutes is amended to read:

9 51.13 (6) (a) 3. A If a minor 14 years of age or older who refused to execute the
10 application under subd. 2. is admitted after court review under sub. (4) (d), the minor
11 may not be readmitted to an inpatient treatment facility for psychiatric services
12 under this paragraph within 120 days of a previous admission under this paragraph.

13 SECTION 23. 51.13^x (6) (b) (title) of the statutes is created to read:

14 51.13 (6) (b) *Review and acceptance of application.* (title)

15 SECTION 24. 51.13^x (6) (c) (title) of the statutes is created to read:

16 51.13 (6) (c) *Release.* (I) attains

Insert
9-19

17 SECTION 25. 51.13^x (7) (a) (title) of the statutes is created to read:

18 51.13 (7) (a) *Minor reaches age 14 during admission.* (title)

19 SECTION 26. 51.13^x (7) (b) (title) and 1. to 3. of the statutes are amended to read:

20 51.13 (7) (b) *Discharge procedure.* 1. Any minor who is voluntarily
21 admitted under sub. (1) (c) ~~1. or 2.~~, may request discharge in writing.

22 2. For a minor 14 years of age or older who is admitted under sub. (1) (a) ~~or (b)~~
23 (bm) for the primary purpose of treatment for alcoholism or drug abuse or a minor
24 under 14 years of age who is admitted under sub. (1) (a) ~~or (b)~~ for the primary purpose

1 of treatment for mental illness, developmental disability, alcoholism, or drug abuse,
2 the parent or guardian of the minor may request discharge in writing.

3 3. For a minor 14 years of age or older who is admitted under sub. (1) (a) or (b)
4 for the primary purpose of treatment for mental illness or developmental disability,
5 the minor and the minor's parent or guardian may request discharge in writing. If
6 the parent or guardian of the minor refuses to request discharge and if the director
7 of the facility to which the minor is admitted or his or her designee avers, in writing,
8 that the minor is in need of psychiatric services or services for developmental
9 disability, that the facility's therapy or treatment is appropriate to the minor's needs,
10 and that inpatient care in the treatment facility is the least restrictive therapy or
11 treatment consistent with the needs of the minor, the minor may not be discharged
12 under this paragraph.

13 SECTION 27. 51.13 (7) (c) (title) of the statutes is created to read:

14 51.13 (7) (c) ^(+ve) Request for hearing when not discharged.
15

(END)

D-note

Insert
10-15-TD

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1212/P1ins
TJD:.....

1 INSERT 3-1

2 **SECTION 1.** 51.13 (1) (title) of the statutes is amended to read:

3 51.13 (1) (title) ADMISSION FOR TREATMENT.

History: 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104; 2003 a. 326; 2005 a. 444; 2007 a. 140.

(END INSERT 3-1)

4 INSERT 6-1

5 **SECTION 2.** 51.13 (4) (title) of the statutes is amended to read:

6 51.13 (4) (title) ~~REVIEW~~ PETITION REQUIREMENT; REVIEW PROCEDURE.

History: 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104; 2003 a. 326; 2005 a. 444; 2007 a. 140.

(END INSERT 6-1)

7 INSERT 9-6

8 **SECTION 3.** 51.13 (4) (i) (title) of the statutes is created to read:

9 (title) 51.13 (4) (i) *Findings of review.*

(END INSERT 9-6)

10 INSERT 9-19

11 **SECTION 4.** 51.13 (7) (b) (title) of the statutes is created to read:

12 51.13 (7) (b) *Discharge procedure.*

(END INSERT 9-19)

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1212/P1insTD
TJD:.....

1 INSERT 5-19-TD

2 **SECTION 1.** 51.13 (3) (b) of the statutes is amended to read:

3 51.13 (3) (b) Prior to or at admission, a minor who is voluntarily admitted under
4 sub. (1) (c) ~~1- or 2-~~, and the minor's parent or guardian, if available, shall be informed
5 by the director or his or her designee, both orally and in writing, in easily
6 understandable language, of the minor's right to request discharge and to be
7 discharged within 48 hours of the request, as provided under sub. (7) (b), if no
8 statement is filed for emergency detention or if no petition is filed for emergency
9 commitment, involuntary commitment, or protective placement, and the minor's
10 right to consent to or refuse treatment as provided in s. 51.61 (6).

History: 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104; 2003 a. 326; 2005 a. 444; 2007 a. 140.

(END INSERT 5-19-TD)

11 INSERT 10-15-TD

12 **SECTION 2.** 51.35 (3) (a) and (b) of the statutes are amended to read:

13 51.35 (3) (a) A licensed psychologist of a juvenile correctional facility or a
14 secured residential care center for children and youth, or a licensed physician of the
15 department of corrections, who has reason to believe that any individual confined in
16 the juvenile correctional facility or secured residential care center for children and
17 youth is, in his or her opinion, in need of services for developmental disability,
18 alcoholism, or drug dependency or in need of psychiatric services, and who has
19 obtained consent to make a transfer for treatment, shall make a report, in writing,
20 to the superintendent of the juvenile correctional facility or secured residential care
21 center for children and youth, stating the nature and basis of the belief and verifying
22 the consent. In the case of a minor age 14 or older who is in need of services for

1 developmental disability or who is in need of psychiatric services, the minor and the
2 minor's parent or guardian shall consent unless the minor is admitted under s. 51.13
3 (1) (c) ~~1~~ or unless the minor refuses to consent, in which case the minor's parent or
4 guardian may consent on behalf of the minor. In the case of a minor age 14 or older
5 who is in need of services for alcoholism or drug dependency or a minor under the age
6 of 14 who is in need of services for developmental disability, alcoholism, or drug
7 dependency or in need of psychiatric services, only the minor's parent or guardian
8 needs to consent unless the minor is admitted under s. 51.13 (1) (c). The
9 superintendent shall inform, orally and in writing, the minor and the minor's parent
10 or guardian, that transfer is being considered and shall inform them of the basis for
11 the request and their rights as provided in s. 51.13 (3) (am). If the department of
12 corrections, upon review of a request for transfer, determines that transfer is
13 appropriate, that department shall immediately notify the department of health
14 services and, if the department of health services consents, the department of
15 corrections may immediately transfer the individual. The department of health
16 services shall file a petition under s. 51.13 (4) (a) in the court assigned to exercise
17 jurisdiction under chs. 48 and 938 of the county where the treatment facility is
18 located.

History: 1975 c. 430 ss. 18, 81; 1977 c. 26, 29, 428; 1979 c. 110 s. 60 (1); 1981 c. 74 s. 2; 1981 c. 314 s. 144; 1983 a. 27, 441, 474; 1985 a. 29, 176, 332; 1987 a. 366, 403; 1989 a. 31, 56, 107; 1991 a. 39; 1993 a. 451; 1995 a. 27 ss. 3258m, 3259m, 9126 (19); 1995 a. 77, 292; 1997 a. 35; 1999 a. 9; 2001 a. 16 ss. 1967f to 1967j, 4034zi; 2003 a. 33; 2005 a. 22, 264, 344, 387, 444; 2007 a. 20 ss. 1818 to 1819, 9121 (6) (a); 2007 a. 96; 2009 a. 28; 2011 a. 32.

19 (b) The court assigned to exercise jurisdiction under chs. 48 and 938 shall
20 determine, based on the allegations of the petition and accompanying documents,
21 whether the transfer under par. (a) of the minor to an inpatient facility is appropriate
22 and consistent with the needs of the minor and, if the minor is 14 years of age or older
23 and is being transferred for the purpose of receiving services for developmental
24 disability or psychiatric services, whether consent for the transfer was provided by

1 the minor and his or her parent or guardian or whether the minor was admitted
 2 under s. 51.13 (1) (c) 1. If the court is unable to make those determinations based
 3 on the petition and accompanying documents, the court may order additional
 4 information, including an independent evaluation, to be produced as necessary to
 5 make those determinations within 14 days after admission, or the court may hold a
 6 hearing within 14 days after admission. If a notation of the minor's unwillingness
 7 appears on the face of the petition, if the transfer was made under a consent of the
 8 minor's parent or guardian despite the minor's refusal, or if a hearing has been
 9 requested by the minor or by the minor's counsel, guardian ad litem, parent, or
 10 guardian, the court shall order an independent evaluation of the minor, hold a
 11 hearing, and appoint counsel or a guardian ad litem for the minor as provided in s.
 12 51.13 (4) (d). The minor shall be informed about how to contact the state protection
 13 and advocacy agency designated under s. 51.62 (2) (a). At the conclusion of the
 14 hearing, the court shall approve or disapprove the request for transfer. If the minor
 15 is under the continuing jurisdiction of the court of another county, the court may
 16 order the case transferred together with all appropriate records to that court.

History: 1975 c. 430 ss. 18, 81; 1977 c. 26, 29, 428; 1979 c. 110 s. 60 (1); 1981 c. 74 s. 2; 1981 c. 314 s. 144; 1983 a. 27, 441, 474; 1985 a. 29, 176, 332; 1987 a. 366, 403; 1989 a. 31, 56, 107; 1991 a. 39; 1993 a. 451; 1995 a. 27 ss. 3258m, 3259m, 9126 (19); 1995 a. 77, 292; 1997 a. 35; 1999 a. 9; 2001 a. 16 ss. 1967f to 1967j, 4034zi; 2003 a. 33; 2005 a. 22, 264, 344, 387, 444; 2007 a. 20 ss. 1818 to 1819, 9121 (6) (a); 2007 a. 96; 2009 a. 28; 2011 a. 32.

***NOTE: Please confirm that this provision still works as expected with the cross-reference to s. 51.13 (1) (c) 1. replaced with a cross-reference s. 51.13 (1) (c).

17 **SECTION 3.** 51.61 (6) of the statutes is amended to read:

18 51.61 (6) Subject to the rights of patients provided under this chapter, the
 19 department, county departments under s. 51.42 or 51.437, and any agency providing
 20 services under an agreement with the department or those county departments have
 21 the right to use customary and usual treatment techniques and procedures in a
 22 reasonable and appropriate manner in the treatment of patients who are receiving
 23 services under the mental health system, for the purpose of ameliorating the

1 conditions for which the patients were admitted to the system. The written,
2 informed consent of any patient shall first be obtained, unless the person has been
3 found not competent to refuse medication and treatment under s. 51.61 (1) (g) or the
4 person is a minor 14 years of age or older who is receiving services for alcoholism or
5 drug abuse or a minor under 14 years of age who is receiving services for mental
6 illness, developmental disability, alcoholism, or drug abuse. In the case of such a
7 minor, the written, informed consent of the parent or guardian is required, except as
8 provided under an order issued under s. 51.13 (1) (c) or 51.14 (3) (h) or (4) (g), or as
9 provided in s. 51.47. If the minor is 14 years of age or older and is receiving services
10 for mental illness or developmental disability, the written, informed consent of the
11 minor and the minor's parent or guardian is required, except that a refusal of either
12 such a minor 14 years of age or older or the minor's parent or guardian to provide
13 written, informed consent for admission or transfer to an approved inpatient
14 treatment facility is reviewable under s. 51.13 (1) (c) ~~1~~, (3), or (4), or 51.35 (3) (b), and
15 a refusal of either a minor 14 years of age or older or the minor's parent or guardian
16 to provide written, informed consent for outpatient mental health treatment is
17 reviewable under s. 51.14.

History: 1975 c. 430; 1977 c. 428 ss. 96 to 109, 115; 1981 c. 20; 1981 c. 314 s. 144; 1983 a. 189 s. 329 (5); 1983 a. 293, 357, 538; 1985 a. 176; 1987 a. 366, 367, 403; 1989 a. 31; 1993 a. 184, 445, 479; 1995 a. 27 s. 9126 (19); 1995 a. 92, 268, 292; 1997 a. 292; 2001 a. 16 ss. 1993j to 1993w, 4034zk, 4034zl; 2001 a. 104; 2005 a. 387, 434, 444; 2007 a. 20 s. 9121 (6) (a); 2007 a. 97; 2009 a. 28; 2011 a. 32.

****NOTE: Please confirm that this provision still works as expected with the cross-reference to s. 51.13 (1) (c) 1. replaced with a cross-reference s. 51.13 (1) (c).

(END INSERT 10-15-TD)

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

LRB-1212/P1dn
TJD:sac:ph

March 18, 2013

To Laura Rose:

Please see the notes embedded in the draft. Also, please note that I changed a few of the titles to conform better to our drafting style and conventions since the titles have no legal effect. Please review the titles and confirm that they meet the committee's intent.

Should you have any questions or redraft instructions, please contact me.

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

Dodge, Tamara

From: Rose, Laura
Sent: Wednesday, March 20, 2013 9:25 AM
To: LRB.Legal; Dodge, Tamara
Subject: RE: Draft review: LRB -1212/P1 Topic: Admission of minors for inpatient treatment

Hi, Tami,

I've reviewed this draft and it looks fine, and is ready for jacketing. I think your treatments of ss. 51.36 and 51.61 work with the 51.13(1)(c).

Thank you!

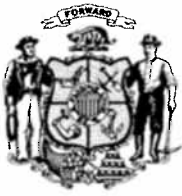
Laura

Laura D. Rose

Deputy Director
Wisconsin Legislative Council
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PO Box 2536
Madison, WI 53701-2536
tel: 608.266.9791
fax: 608.266.3830
laura.rose@legis.wisconsin.gov

From: LRB.Legal
Sent: Monday, March 18, 2013 1:25 PM
To: Rose, Laura
Subject: Draft review: LRB -1212/P1 Topic: Admission of minors for inpatient treatment

Following is the PDF version of draft LRB -1212/P1 and drafter's note.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1212/P1
TJD:sac:ph

In 3/22/13

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2013 BILL

soon

gen conf

1 **AN ACT** *to repeal* 51.13 (1) (c) 2. and 3.; *to renumber and amend* 51.13 (1) (c)

2 1.; *to amend* 51.13 (1) (title), 51.13 (1) (a) and (b), 51.13 (3) (b), 51.13 (4) (title),

3 51.13 (4) (a) (intro.) and 6., 51.13 (4) (d), 51.13 (4) (g) (intro.) and 1. c., 51.13 (6)

4 (a) 3., 51.13 (7) (b) 1. to 3., 51.35 (3) (a) and (b) and 51.61 (6); and *to create* 51.13

5 (1) (bm), 51.13 (1) (d) (title), 51.13 (1) (e) (title), 51.13 (1) (em) (title), 51.13 (3)

6 (am) (title), 51.13 (3) (b) (title), 51.13 (3) (d) (title), 51.13 (3) (e) (title), 51.13 (4)

7 (b) (title), 51.13 (4) (c) (title), 51.13 (4) (e) (title), 51.13 (4) (f) (title), 51.13 (4) (g)

8 4., 51.13 (4) (h) (title), 51.13 (4) (i) (title), 51.13 (6) (a) (title), 51.13 (6) (b) (title),

9 51.13 (6) (c) (title), 51.13 (7) (a) (title), 51.13 (7) (b) (title) and 51.13 (7) (c) (title)

10 of the statutes; **relating to:** admission of minors for inpatient treatment.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Review of Emergency Detention and Admission of Minors Under Chapter 51.

Under current law, s. 51.13, stats., governs inpatient mental health treatment of minors. Section 51.13 (4), stats., requires a petition to be filed for the review of an admission of a minor of any age for treatment of mental illness, alcoholism or drug abuse, or developmental disability. Included in the petition must be a notation of any statement made or conduct demonstrated by the minor in the presence of the director or staff of the facility indicating that inpatient treatment is against the minor's wishes.

Also, under current law, a minor may be admitted to an inpatient treatment facility without following the review procedures for diagnosis and evaluation or for dental, medical, or psychiatric services, for no longer than 12 days. A minor's parent or guardian must execute the application for short-term admission. However, if the minor is age 14 or older, the minor must join in the application if it is for mental health or developmental disability services or treatment. If the minor refuses to do so, then the parent or guardian may do so. In that case, the review procedures outlined above apply, and the facility's treatment director must file a petition for review of the short-term admission.

An application for short-term admission must be reviewed by the facility's treatment director, who may approve it only if the treatment director determines that the admission provides the least restrictive means of providing the diagnosis or evaluation, or provision of dental, medical, or psychiatric services. The minor must be released at the end of the 12-day period unless a regular application for admission has been filed. Only one short-term admission under this procedure may be made every 120 days.

Finally, testimony provided to the special committee indicated that, in some areas of the state, there is little awareness of the ability of a parent of a minor age 14 or older to obtain treatment for the minor if the minor does not want treatment. In some cases, this lack of awareness has resulted in necessary treatment not being provided that could have prevented harm to a minor.

This bill does the following:

- Eliminates the need to file a petition for review of an admission of a minor under age 14 for treatment of mental illness, alcoholism or drug abuse, or developmental disability. Because under current law, parents have the authority to consent to inpatient admission for minors under age 14 without the minor joining in the petition, the committee recommended that the petition and hearing requirements in current law for minors under age 14 are unnecessary and should be eliminated. A petition would still be required if the minor wanted treatment but the parent refused; if a parent with legal custody or guardian cannot be found; or if there is no parent or guardian.

- Eliminates the need to file a petition for a minor age 14 to 17 who is voluntarily participating in inpatient treatment for mental illness. A petition would still have to be filed if the minor refused to join in the application, or if the parent with legal custody or guardian cannot be found, or there is no parent with legal custody or guardian. A petition would also still be required if the minor wanted treatment but the parent refused. It should be noted that a minor age 14 or older may request discharge from the inpatient

facility at any time. If the request is denied, current law sets forth a procedure for determining the continued appropriateness of the admission. This provides protection of the minor's rights if the minor withdraws his or her consent to the treatment.

- Eliminates the petition requirement at the expiration of the 12-day time period if the admission was voluntary on the part of the minor and the parent.

- Eliminates the provision that allows for no more than one short-term (up to 12 days) voluntary admission of a minor every 120 days.

- Creates subsection and paragraph titles within s. 51.13 to provide guidance to the reader regarding the subject matter of the subsections and paragraphs and eliminates some redundant language in s. 51.13.

1 **SECTION 1.** 51.13 (1) (title) of the statutes is amended to read:

2 51.13 (1) (title) ADMISSION FOR TREATMENT.

3 **SECTION 2.** 51.13 (1) (a) and (b) of the statutes are amended to read:

4 51.13 (1) (a) Minors under 14 years of age. Except as provided in par. (c) and
5 ss. 51.45 (2m) and 51.47, the application for admission of a minor who is 14 years of
6 age or older to an approved inpatient treatment facility for the primary purpose of
7 treatment for alcoholism or drug abuse and the application for admission of a minor
8 who is under 14 years of age to an approved inpatient treatment facility for the
9 primary purpose of treatment for mental illness, developmental disability,
10 alcoholism, or drug abuse shall be executed by a parent who has legal custody of the
11 minor or the minor's guardian. Any statement or conduct by a minor who is the
12 subject of an application for admission under this paragraph indicating that the
13 minor does not agree to admission to the facility shall be noted on the face of the
14 application ~~and shall be noted in the petition required by sub. (4).~~

15 (b) Minors 14 years of age or older; mental illness or developmental disability.
16 The application for admission of a minor who is 14 years of age or older to an approved
17 inpatient treatment facility for the primary purpose of treatment for mental illness
18 or developmental disability shall be executed by the minor and a parent who has
19 legal custody of the minor or the minor's guardian, except as provided in par. (c) 1.,

1 ~~except that, if.~~ If the minor refuses to execute the application, a parent who has legal
2 custody of the minor or the minor's guardian may execute the application on the
3 minor's behalf, and the petition shall be filed as required under sub. (4).

4 **SECTION 3.** 51.13[✓] (1) (bm) of the statutes is created to read:

5 51.13 (1) (bm) *Minors 14 years of age or older; alcoholism or drug abuse*
6 *treatment.* Except as provided in par. (c) and ss. 51.42 (2m) and 51.47, the application
7 for admission of a minor who is 14 years of age or older to an approved inpatient
8 facility for the primary purpose of treatment for alcoholism or drug abuse shall be
9 executed by a parent who has legal custody of the minor or the minor's guardian. Any
10 statement or conduct by a minor who is the subject of an application for admission
11 under this paragraph indicating that the minor does not agree to admission to the
12 facility shall be noted on the face of the application and shall be noted in the petition
13 required under sub. (4).

14 **SECTION 4.** 51.13[✓] (1) (c) 1. of the statutes is renumbered 51.13 (1) (c) and
15 amended to read:

16 51.13 (1) (c) *Lack of parent or guardian consent to treatment.* If a minor 14 years
17 ~~of age or older~~ wishes to be admitted to an approved inpatient treatment facility but
18 a parent with legal custody or the guardian ~~refuses to execute the application for~~
19 ~~admission or cannot be found, or if there is no parent with legal custody or guardian,~~
20 or the parent with legal custody or guardian of a minor 14 years of age or older refuses
21 to execute the application, the minor or a person acting on the minor's behalf may
22 petition the court ~~assigned to exercise jurisdiction under chs. 48 and 938 in the~~
23 ~~county of residence of the parent or guardian for approval of the admission.~~ A copy
24 ~~of the petition and a notice of hearing shall be served upon the parent or guardian~~
25 ~~at his or her last-known address.~~ If, after a hearing, the court determines that the

1 consent of the parent or guardian is being unreasonably withheld, that the parent
2 or guardian cannot be found, or that there is no parent with legal custody, and that
3 the admission is proper under the standards prescribed in sub. (4)(d), the court shall
4 approve the minor's admission without the consent of the parent or guardian under
5 sub. (4). The court may, at the minor's request, temporarily approve the admission
6 pending hearing on the petition, if such a hearing is required under sub. (4).

7 SECTION 5. 51.13[✓] (1) (c) 2. and 3. of the statutes are repealed.

8 SECTION 6. 51.13[✓] (1) (d) (title) of the statutes is created to read:

9 51.13 (1) (d) (title) *Other petition filed.*

10 SECTION 7. 51.13[✓] (1) (e) (title) of the statutes is created to read:

11 51.13 (1) (e) (title) *Admission on approval of application.*

12 SECTION 8. 51.13[✓] (1) (em) (title) of the statutes is created to read:

13 51.13 (1) (em) (title) *Standards for approval of admission.*

14 SECTION 9. 51.13[✓] (3) (am) (title) of the statutes is created to read:

15 51.13 (3) (am) (title) *Rights.*

16 SECTION 10. 51.13[✓] (3) (b) (title) of the statutes is created to read:

17 51.13 (3) (b) (title) *Right to request discharge.*

18 SECTION 11. 51.13[✓] (3) (b) of the statutes is amended to read:

19 51.13 (3) (b) Prior to or at admission, a minor who is voluntarily admitted under
20 sub. (1) (c) ~~1. or 2.~~, and the minor's parent or guardian, if available, shall be informed
21 by the director or his or her designee, both orally and in writing, in easily
22 understandable language, of the minor's right to request discharge and to be
23 discharged within 48 hours of the request, as provided under sub. (7) (b), if no
24 statement is filed for emergency detention or if no petition is filed for emergency

1 commitment, involuntary commitment, or protective placement, and the minor's
2 right to consent to or refuse treatment as provided in s. 51.61 (6).

3 **SECTION 12.** 51.13[✓] (3) (d) (title) of the statutes is created to read:

4 51.13 (3) (d) (title) *Explanation of rights.*

5 **SECTION 13.** 51.13[✓] (3) (e) (title) of the statutes is created to read:

6 51.13 (3) (e) (title) *Availability of writing materials.*

7 **SECTION 14.** 51.13[✓] (4) (title) of the statutes is amended to read:

8 51.13 (4) (title) REVIEW PETITION REQUIREMENT; REVIEW PROCEDURE.

9 **SECTION 15.** 51.13[✓] (4) (a) (intro.) and 6. of the statutes are amended to read:

10 51.13 (4) (a) (intro.) When petition filed. Within 3 days after the admission of
11 a minor under sub. (1) (b), or within 3 days after an application is executed for
12 admission of the minor, whichever occurs first, the treatment director of the facility
13 or the center for the developmentally disabled to which the minor is admitted, or his
14 ~~or her designee or, in the case of a center for the developmentally disabled, the~~
15 ~~director of the center or his or her designee,~~ shall file a verified petition for review
16 of the admission in the court assigned to exercise jurisdiction under chs. 48 and 938
17 in the county in which the facility is located, if the minor is 14 years of age or older
18 and refuses to join in the application; the minor wants treatment and the minor's
19 parent with legal custody or guardian refuses to join in the application; there is no
20 parent with legal custody or guardian; or the parent with legal custody or guardian
21 cannot be found. If the parent or guardian is not the petitioner, a copy of the petition
22 and a notice of hearing shall be served on the parent or guardian at his or her last
23 known address. A copy of the application for admission and of any relevant
24 professional evaluations shall be attached to the petition. The petition shall contain
25 all of the following:

1 6. Notation of any ~~statement made or conduct demonstrated by the minor in~~
2 ~~the presence of the director or staff of the facility indicating that inpatient treatment~~
3 ~~is against the wishes of the minor~~ refusal of the minor 14 years of age or older to join
4 in the application.

5 **SECTION 16.** 51.13[✓] (4) (b) (title) of the statutes is created to read:

6 51.13 (4) (b) (title) *Removal of petition.*

7 **SECTION 17.** 51.13[✓] (4) (c) (title) of the statutes is created to read:

8 51.13 (4) (c) (title) *Copy of petition.*

9 **SECTION 18.** 51.13[✓] (4) (d) of the statutes is amended to read:

10 51.13 (4) (d) Criteria for approving admission. Within 5 days after the filing
11 of the petition, the court assigned to exercise jurisdiction under chs. 48 and 938 shall
12 determine, based on the allegations of the petition and accompanying documents,
13 whether there is a prima facie showing that the minor is in need of psychiatric
14 services, or services for developmental disability, alcoholism, or drug abuse, whether
15 the treatment facility offers inpatient therapy or treatment that is appropriate to the
16 minor's needs; whether inpatient care in the treatment facility is the least restrictive
17 therapy or treatment consistent with the needs of the minor; and, if the minor is 14
18 years of age or older ~~and~~ has been admitted to the treatment facility for the primary
19 purpose of treatment for mental illness or developmental disability, whether the
20 admission was made under an application executed by the minor and the minor's
21 parent or guardian. If such a showing is made, the court shall permit admission. If
22 the court is unable to make those determinations based on the petition and
23 accompanying documents, the court may dismiss the petition as provided in par. (h);
24 order additional information, including an independent evaluation, to be produced
25 as necessary for the court to make those determinations within 7 days, exclusive of

1 weekends and legal holidays, after admission or application for admission,
2 whichever is sooner; or hold a hearing within 7 days, exclusive of weekends and legal
3 holidays, after admission or application for admission, whichever is sooner. If a
4 ~~notation of the minor's unwillingness appears on the face of the petition, if the~~
5 admission was made under an application executed by the minor's parent or
6 guardian despite the minor's refusal, or if a hearing has been requested by the minor
7 or by the minor's counsel, parent, or guardian, the court shall order an independent
8 evaluation of the minor and hold a hearing to review the admission, within 7 days,
9 exclusive of weekends and legal holidays, after admission or application for
10 admission, whichever is sooner, and shall appoint counsel to represent the minor if
11 the minor is unrepresented. If the court considers it necessary, the court shall also
12 appoint a guardian ad litem to represent the minor. The minor shall be informed
13 about how to contact the state protection and advocacy agency designated under s.
14 51.62 (2) (a).

15 **SECTION 19.** 51.13[✓] (4) (e) (title) of the statutes is created to read:

16 51.13 (4) (e) (title) *Notice of hearing.*

17 **SECTION 20.** 51.13[✓] (4) (f) (title) of the statutes is created to read:

18 51.13 (4) (f) (title) *Rules, records, and findings.*

19 **SECTION 21.** 51.13[✓] (4) (g) (intro.) and 1. c. of the statutes are amended to read:

20 51.13 (4) (g) *Approval of admission.* (intro.) If the court finds, under a hearing
21 under par. (d), that the minor is in need of psychiatric services or services for
22 developmental disability, alcoholism, or drug abuse in an inpatient facility, that the
23 inpatient facility to which the minor is admitted offers therapy or treatment that is
24 appropriate for the minor's needs and that is the least restrictive therapy or
25 treatment consistent with the minor's needs, the court shall permit admission. If the

1 court finds that the therapy or treatment in the inpatient facility to which the minor
2 is admitted is not appropriate or is not the least restrictive therapy or treatment
3 consistent with the minor's needs, the court may order placement in or transfer to
4 another more appropriate or less restrictive inpatient facility, if the placement or
5 transfer is first approved by all of the following, ~~except that placement in or transfer~~
6 ~~to a center for the developmentally disabled shall first be approved by all of the~~
7 ~~following and the department:~~

8 1. c. For a minor admitted under sub. (1) (c) ~~1. or 2.~~, the minor.

9 **SECTION 22.** 51.13[✓] (4) (g) 4. of the statutes is created to read:

10 51.13 (4) (g) 4. The department, if the placement or transfer is to a center for
11 the developmentally disabled.

12 **SECTION 23.** 51.13[✓] (4) (h) (title) of the statutes is created to read:

13 51.13 (4) (h) (title) *Actions if petition not approved.*

14 **SECTION 24.** 51.13[✓] (4) (i) (title) of the statutes is created to read:

15 51.13 (4) (i) (title) *Findings of review.*

16 **SECTION 25.** 51.13[✓] (6) (a) (title) of the statutes is created to read:

17 51.13 (6) (a) (title) *Admission procedure.*

18 **SECTION 26.** 51.13[✓] (6) (a) 3. of the statutes is amended to read:

19 51.13 (6) (a) 3. A If a minor 14 years of age or older who refused to execute the
20 application under subd. 2. is admitted after court review under sub. (4) (d), the minor
21 may not be readmitted to an inpatient treatment facility for psychiatric services
22 under this paragraph within 120 days of a previous admission under this paragraph.

23 **SECTION 27.** 51.13[✓] (6) (b) (title) of the statutes is created to read:

24 51.13 (6) (b) (title) *Review and acceptance of application.*

25 **SECTION 28.** 51.13[✓] (6) (c) (title) of the statutes is created to read:

1 51.13 (6) (c) (title) *Release*.

2 **SECTION 29.** 51.13[✓] (7) (a) (title) of the statutes is created to read:

3 51.13 (7) (a) (title) *Minor attains age 14 during admission*.

4 **SECTION 30.** 51.13[✓] (7) (b) (title) of the statutes is created to read:

5 51.13 (7) (b) (title) *Discharge procedure*.

6 **SECTION 31.** 51.13[✓] (7) (b) 1. to 3. of the statutes are amended to read:

7 51.13 (7) (b) 1. Any minor who is voluntarily admitted under sub. (1) (c) ~~1. or~~
8 ~~2.~~, may request discharge in writing.

9 2. For a minor 14 years of age or older who is admitted under sub. (1) ~~(a) or (b)~~
10 **(bm)** for the primary purpose of treatment for alcoholism or drug abuse or a minor
11 under 14 years of age who is admitted under sub. (1) ~~(a) or (b)~~ for the primary purpose
12 of treatment for mental illness, developmental disability, alcoholism, or drug abuse,
13 the parent or guardian of the minor may request discharge in writing.

14 3. For a minor 14 years of age or older who is admitted under sub. (1) ~~(a) or (b)~~
15 for the primary purpose of treatment for mental illness or developmental disability,
16 the minor and the minor's parent or guardian may request discharge in writing. If
17 the parent or guardian of the minor refuses to request discharge and if the director
18 of the facility to which the minor is admitted or his or her designee avers, in writing,
19 that the minor is in need of psychiatric services or services for developmental
20 disability, that the facility's therapy or treatment is appropriate to the minor's needs,
21 and that inpatient care in the treatment facility is the least restrictive therapy or
22 treatment consistent with the needs of the minor, the minor may not be discharged
23 under this paragraph.

24 **SECTION 32.** 51.13[✓] (7) (c) (title) of the statutes is created to read:

25 51.13 (7) (c) (title) *Request for hearing when not discharged*.

1 **SECTION 33.** 51.35 (3) (a) and (b) of the statutes are amended to read:

2 51.35 (3) (a) A licensed psychologist of a juvenile correctional facility or a
3 secured residential care center for children and youth, or a licensed physician of the
4 department of corrections, who has reason to believe that any individual confined in
5 the juvenile correctional facility or secured residential care center for children and
6 youth is, in his or her opinion, in need of services for developmental disability,
7 alcoholism, or drug dependency or in need of psychiatric services, and who has
8 obtained consent to make a transfer for treatment, shall make a report, in writing,
9 to the superintendent of the juvenile correctional facility or secured residential care
10 center for children and youth, stating the nature and basis of the belief and verifying
11 the consent. In the case of a minor age 14 or older who is in need of services for
12 developmental disability or who is in need of psychiatric services, the minor and the
13 minor's parent or guardian shall consent unless the minor is admitted under s. 51.13
14 (1) (c) ~~1~~ or unless the minor refuses to consent, in which case the minor's parent or
15 guardian may consent on behalf of the minor. In the case of a minor age 14 or older
16 who is in need of services for alcoholism or drug dependency or a minor under the age
17 of 14 who is in need of services for developmental disability, alcoholism, or drug
18 dependency or in need of psychiatric services, only the minor's parent or guardian
19 needs to consent unless the minor is admitted under s. 51.13 (1) (c). The
20 superintendent shall inform, orally and in writing, the minor and the minor's parent
21 or guardian, that transfer is being considered and shall inform them of the basis for
22 the request and their rights as provided in s. 51.13 (3) (am). If the department of
23 corrections, upon review of a request for transfer, determines that transfer is
24 appropriate, that department shall immediately notify the department of health
25 services and, if the department of health services consents, the department of

1 corrections may immediately transfer the individual. The department of health
2 services shall file a petition under s. 51.13 (4) (a) in the court assigned to exercise
3 jurisdiction under chs. 48 and 938 of the county where the treatment facility is
4 located.

5 (b) The court assigned to exercise jurisdiction under chs. 48 and 938 shall
6 determine, based on the allegations of the petition and accompanying documents,
7 whether the transfer under par. (a) of the minor to an inpatient facility is appropriate
8 and consistent with the needs of the minor and, if the minor is 14 years of age or older
9 and is being transferred for the purpose of receiving services for developmental
10 disability or psychiatric services, whether consent for the transfer was provided by
11 the minor and his or her parent or guardian or whether the minor was admitted
12 under s. 51.13 (1) (c) 1. If the court is unable to make those determinations based
13 on the petition and accompanying documents, the court may order additional
14 information, including an independent evaluation, to be produced as necessary to
15 make those determinations within 14 days after admission, or the court may hold a
16 hearing within 14 days after admission. If a notation of the minor's unwillingness
17 appears on the face of the petition, if the transfer was made under a consent of the
18 minor's parent or guardian despite the minor's refusal, or if a hearing has been
19 requested by the minor or by the minor's counsel, guardian ad litem, parent, or
20 guardian, the court shall order an independent evaluation of the minor, hold a
21 hearing, and appoint counsel or a guardian ad litem for the minor as provided in s.
22 51.13 (4) (d). The minor shall be informed about how to contact the state protection
23 and advocacy agency designated under s. 51.62 (2) (a). At the conclusion of the
24 hearing, the court shall approve or disapprove the request for transfer. If the minor

1 is under the continuing jurisdiction of the court of another county, the court may
2 order the case transferred together with all appropriate records to that court.

***NOTE: Please confirm that this provision still works as expected with the
cross-reference to s. 51.13 (1) (c) 1. replaced with a cross-reference s. 51.13 (1) (c).

3 **SECTION 34.** 51.61 (6) of the statutes is amended to read:

4 51.61 (6) Subject to the rights of patients provided under this chapter, the
5 department, county departments under s. 51.42 or 51.437, and any agency providing
6 services under an agreement with the department or those county departments have
7 the right to use customary and usual treatment techniques and procedures in a
8 reasonable and appropriate manner in the treatment of patients who are receiving
9 services under the mental health system, for the purpose of ameliorating the
10 conditions for which the patients were admitted to the system. The written,
11 informed consent of any patient shall first be obtained, unless the person has been
12 found not competent to refuse medication and treatment under s. 51.61 (1) (g) or the
13 person is a minor 14 years of age or older who is receiving services for alcoholism or
14 drug abuse or a minor under 14 years of age who is receiving services for mental
15 illness, developmental disability, alcoholism, or drug abuse. In the case of such a
16 minor, the written, informed consent of the parent or guardian is required, except as
17 provided under an order issued under s. 51.13 (1) (c) or 51.14 (3) (h) or (4) (g), or as
18 provided in s. 51.47. If the minor is 14 years of age or older and is receiving services
19 for mental illness or developmental disability, the written, informed consent of the
20 minor and the minor's parent or guardian is required, except that a refusal of either
21 such a minor 14 years of age or older or the minor's parent or guardian to provide
22 written, informed consent for admission or transfer to an approved inpatient
23 treatment facility is reviewable under s. 51.13 (1) (c) 1, (3), or (4), or 51.35 (3) (b), and

1 a refusal of either a minor 14 years of age or older or the minor's parent or guardian
2 to provide written, informed consent for outpatient mental health treatment is
3 reviewable under s. 51.14.

****NOTE: Please confirm that this provision still works as expected with the
cross-reference to s. 51.13 (1) (c) 1. replaced with a cross-reference s. 51.13 (1) (c).

4

(END)

Basford, Sarah

From: Rose, Laura
Sent: Tuesday, April 02, 2013 11:51 AM
To: LRB.Legal
Subject: Draft Review: LRB -1212/1 Topic: Admission of minors for inpatient treatment

Please Jacket LRB -1212/1 for the SENATE.