

2013 DRAFTING REQUEST

Bill

Received: 10/14/2013 Received By: tdodge
Wanted: As time permits Same as LRB:
For: Sandy Pasch (608) 266-7671 By/Representing: Fred Ludwig
May Contact: Drafter: tdodge
Subject: Mental Health - detent/commit Addl. Drafters:
Extra Copies:

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

Pre Topic:

No specific pre topic given

Topic:

Create pilot program in Milwaukee County to expand authority to initiate emergency detentions to individuals providing mobile crisis services

Instructions:

See attached

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 10/25/2013			_____			
/P1	tdodge 10/31/2013	scalvin 11/1/2013	rschluet 10/25/2013	_____	srose 10/25/2013		Local
/1			jfrantze 11/1/2013	_____	sbasford 11/1/2013	srose 11/8/2013	State S&L

@
intro.

FE Sent For:

→ At Intro.

<END>

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 Carbon copy (CC) to: **tamara.dodge@legis.wisconsin.gov**

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FE Sent For:		11 sac 10/31/2013	11 sac 10/31/2013				

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/?	tdodge	PI sac 10/25/2013		_____	_____		

FE Sent For:

<END>

Dodge, Tamara

From: Hanaman, Cathlene
Sent: Monday, October 14, 2013 2:51 PM
To: Dodge, Tamara
Subject: FW: drafting request
Attachments: Chp 51 memo.doc

I think this is your part of mental health.

From: Ludwig, Frederic
Sent: Monday, October 14, 2013 2:48 PM
To: Hanaman, Cathlene
Subject: drafting request

Hi Cathlene,

Would like to get the ball rolling on a bill draft that would establish a pilot program in Milwaukee County to expand the authority to initiative emergency detentions to individuals designated to provide mobile crisis services. This program shall be sunset after two years after it is established and followed up with a report and consequent recommendation whether or not this authority should be expanded to counties statewide.

I've attached a memo from Milwaukee County for some background info. Let me know if you have any questions or want to discuss details any further.

Thanks,
Fred

--

FRED LUDWIG
OFFICE OF STATE REPRESENTATIVE SANDY PASCH
ASSISTANT DEMOCRATIC LEADER
119 North, State Capitol
608.266.7671 *o*
888.534.0022 *tf*
608.282.3622 *f*



Milwaukee County
Behavioral Health Division
Emergency Medical Services
414-257-5202

**OFFICE OF THE
DEPUTY ADMINISTRATOR**

Background

The Mobile Crisis Team has been in existence for over 15 years in Milwaukee County. The Mobile Crisis Team works exclusively with individuals age 18 and over, and the Mobile Urgent Treatment Team works with children 17 and under. The role of the Mobile Crisis Team is to respond to behavioral health crises in the community. A key component to this response is the evaluation of emergency detentions. Currently, the Mobile Crisis Team is comprised of RNs, BHESCs (Behavioral Health Emergency Service Clinicians), and a psychologist.

A well-documented and widely publicized phenomenon that occurs in Milwaukee County is a disproportionately high number of psychiatric emergency detentions (EDs). This fact has been pointed out in any number of venues and is highlighted in the Human Services Research Institute (HSRI) report on redesigning the adult mental health system in Milwaukee County. In 2012, there were over 7,000 emergency detentions in Milwaukee County. However, it is difficult to compare Milwaukee County with any other county in the State of Wisconsin as the laws that govern how we approach Chapter 51 (the State law that applies to emergency detentions) are different. In addition the socio-economic realities of Milwaukee County are also quite separate and distinct from other counties.

Milwaukee County Behavioral Health (BHD) is currently in the process of implementing a number of strategic initiatives that are aimed at maintaining individuals in the community while avoiding involuntary hospitalizations, including those that result from EDs. In 2011 and 2012, BHD conducted an extensive review of factors related to EDs, including: a study of Mobile Crisis team utilization and effectiveness at generating voluntary dispositions; a retrospective analysis of ED dispositions and probable cause hearings; a survey of local law enforcement that focused on use of voluntary alternatives rather than EDs; and finally, possible legislative action that would impact the Chapter 51 processes was also explored.

For purposes of developing a plan for additional community crisis options, only data from the Mobile Crisis Team was reviewed and analyzed. In 2011, there were 1,488 contacts made by the Mobile Crisis Team, of which 931 were done at a private medical facility. In each of these cases law enforcement had already placed the individuals on an ED. The Mobile Crisis Team evaluated those patients and in 63% of the cases, was able to drop the ED and pursue voluntary alternatives. Additionally, 455 of the Mobile Crisis Team contacts were done in a community setting. These contacts were either to facilitate the discharge of a patient from a higher level of care, or to evaluate an individual in the community. Of these community contacts, only 24 resulted in an ED being initiated, which translates to a 95% rate of voluntary alternatives. Finally, there were 102 contacts that were directly referred by law enforcement. These were situations where law enforcement required an onsite clinical evaluation and risk assessment. Of these cases, there was a

recommendation to detain 12 individuals on an ED. This corresponds to an 88% rate of voluntary alternatives for individuals that had come to the attention of law enforcement. What this data indicates is that the intervention by the Crisis Mobile Team leads to far fewer EDs than would otherwise have been the case. Each of these interventions was conducted prior to any contact with Milwaukee County's Psychiatric Crisis Service (PCS).

An additional review of the total number of EDs done in Milwaukee County in 2011 was also conducted. The focus of this review was on individuals that made it to BHD. It was determined that up to 80% of EDs written in Milwaukee County could have been impacted in PCS or at the probable cause hearing, by a clinical intervention earlier in the process. The types of ED dispositions that factor into this percentage include:

- The ED was dropped in PCS;
- Patient was held temporarily but discharged prior to probable cause;
- No witness shows up for court;
- Time violation;
- Facial insufficiency; and
- A stipulation agreement is struck for voluntary admission.

Legal Issues

There have been several attempts made in the recent past to broaden the definition of who can detain an individual under Chapter 51 in the State of Wisconsin to include; allowing the decision to be made by a Behavioral Health professional. Existing statutory language in Chapter 51.15 (1) (a) states:

"A law enforcement officer or other person authorized to take a child into custody under ch. 48 or take a juvenile into custody under ch. 938 may take an individual into custody if the officer or person has cause to believe that the individual is mentally ill, is drug dependent, or is developmentally disabled and that the individual evidences any of the following."

A "person authorized to take a child into custody under ch. 48 or take a juvenile into custody under ch. 938," is an individual who has been trained by the State of Wisconsin as a juvenile probation officer. At least one other County in the State interprets that section to mean that individuals so trained can then initiate EDs. The Court system in Milwaukee County has provided the opinion that that is not allowable, so this option has been eliminated. Additional language being considered will allow a treatment director or designee to detain in Cities with a population over 500,000.

Proposal

The Behavioral Health Division worked with Milwaukee County Corporation Counsel to arrive at proposed alternative language delineating the type of individual that is given the authority to detain. In Milwaukee County, the Behavioral Health Division is required to initiate a (TDS) Treatment Director Supplement within twenty four hours of detention. Milwaukee County is proposing that whenever a treatment Director or designee initiates an emergency detention the TDS will not be required. We are not advocating the removal of detaining authority from Law Enforcement, only to

add this component to the language. A state by state review was conducted evaluating detention authority in the rest of the country. Wisconsin is one of the last remaining states that only allow only law enforcement to initiate an emergency behavioral health hold. The balance of the country varies significantly in terms of who is allowed to detain, options include;

- Any individual over the age of eighteen
- Family members
- Licensed Mental Health professionals
- Licensed physicians
- Only designated Mental health professionals, (This is the option currently being proposed)

The addition of a Behavioral Health professional to the Chapter 51 as an individual given the authority to detain could not only have significant impact on the overall numbers of individuals detained in Milwaukee County, but would likely lead to a more favorable experience for the individuals that require emergency intervention. By definition Police Officers primary function is to enforce the law and arrest those individuals that violate the law. Exclusively allowing Law Enforcement to detain individuals requiring emergency psychiatric treatment not only criminalizes the emergency detention process but needlessly adds to the stigmatization of people with behavioral health disorders. Creating a process where someone can gain access to involuntary psychiatric care through a clinical evaluation becomes a much more therapeutic and much less criminal, intervention.

Jim Kubicek, LCSW
Deputy Administrator



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-34337

TJD:(.....

RMR ^{see}

In: 10/25

Due Today
if possible

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen act

1 **AN ACT** ...; **relating to:** emergency detention pilot program in Milwaukee County.

Analysis by the Legislative Reference Bureau

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

For further information see the **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:

x

2 **SECTION 1.** 51.15 (4m) of the statutes is created to read:

3 51.15 (4m) DETENTION PILOT PROGRAM; MILWAUKEE COUNTY. (a) *Definition.* In
4 this subsection, a "mobile crisis team member" is a person who is a member of a
5 mobile crisis team in Milwaukee County and who is a registered nurse, behavioral
6 health emergency service clinician, or psychologist.

7 (b) *Basis for detention.* In Milwaukee County, ^amobile crisis team member may
8 take an individual into custody if the mobile crisis team member has cause to believe

1 that the individual is mentally ill, is drug dependent, or is developmentally disabled,
2 and that the individual evidences any of the criteria under sub. (1) (a) 1. to 4. The
3 mobile crisis team member's belief shall be based on any of the criteria under sub.
4 (1) (b).

5 (c) *Facilities for detention.* The mobile crisis team member shall transport the
6 individual, or cause him or her to be transported, for detention if the county
7 department of community programs in Milwaukee county approves the need for
8 detention, and for evaluation, diagnosis, and treatment if permitted under sub. (8),
9 to any of the facilities described in sub. (2) (a) to (d).

10 (d) *Procedure.* 1. In Milwaukee County, a mobile crisis team member who takes
11 an individual, or causes an individual to be taken, into custody under par. (b) shall
12 sign a statement of emergency detention which shall provide detailed specific
13 information concerning the recent overt act, attempt, or threat to act or omission on
14 which the belief under par. (b) is based and the names of the persons observing or
15 reporting the recent overt act, attempt, or threat to act or omission. The mobile crisis
16 team member is not required to designate in the statement whether the subject
17 individual is mentally ill, developmentally disabled, or drug dependent, but shall
18 allege that he or she has cause to believe that the individual evidences one or more
19 of these conditions. The mobile crisis team member shall deliver, or cause to be
20 delivered, the statement to the detention facility upon the delivery of the individual
21 to it.

22 2. Upon delivery of the individual, the treatment director of the facility, or his
23 or her designee, shall determine within 24 hours whether the individual shall be
24 detained, or shall be detained, evaluated, diagnosed and treated, if evaluation,
25 diagnosis and treatment are permitted under sub. (8), and shall either release the

1 individual or detain him or her for a period not to exceed 72 hours after delivery of
2 the individual, exclusive of Saturdays, Sundays and legal holidays. If the treatment
3 director, or his or her designee, determines that the individual is not eligible for
4 commitment under s. 51.20 (1) (a), the treatment director shall release the individual
5 immediately, unless otherwise authorized by law. If the individual is detained, the
6 treatment director or his or her designee may supplement in writing the statement
7 filed by the mobile crisis team member, and shall designate whether the subject
8 individual is believed to be mentally ill, developmentally disabled or drug dependent,
9 if no designation was made by the mobile crisis team member. The director or
10 designee may also include other specific information concerning his or her belief that
11 the individual meets the standard for commitment. The treatment director or
12 designee shall then promptly file the original statement together with any
13 supplemental statement and notification of detention with the court having probate
14 jurisdiction in the county in which the individual was taken into custody. The filing
15 of the statement and notification has the same effect as a petition for commitment
16 under s. 51.20.

17 (e) *Termination of pilot program.* Paragraphs (a) to (d) do not apply after the
18 first day of the 25th month following the effective date of this paragraph ... [LRB
19 inserts date].

20 (f) *Reporting requirement.* After the termination under par. (e) of the authority
21 under par. (b), Milwaukee County shall submit to the department a report evaluating
22 the program and recommending whether the authority granted under the pilot
23 program should be expanded statewide.

****NOTE: The request did not specify who should perform the evaluation of the
pilot program and make recommendations. This draft requires Milwaukee County to

perform these tasks. Please ensure this meets your intent and consider specifying what entity or individual in Milwaukee County should perform these tasks.

1

(END)

Dodge, Tamara

From: Ludwig, Frederic
Sent: Thursday, October 31, 2013 3:31 PM
To: Dodge, Tamara
Subject: RE: MKE pilot program

Also, if we could add "or continued for further evaluation" under the reporting requirement section, that'd be great.

Thanks again,
Fred

From: Ludwig, Frederic
Sent: Wednesday, October 30, 2013 3:28 PM
To: Dodge, Tamara
Subject: RE: MKE pilot program

One small change – should move the reference to various licensures to the first line of (a):

In this subsection, a "treatment director designee" is a licensed mental health professional (LCSW, APSW, LPC, or LMFT) or psychiatric nurse who is a full or part-time employee of, or on contract with the Milwaukee County Behavioral Health Division, who may provide care to individuals, in accordance with and as permitted by state licensure laws, in collaboration with a treatment director who is assigned to the same service or program.

From: Ludwig, Frederic
Sent: Wednesday, October 30, 2013 2:44 PM
To: Dodge, Tamara
Subject: RE: MKE pilot program

Hi Tami,

See attached. Sorry it's not in a great form...came from a conference call w/ Milwaukee County stakeholders.

Basically, we'd like to sub all references of "mobile crisis team member" to "treatment director" and "treatment director designee". That's the crux of changes to (a). Changes to (b) and (c) reflect these new titles. Changes to (d) reflect eliminating reference to 24 hours.

As for the audit, let's charge DHS.

Let me know if you have any questions or need further clarification, and thanks again for all of your work!

Cheers,
Fred

From: Dodge, Tamara
Sent: Wednesday, October 30, 2013 1:05 PM
To: Ludwig, Frederic
Subject: RE: MKE pilot program

Fred,

As I am thinking about it, there are three options for the cost of the audit. You can have LAB charge Milwaukee County, have the LAB charge DHS, or have the LAB charge DOA. (I don't think you need to say where the money comes from beyond that.) Since this is a one-time audit, I will put it in a nonstatutory provision and not alter the LAB's statute, but if you want to look at s. 13.94 (1s), that's how the payment works for the audits.

My goal is, if you get me the definition information, to get this draft out tomorrow but it may be Friday morning. I'm currently working under the assumption that your MKE draft and the draft discussed this morning are moving with equal priority and equal speed, but if that changes, let me know.

Tami

Tamara J. Dodge

Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 7380
tamara.dodge@legis.wisconsin.gov

From: Ludwig, Frederic
Sent: Tuesday, October 29, 2013 3:54 PM
To: Dodge, Tamara
Subject: RE: MKE pilot program

How are they usually funded? GPR? In my five years here, I don't think I've requested a bill with a LAB audit....

Yes, probably started before it ends, and stipulate access to any relevant info from the county.

From: Dodge, Tamara
Sent: Tuesday, October 29, 2013 2:38 PM
To: Ludwig, Frederic
Subject: MKE pilot program

Fred,

I can draft a provision for the MKE pilot program bill to have LAB do an audit. A couple of things, since this is a county program, how do you want LAB paid for the audit. Do you want the county to pay for the audit?

Also, do you want the audit started before the pilot program ends so that if it is working the legislature can begin the process of allowing the authority to continue or expanding it statewide.

I am assuming this would be a program audit but do you want a financial audit too. Since this is not something the LAB usually audits, I may need to put in some requirements about Milwaukee County allowing access to financial information or information on Milwaukee Mental Health Complex past demographic data.

Tami

Tamara J. Dodge

Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 7380
tamara.dodge@legis.wisconsin.gov

From: Ludwig, Frederic
Sent: Monday, October 28, 2013 10:53 AM
To: Dodge, Tamara
Subject: RE: AB 452 amendment

Only other thing is that she wanted to add a tightened definition to behavioral health emergency service clinician...will get that over to you once that is soup.

Thanks Tami.

Fred

From: Dodge, Tamara
Sent: Monday, October 28, 2013 10:31 AM
To: Ludwig, Frederic
Subject: RE: AB 452 amendment

Okay, re: the amendment language.

I will have to double check and make sure that it fits within LAB authority. If I find it fits, I'll start drafting that. I won't get to that until later today. Please let me know when you have no further changes for the redraft of the MKE pilot draft and then I can get that out.

Tamara J. Dodge

Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 7380
tamara.dodge@legis.wisconsin.gov

From: Ludwig, Frederic
Sent: Monday, October 28, 2013 10:21 AM
To: Dodge, Tamara
Subject: RE: AB 452 amendment

Let's do "registered nurses with specialized training in psychiatric care."

And instead of MKE county doing the eval for the pilot draft, could we pitch it over to LAB instead? Want it to be a little more independent of MKE after further review.

From: Dodge, Tamara
Sent: Monday, October 28, 2013 10:08 AM
To: Ludwig, Frederic
Subject: RE: AB 452 amendment

Fred,

I can do that. If there is a 24-hour rule for the health committee, it obviously won't make it in time, but you will have it by the end of the day, hopefully sooner.

Is "psychiatric nurses" the appropriate phrase? Is that specific enough or do I have to specify something like "registered nurses with specialized training in psychiatric care?"

Tami

Tamara J. Dodge

Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 7380
tamara.dodge@legis.wisconsin.gov

From: Ludwig, Frederic
Sent: Monday, October 28, 2013 10:02 AM
To: Dodge, Tamara
Subject: AB 452 amendment

Hi Tami,

Sandy would like an amendment to AB 452 that includes psych nurses somewhere within page 4, lines 13-15. That doable?

Also, thank you for your work on the MKE County pilot bill. Reviewing with Sandy today.

Fred

--
FRED LUDWIG
OFFICE OF STATE REPRESENTATIVE SANDY PASCH
ASSISTANT DEMOCRATIC LEADER
119 North, State Capitol
608.266.7671 *o*
888.534.0022 *tf*
608.282.3622 *f*

LCSW - licensed clinical social worker described 457.01(1r)
APSW - certified advanced practice social worker 457.01(1c)
LPC - licensed professional counselor desc. 457.01(7)
LMFT - licensed marriage and family therapist desc. 457.01(3)

51.15 (4m) DETENTION PILOT PROGRAM; MILWAUKEE COUNTY. (a) *Definition.*

A "treatment director" means the person who has primary responsibility for the treatment provided by a treatment facility as per 51.01 (18). In this subsection, a "treatment director" is further defined as a fully licensed physician or psychologist who is a full or part-time employee of, or on contract with the Milwaukee County Behavioral Health Division, who actively assumes clinical responsibility for the provision of emergency service care. In this subsection, a "treatment director designee" is a licensed mental health professional or psychiatric nurse (LCSW, APSW, LPC, LMFT) who is a full or part-time employee of, or on contract with the Milwaukee County Behavioral Health Division, who may provide care to individuals, in accordance with and as permitted by state licensure laws, in collaboration with a treatment director who is assigned to the same service or program. To be privileged as a treatment director designee, individuals will need to meet the aforementioned standards and complete 40 hours of documented orientation training on the following topics: emergency mental health services, rules and procedures relevant to the operation of the program, compliance with state and federal regulations, cultural competency in mental health services, and current issues in client's rights and services as per DHS 34.22 (d)(2).

(b) *Basis for detention.* In Milwaukee County, a treatment director or designee may take an individual into custody if the treatment director or designee has cause to believe that the individual is mentally ill, is drug dependent, or is developmentally disabled, and that the individual evidences any of the criteria under sub. (1)(a) 1. to 4. The treatment director or designee's belief shall be based on any of the criteria under sub. (1)(b).

(c) *Facilities for detention.* The treatment director or designee shall transport the individual, or cause him or her to be transported, for detention and grant approval for evaluation, diagnosis, and treatment if permitted under sub. (8), to any of the facilities described in sub. (2)(a) to (d).

(d) *Procedure.* 1. In Milwaukee County, a treatment director or designee who takes an individual, or causes an individual to be taken, into custody under par.(b), shall sign a statement of emergency detention which shall provide detailed specific information concerning the recent overt act, attempt, or threat to act or omission on which the belief under par.(b) is based and the names of the persons observing or reporting the recent overt act, attempt, or threat to act or omission. The treatment director or designee shall designate whether the individual is believed to be mentally ill, developmentally ill, or drug dependent and/or any other information regarding the individual meeting the standard for commitment. If evaluation, diagnosis, and treatment are permitted under sub.(8), the treatment director or designee shall detain him or her for a period not to exceed 72 hours after delivery of the individual, exclusive of Saturdays, Sundays, and legal holidays. The treatment director or designee shall promptly file the original statement together with any supplemental statement and notification of detention with the court having probate jurisdiction in the county in which the individual was taken into custody. The filing of the statement and notification has the same effect as a petition for commitment under s.51.20.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3433(P1)
TJD:sac:rs

RMNR

In: 10/31

Due Friday
a m

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** to create 51.15 (4m) of the statutes; relating to: emergency detention
2 pilot program in Milwaukee County.

Insert
Analysis

Analysis by the Legislative Reference Bureau

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

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

Insert
Draft
(replace
all)

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

SECTION 1. 51.15 (4m) of the statutes is created to read:

51.15 (4m) DETENTION PILOT PROGRAM; MILWAUKEE COUNTY. (a) *Definition.* In this subsection, a "mobile crisis team member" is a person who is a member of a mobile crisis team in Milwaukee County and who is a registered nurse, behavioral health emergency service clinician, or psychologist.

(b) *Basis for detention.* In Milwaukee County, a mobile crisis team member may take an individual into custody if the mobile crisis team member has cause to believe

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2 and that the individual evidences any of the criteria under sub. (1) (a) 1. to 4. The
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16 team member is not required to designate in the statement whether the subject
17 individual is mentally ill, developmentally disabled, or drug dependent, but shall
18 allege that he or she has cause to believe that the individual evidences one or more
19 of these conditions. The mobile crisis team member shall deliver, or cause to be
20 delivered, the statement to the detention facility upon the delivery of the individual
21 to it.

22 2. Upon delivery of the individual, the treatment director of the facility, or his
23 or her designee, shall determine within 24 hours whether the individual shall be
24 detained, or shall be detained, evaluated, diagnosed and treated, if evaluation,
25 diagnosis and treatment are permitted under sub. (8), and shall either release the

1 individual or detain him or her for a period not to exceed 72 hours after delivery of
2 the individual, exclusive of Saturdays, Sundays and legal holidays. If the treatment
3 director, or his or her designee, determines that the individual is not eligible for
4 commitment under s. 51.20 (1) (a), the treatment director shall release the individual
5 immediately, unless otherwise authorized by law. If the individual is detained, the
6 treatment director or his or her designee may supplement in writing the statement
7 filed by the mobile crisis team member, and shall designate whether the subject
8 individual is believed to be mentally ill, developmentally disabled or drug dependent,
9 if no designation was made by the mobile crisis team member. The director or
10 designee may also include other specific information concerning his or her belief that
11 the individual meets the standard for commitment. The treatment director or
12 designee shall then promptly file the original statement together with any
13 supplemental statement and notification of detention with the court having probate
14 jurisdiction in the county in which the individual was taken into custody. The filing
15 of the statement and notification has the same effect as a petition for commitment
16 under s. 51.20.

17 (e) *Termination of pilot program.* Paragraphs (a) to (d) do not apply after the
18 first day of the 25th month following the effective date of this paragraph [LRB
19 inserts date].

20 (f) *Reporting requirement.* After the termination under par. (e) of the authority
21 under par. (b), Milwaukee County shall submit to the department a report evaluating
22 the program and recommending whether the authority granted under the pilot
23 program should be expanded statewide.

****NOTE: The request did not specify who should perform the evaluation of the
pilot program and make recommendations. This draft requires Milwaukee County to

perform these tasks. Please ensure this meets your intent and consider specifying what entity or individual in Milwaukee County should perform these tasks.

1

(END)

1 INSERT ANALYSIS

Under current law, a law enforcement officer or certain other persons may take an individual into custody for emergency detention if the officer or other person has cause to believe that the individual is mentally ill, drug dependent, or developmentally disabled, and that the individual shows any of the following: 1) a substantial probability of physical harm to himself or herself as manifested by evidence of recent threats of or attempts at suicide or serious bodily harm; 2) a substantial probability of physical harm to other persons as manifested by evidence of recent homicidal or other violent behavior, or by evidence that others are placed in reasonable fear of violent behavior and serious physical harm, as evidenced by a recent overt act, attempt, or threat to do serious physical harm; 3) a substantial probability of physical impairment or injury to himself or herself due to impaired judgment, as manifested by evidence of a recent act or omission; or 4) due to mental illness or drug dependency, the inability to satisfy basic needs for nourishment, medical care, shelter, or safety without prompt and adequate treatment so that a substantial probability exists that death, serious physical injury, serious physical debilitation, or serious physical disease will imminently ensue unless the individual receives prompt and adequate treatment, as evidenced by behavior manifested by a recent act or omission (standards for emergency detention). The belief of the officer or other person must be based on a specific recent overt act, attempt or threat to act, or omission either observed by the officer or other person or reliably reported to the officer or other person. The county department of community programs in the county in which the individual was taken into custody must approve the need for detention, and for evaluation, diagnosis, and treatment if permitted, before the law enforcement officer or other person delivers the individual to the detention facility.

Under current law, in Milwaukee County, the law enforcement officer or other person must sign a statement of emergency detention that provides detailed, specific information on the basis for the belief that the individual meets the standards for emergency detention. The law enforcement officer or other person, in Milwaukee County, delivers the individual to a detention facility along with the statement of emergency detention. Then the treatment director of the facility must determine within 24 hours whether the individual shall be detained or detained, evaluated, diagnosed, and treated, if permitted. Current law defines the treatment director as the person who has primary responsibility for the treatment provided by a treatment facility and the term "treatment director" includes the medical director of a facility. The treatment director in Milwaukee County then may detain the individual for a period not to exceed 72 hours after delivery of the individual to the facility, excluding Saturdays, Sundays, and legal holidays. If the treatment director determines that the individual is not eligible for involuntary commitment, the treatment director must release the individual. If the treatment director determines that continued detention is appropriate, the treatment director must file the statement of detention, after supplementation if he or she desires, and notification of detention with the court having probate jurisdiction in the county in which the individual was taken

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*

into custody. The filing of the statement and notification has the same effect as a petition for involuntary commitment.

* This bill creates a pilot program to grant authority to certain individuals to initiate an emergency detention in Milwaukee County for approximately two years before the pilot program terminates. The pilot program for Milwaukee County under the bill operates in addition to the statutory procedures for emergency detention under current law. Under the bill, in Milwaukee County, a treatment director or treatment director designee may take an individual into custody for emergency detention under the same standards as a law enforcement officer may take an individual into custody for emergency detention under current law. "Treatment director" has the same definition as current law, but under the bill, also includes a physician or psychologist who is an employee of, or on contract with, the Milwaukee County Behavioral Health Division and who actively assumes clinical responsibility for providing emergency service care. A treatment director designee (designee) is an individual who is all of the following: 1) a licensed clinical social worker, an advanced practice social worker, a licensed professional counselor, a licensed marriage and family therapist, or a psychiatric nurse; 2) an employee of, or on contract with, the Milwaukee County Behavioral Health Division; and 3) an individual who may provide care to individuals in accordance with and as permitted by licensure laws in collaboration with a treatment director who is assigned to the same service or program. The treatment director or designee must transport the individual, or cause the individual to be transported, for detention to any of the facilities allowed for emergency detention under current law and must approve evaluation, diagnosis, and treatment, if permitted.

Under the Milwaukee County pilot program in the bill, the treatment director or designee who takes the individual into custody for emergency detention must sign a statement of emergency detention on the basis for the belief that the individual meets the standards for emergency detention. The treatment director or designee must designate whether the subject individual is mentally ill, developmentally disabled, or drug dependent, and provide any information concerning his or her belief that the individual meets the standards for involuntary commitment. If evaluation, diagnosis, and treatment are permitted, the treatment director or designee must detain the individual for a period not to exceed 72 hours after delivery of the individual to the detention facility, excluding Saturdays, Sundays, and legal holidays. The bill requires the treatment director or designee to promptly file the original statement of emergency detention with any supplemental statement and notification of detention with the court having probate jurisdiction in the county in which the individual was taken into custody. The filing of that statement and notification has the same effect as a petition for involuntary commitment.

Before the date of termination of the pilot program in Milwaukee County, the legislative audit bureau must begin a performance evaluation audit of the pilot program including details specified in the bill. The bill requires certain Milwaukee County entities to provide access to information for and cooperate with the audit.

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

(END INSERT ANALYSIS)

1 INSERT DRAFT

2 **SECTION 1.** 51.15 (4m) of the statutes is created to read:

3 51.15 (4m) DETENTION PILOT PROGRAM; MILWAUKEE COUNTY. (a) *Definitions.* In
4 this subsection:

5 1. "Treatment director" includes a fully licensed physician or licensed
6 psychologist who is a full-time or part-time employee of, or on contract with, the
7 Milwaukee County Behavioral Health Division and who actively assumes clinical
8 responsibility for the provision of emergency service care.

9 2. "Treatment director designee" means an individual who is any of the
10 following licensed mental health professionals, who is a full-time or part-time
11 employee of, or on contract with, the Milwaukee County Behavioral Health Division,
12 and who may provide care to individuals in accordance with, and as permitted by,
13 state licensure laws, in collaboration with a treatment director who is assigned to the
14 same service or program:

15 a. Licensed clinical social worker as described in s. 457.01 (1r). ✓

16 b. Advanced practice social worker as defined in s. 457.01 (1c). ✓

17 c. Licensed professional counselor as described in s. 457.01 (7). ✓

18 d. Licensed marriage and family therapist as described in s. 457.01 (3). ✓

19 e. Psychiatric nurse.

20 (b) *Basis for detention.* In Milwaukee County, a treatment director or
21 treatment director designee may take an individual into custody if the treatment
22 director or treatment director designee has cause to believe that the individual is

1 mentally ill, is drug dependent, or is developmentally disabled, and that the
2 individual evidences any of the criteria under sub. (1) (a) 1. to 4. The treatment
3 director's belief or the treatment director designee's belief shall be based on any of
4 the criteria under sub. (1) (b).

5 (c) *Facilities for detention.* The treatment director or treatment director
6 designee shall transport the individual, or cause him or her to be transported, for
7 detention to any of the facilities described in sub. (2) (a) to (d) and shall approve
8 evaluation, diagnosis, and treatment if permitted under sub. (8).

9 (d) *Procedure.* 1. In Milwaukee County, a treatment director or treatment
10 director designee who takes an individual, or causes an individual to be taken, into
11 custody under par. (b) shall sign a statement of emergency detention which shall
12 provide detailed specific information concerning the recent overt act, attempt, or
13 threat to act or omission on which the belief under par. (b) is based and the names
14 of the persons observing or reporting the recent overt act, attempt, or threat to act
15 or omission. The treatment director or treatment director designee shall designate
16 in the statement whether the subject individual is mentally ill, developmentally
17 disabled, or drug dependent and provide any information concerning his or her belief
18 that the individual meets the standard for commitment.

19 2. If evaluation, diagnosis, and treatment are permitted under sub. (8), the
20 treatment director or treatment director designee shall detain the individual for a
21 period not to exceed 72 hours after delivery of the individual to the detention facility,
22 exclusive of Saturdays, Sundays and legal holidays. The treatment director or
23 treatment director designee shall promptly file the original statement of emergency
24 detention together with any supplemental statement and notification of detention
25 with the court having probate jurisdiction in the county in which the individual was

1 taken into custody. The filing of the statement and notification has the same effect
2 as a petition for commitment under s. 51.20.

3 (e) *Termination of pilot program.* Paragraphs (a) to (d) do not apply after the
4 first day of the 25th month following the effective date of this paragraph [LRB
5 inserts date].

6 **SECTION 2. Nonstatutory provisions.**

7 (1) MILWAUKEE COUNTY PILOT PROGRAM AUDIT. (a) Notwithstanding section 13.94^{ae}
8 (1) (m) of the statutes, before the date on which authority under the emergency
9 detention pilot program in Milwaukee County terminates under section 51.15 (4m)
10 (e) of the statutes, as created by this act, the legislative audit bureau shall begin a
11 performance evaluation audit of that pilot program under section 51.15 (4m) of the
12 statutes, as created by this act, that shall include all of the following:

13 1. A survey of emergency detention procedures and outcomes of emergency
14 detentions in Milwaukee County under the pilot program as compared with the
15 procedures and outcomes before the pilot program.

16 2. The effectiveness of the emergency detention procedure under the pilot
17 program.

18 3. An evaluation of the feasibility and likely outcomes of continuing the pilot
19 program in Milwaukee County, making the program permanent in Milwaukee
20 County, or expanding the program to counties other than Milwaukee County or
21 statewide.

22 (b) The department of community programs in Milwaukee County, the
23 Milwaukee Mental Health Complex, and any other department or division of
24 Milwaukee County government that has information relevant to the audit under

1 paragraph (a) shall provide access to that information to the legislative audit bureau
2 and shall cooperate with the audit.

3 (c) Within 30 days after completion of the audit under paragraph (a), the
4 legislative audit bureau shall file with the chief clerk of each house of the legislature
5 and the department of health services a detailed report of the audit. The chief clerks
6 shall distribute the report to the appropriate standing committees of the legislature.

7 (d) The legislative audit bureau may charge the department of health services
8 for the cost of the audit required to be performed under paragraph (a).

9 (END)

Rose, Stefanie

From: Ludwig, Frederic
Sent: Friday, November 08, 2013 2:31 PM
To: LRB.Legal
Subject: LRB 3433/1 jacket for Assembly

Importance: High

Can we get an Assembly jacket for LRB 3433/1 (re: emergency detention pilot program in Milwaukee County)?

Thanks,
Fred

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FRED LUDWIG
OFFICE OF STATE REPRESENTATIVE SANDY PASCH
ASSISTANT DEMOCRATIC LEADER
119 North, State Capitol
608.266.7671 *o*
888.534.0022 *tf*
608.282.3622 *f*