

**2015 DRAFTING REQUEST**

**Bill**

Received: **12/30/2014** Received By: **tdodge**  
Wanted: **As time permits** Same as LRB:  
For: **Administration-Budget 6-2214** By/Representing: **Hutter**  
May Contact: Drafter: **tdodge**  
Subject: **Mental Health - detent/commit** Addl. Drafters:  
Extra Copies:

Submit via email: **YES**  
Requester's email:  
Carbon copy (CC) to: **tamara.dodge@legis.wisconsin.gov**  
**sbostatlanguage@webapps.wi.gov**

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**Pre Topic:**

DOA:.....Hutter, BB0391 -

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**Topic:**

Standardization of emergency detention across counties; require crisis assessment

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**Instructions:**

See attached

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**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 1/5/2015			_____			
/P1	tdodge 1/23/2015	jdye 1/10/2015	rschluet 1/12/2015	_____	mbarman 1/12/2015		State S&L
/P2		csicilia 1/23/2015	jmurphy 1/23/2015	_____	srose 1/23/2015		State S&L

FE Sent For:

**<END>**

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/?	tdodge 1/5/2015			_____			
/P1		jdye 1/10/2015	rschluet 1/12/2015	_____	mbarman 1/12/2015		State S&L

FE Sent For: *P2 jys 1/23* *Jm 1/23*  
**<END>**

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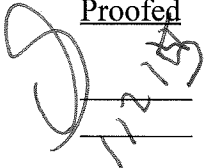
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**Instructions:**

See attached

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<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	PI 1/10 jld					

FE Sent For:

<END>

## Dodge, Tamara

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**From:** CathleneH <cathleneh@gmail.com>  
**Sent:** Tuesday, December 30, 2014 4:20 PM  
**To:** Dodge, Tamara  
**Subject:** Fwd: Statutory Language Drafting Request - BB0391  
**Attachments:** Emergency Detention Stat Language.docx; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

**From:** <[ryan.hutter@wisconsin.gov](mailto:ryan.hutter@wisconsin.gov)>  
**Date:** December 30, 2014 at 6:15:42 PM AST  
**To:** <[Cathlene.Hanaman@legis.wisconsin.gov](mailto:Cathlene.Hanaman@legis.wisconsin.gov)>  
**Cc:** <[Jana.Steinmetz@wisconsin.gov](mailto:Jana.Steinmetz@wisconsin.gov)>, <[Ryan.Hutter@wisconsin.gov](mailto:Ryan.Hutter@wisconsin.gov)>, <[Christopher.Connor@wisconsin.gov](mailto:Christopher.Connor@wisconsin.gov)>  
**Subject:** **Statutory Language Drafting Request - BB0391**

Biennial Budget: 2015-17

Topic: Emergency Detention Standardization

Tracking Code: BB0391

SBO Team: HSI

SBO Analyst: Hutter, Ryan  
Phone: 608-266-2214  
E-mail: [ryan.hutter@wisconsin.gov](mailto:ryan.hutter@wisconsin.gov)

Agency Acronym: DHS

Agency Number: 435

Priority: Medium

Intent:

Align emergency detention process in Milwaukee County with other counties in the state and require all counties to provide community based crisis assessment by a mental health professional prior to an emergency detention.

Attachments: True

Please send completed drafts to [SBOStatlanguage@webapps.wi.gov](mailto:SBOStatlanguage@webapps.wi.gov)

**Changes:**

*Delete* s. 51.15(4) effective July 1, 2015

*Delete* s. 51.15(4m) effective July 1, 2015

*Modify* s. 51.15(5) to make the section apply to all counties, including Milwaukee County effective July 1, 2015.

*Add* language under 51.15(2) to require crisis assessment by mental health professional prior to the county department of community programs approval of the need for detention effective July 1, 2015.



State of Wisconsin  
2015 - 2016 LEGISLATURE



LRB-1074/?

TJD:.....

In: 1/5/15

due MON, 1-12  
e PI  
jld

DOA:.....Hutter, BB0391 – Standardization of emergency detention across counties; require crisis assessment

**FOR 2015-2017 BUDGET – NOT READY FOR INTRODUCTION**

4 don't gen

1

AN ACT ...; relating to: the budget. ✓

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES** ✓

**MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES** ✓

Currently, a law enforcement officer or certain other persons, in counties other than Milwaukee County, ✓ 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 other evidence of the standards for emergency detention. ✓ 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. In Milwaukee County, ✓ currently, the law enforcement officer or other person must sign a statement of emergency detention and delivers the statement of emergency detention along with the individual to the detention facility. ✓ The treatment director of the facility must determine whether the individual is detained or detained, evaluated, diagnosed, and treated. ✓ After a detention of up to 72 ✓ hours, the treatment director determines whether the individual is eligible for involuntary commitment. If involuntary commitment is appropriate, the treatment director files the statement of detention with the court.

of

Currently, a pilot program in Milwaukee County grants authority for a treatment director or treatment director designee to take an individual into custody for emergency detention under the same standards as a law enforcement officer. In the pilot program, "treatment director" also includes a physician or psychologist who is an employee of or contractor of the Milwaukee County Behavioral Health Division and who actively assumes clinical responsibility for providing emergency care. Once a treatment director takes an individual into custody for emergency detention under the pilot program, the procedure is similar to that of other emergency detentions in Milwaukee County.

This bill eliminates the emergency detention procedure and the pilot program in Milwaukee County and applies the existing procedure for emergency detentions in other counties to Milwaukee County. The bill adds that a physician who has completed a residency in psychiatry, a psychologist, or a licensed mental health professional must perform a crisis assessment on the individual and agree with the need for detention in order for the county department to approve the detention.

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

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

1           SECTION 1. 51.15 (2) of the statutes is amended to read:  
2           51.15 (2) FACILITIES FOR DETENTION. The law enforcement officer or other person  
3 authorized to take a child into custody under ch. 48 or to take a juvenile into custody  
4 under ch. 938 shall transport the individual, or cause him or her to be transported,  
5 for detention, if the county department of community programs in the county in  
6 which the individual was taken into custody approves the need for detention, and for  
7 evaluation, diagnosis, and treatment if permitted under sub. (8). The county  
8 department may approve the detention only if a physician who has completed a  
9 residency in psychiatry, a psychologist licensed under ch. 455, or a mental health  
10 professional has performed a crisis assessment on the individual and agrees with the  
11 need for detention and the county department reasonably believes the individual will  
12 not voluntarily consent to evaluation, diagnosis, and treatment necessary to  
13 stabilize the individual and remove the substantial probability of physical harm,



1 impairment, or injury to himself, herself, or others. Detention may only be in a  
2 treatment facility approved by the department or the county department, if the  
3 facility agrees to detain the individual, or a state treatment facility.

**History:** 1975 c. 430; 1977 c. 29, 428; 1979 c. 175, 300, 336, 355; 1985 a. 176; 1987 a. 366, 394; 1989 a. 56 s. 259; 1993 a. 451; 1995 a. 77, 175, 292; 1997 a. 35, 283; 2001 a. 16 ss. 1966d to 1966h, 4034zb to 4034zd, 4041d to 4041g; 2001 a. 109; 2005 a. 264; 2007 a. 20; 2009 a. 28; 2013 a. 158, 235; s. 35.17 correction in (4m) (d) 2.

\*\*\*\*NOTE: Please review the description of those individuals who can perform a crisis assessment before an individual may be emergently detained. "Licensed mental health professional" is defined for chapter 51 to mean a clinical social worker, marriage and family therapist, or professional counselor.

4 **SECTION 2.** 51.15 (4) of the statutes is repealed.

5 **SECTION 3.** 51.15 (4m) of the statutes is repealed.

6 **SECTION 4.** 51.15 (5) of the statutes is amended to read:

7 51.15 (5) ~~DETENTION PROCEDURE, OTHER COUNTIES.~~ <sup>✓</sup> ~~In counties having a~~  
8 ~~population of less than 750,000, the~~ <sup>✓</sup> The law enforcement officer or other person  
9 authorized to take a child into custody under ch. 48 or to take a juvenile into custody  
10 under ch. 938 shall sign a statement of emergency detention that shall provide  
11 detailed specific information concerning the recent overt act, attempt, or threat to  
12 act or omission on which the belief under sub. (1) is based and the names of persons  
13 observing or reporting the recent overt act, attempt, or threat to act or omission. The  
14 law enforcement officer or other person is not required to designate in the statement  
15 whether the subject individual is mentally ill, developmentally disabled, or drug  
16 dependent, but shall allege that he or she has cause to believe that the individual  
17 evidences one or more of these conditions. The statement of emergency detention  
18 shall be filed by the officer or other person with the detention facility at the time of  
19 admission, and with the court immediately thereafter. The filing of the statement  
20 has the same effect as a petition for commitment under s. 51.20. When, upon the  
21 advice of the treatment staff, the director of a facility specified in sub. (2) determines  
22 that the grounds for detention no longer exist, he or she shall discharge the

1 individual detained under this section. Unless a hearing is held under s. 51.20 (7)  
2 or 55.135, the subject individual may not be detained by the law enforcement officer  
3 or other person and the facility for more than a total of 72 hours after the individual  
4 is taken into custody for the purposes of emergency detention, exclusive of  
5 Saturdays, Sundays, and legal holidays.

**History:** 1975 c. 430; 1977 c. 29, 428; 1979 c. 175, 300, 336, 355; 1985 a. 176; 1987 a. 366, 394; 1989 a. 56 s. 259; 1993 a. 451; 1995 a. 77, 175, 292; 1997 a. 35, 283; 2001  
a. 16 ss. 1966d to 1966h, 4034zb to 4034zd, 4041d to 4041g; 2001 a. 109; 2005 a. 264; 2007 a. 20; 2009 a. 28; 2013 a. 158, 235; s. 35.17 correction in (4m) (d) 2.

6 **SECTION 5.** 51.15 (7) of the statutes is amended to read:

7 51.15 (7) INTERCOUNTY AGREEMENTS. Counties may enter into contracts  
8 whereby one county agrees to conduct commitment hearings for individuals who are  
9 detained in that county but who are taken into custody under this section in another  
10 county. Such contracts shall include provisions for reimbursement to the county of  
11 detention for all reasonable direct and auxiliary costs of commitment proceedings  
12 conducted under this section and s. 51.20 by the county of detention concerning  
13 individuals taken into custody in the other county and shall include provisions to  
14 cover the cost of any voluntary or involuntary services provided under this chapter  
15 to the subject individual as a result of proceedings or conditional suspension of  
16 proceedings resulting from the notification of detention. Where there is such a  
17 contract binding the county where the individual is taken into custody and the  
18 county where the individual is detained, the statements of detention specified in  
19 subs. (4) and sub. (5) and the notification specified in sub. (4) shall be filed with the  
20 court having probate jurisdiction in the county of detention, unless the subject  
21 individual requests that the proceedings be held in the county in which the  
22 individual is taken into custody.

**History:** 1975 c. 430; 1977 c. 29, 428; 1979 c. 175, 300, 336, 355; 1985 a. 176; 1987 a. 366, 394; 1989 a. 56 s. 259; 1993 a. 451; 1995 a. 77, 175, 292; 1997 a. 35, 283; 2001  
a. 16 ss. 1966d to 1966h, 4034zb to 4034zd, 4041d to 4041g; 2001 a. 109; 2005 a. 264; 2007 a. 20; 2009 a. 28; 2013 a. 158, 235; s. 35.17 correction in (4m) (d) 2.

23 **SECTION 6.** 51.15 (12) of the statutes is amended to read:

1           51.15 (12) PENALTY. Whoever signs a statement under sub. (4),<sup>✓</sup>(5) or (10)  
2           knowing the information contained therein to be false is guilty of a Class H felony.

**History:** 1975 c. 430; 1977 c. 29, 428; 1979 c. 175, 300, 336, 355; 1985 a. 176; 1987 a. 366, 394; 1989 a. 56 s. 259; 1993 a. 451; 1995 a. 77, 175, 292; 1997 a. 35, 283; 2001 a. 16 ss. 1966d to 1966h, 4034zb to 4034zd, 4041d to 4041g; 2001 a. 109; 2005 a. 264; 2007 a. 20; 2009 a. 28; 2013 a. 158, 235; s. 35.17 correction in (4m) (d) 2.

3           **SECTION 7.** 51.20 (4) (c) of the statutes is amended to read:

4           51.20 (4) (c) Paragraph (b) does not apply to a petition originating under s.  
5           51.15 (4),<sup>✓</sup>(5), or (10).<sup>✓</sup>

**History:** 1975 c. 430; 1977 c. 26, 29; 1977 c. 187 ss. 42, 43, 134, 135; 1977 c. 428 ss. 29 to 65, 115; 1977 c. 447, 449; Sup. Ct. Order, 83 Wis. 2d xiii; 1979 c. 32, 89; Sup. Ct. Order, eff. 1-1-80; 1979 c. 110 s. 60 (1); 1979 c. 175 s. 53; 1979 c. 300, 336, 356; 1981 c. 20, 367; 1981 c. 390 s. 252; 1983 a. 27, 219; 1983 a. 474 ss. 2 to 9m, 14; 1985 a. 29 ss. 1067 to 1071, 3200 (56), 3202 (56); 1985 a. 139, 176, 321, 332; 1987 a. 27; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 366, 394, 403; 1989 a. 31, 334; 1993 a. 98, 196, 227, 316, 451, 474; 1995 a. 77, 201, 268, 292, 440; Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 35, 130, 237, 283; 1999 a. 83, 89, 162; 2001 a. 16 ss. 1966i to 1966n, 4034ze to 4034zh; 2001 a. 38, 61, 109; 2003 a. 33, 50, 326; 2005 a. 22, 264, 277, 387; 2007 a. 20, 45, 116; 2009 a. 137, 258, 260; 2013 a. 20, 158, 203, 223, 340, 362; s. 13.92 (2) (i).

6           **SECTION 8.** 51.35 (2) of the statutes is amended to read:

7           51.35 (2) TRANSFER OF CERTAIN DEVELOPMENTALLY DISABLED PATIENTS. The  
8           department may authorize a transfer of a patient from a center for the  
9           developmentally disabled to a state treatment facility if the patient is mentally ill  
10          and exhibits conduct which constitutes a danger as described in s. 51.20 (1) (a) 2. to  
11          himself or herself or to others in the treatment facility where he or she is present.  
12          The department shall file a statement of emergency detention with the committing  
13          court within 24 hours after receiving the person for emergency detention. The  
14          statement shall conform to the requirements specified in s. 51.15<sup>✓</sup>(4) (5).

**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; 2013 a. 161.

15          **SECTION 9.** 51.35 (3) (e) of the statutes is amended to read:

16          51.35 (3) (e) The department of corrections may authorize emergency transfer  
17          of an individual from a juvenile correctional facility or a secured residential care  
18          center for children and youth to a state treatment facility if there is cause to believe  
19          that the individual has a mental illness, drug dependency, or developmental  
20          disability and exhibits conduct that constitutes a danger as described under s. 51.20  
21          (1) (a) 2. a., b., c., or d. to the individual or to others, has a mental illness, is dangerous,  
22          and satisfies the standard under s. 51.20 (1) (a) 2. e., or is an alcoholic and is

1 dangerous as provided in s. 51.45 (13) (a) 1. and 2. The custodian of the sending  
2 juvenile correctional facility or secured residential care center for children and youth  
3 shall execute a statement of emergency detention or petition for emergency  
4 commitment for the individual and deliver it to the receiving state treatment facility.  
5 The department of health services shall file the statement or petition with the court  
6 within 24 hours after the subject individual is received for detention or commitment.  
7 The statement or petition shall conform to s. 51.15 (4)<sup>✓</sup> or (5) or 51.45 (12) (b). After  
8 an emergency transfer is made, the director of the receiving facility may file a  
9 petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return the  
10 individual to the juvenile correctional facility or secured residential care center for  
11 children and youth from which the transfer was made. As an alternative to this  
12 procedure, the procedure provided in s. 51.15 or 51.45 (12) may be used, except that  
13 no individual may be released without the approval of the court that directed  
14 confinement in the juvenile correctional facility or secured residential care center for  
15 children and youth.

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; 2013 a. 161.

16 **SECTION 10.** 51.37 (5) (b) of the statutes is amended to read:

17 51.37 (5) (b) The department of corrections may authorize an emergency  
18 transfer of an individual from a prison, jail or other criminal detention facility to a  
19 state treatment facility if there is cause to believe that the individual is mentally ill,  
20 drug dependent or developmentally disabled and exhibits conduct which constitutes  
21 a danger as described in s. 51.20 (1) (a) 2. a., b., c. or d. of physical harm to himself  
22 or herself or to others, or is mentally ill and satisfies the standard under s. 51.20 (1)  
23 (a) 2. e. or is an alcoholic and is dangerous as provided in s. 51.45 (13) (a) 1. and 2.  
24 The correctional custodian of the sending institution shall execute a statement of

1 emergency detention or petition for emergency commitment for the individual and  
2 deliver it to the receiving state treatment facility. The department of health services  
3 shall file the statement or petition with the court within 24 hours after receiving the  
4 subject individual for detention. The statement or petition shall conform to s. 51.15  
5 ~~(4)~~ or <sup>✓</sup>(5) or 51.45 (12) (b). After an emergency transfer is made, the director of the  
6 receiving facility may file a petition for continued commitment under s. 51.20 (1) or  
7 51.45 (13) or may return the individual to the institution from which the transfer was  
8 made. As an alternative to this procedure, the emergency detention procedure in s.  
9 51.15 or 51.45 (12) may be used, except that no prisoner may be released without the  
10 approval of the court which directed confinement in the institution.

History: 1975 c. 430; 1977 c. 418 ss. 360 to 362, 929 (55); 1977 c. 428 ss. 80, 81, 115; 1977 c. 447; 1977 c. 449 s. 497; 1979 c. 32, 117, 175, 221; 1983 a. 27, 359, 474; 1985 a. 29 ss. 1075 to 1077, 3200 (56), 3202 (23); 1985 a. 176; 1987 a. 307, 394; 1989 a. 31, 359; 1991 a. 39, 269; 1995 a. 27 s. 9126 (19); 1995 a. 292; 1997 a. 181, 283; 2001 a. 16 s. 4034zj; 2001 a. 103; 2007 a. 20 s. 9121 (6) (a).

11 **SECTION 11.** 971.14 (6) (b) of the statutes is amended to read:

12 971.14 (6) (b) When the court discharges a defendant from commitment under  
13 par. (a), it may order that the defendant be taken immediately into custody by a law  
14 enforcement official and promptly delivered to a facility specified in s. 51.15 (2), an  
15 approved public treatment facility under s. 51.45 (2) (c), or an appropriate medical  
16 or protective placement facility. Thereafter, detention of the defendant shall be  
17 governed by s. 51.15, 51.45 (11), or 55.135, as appropriate. The district attorney or  
18 corporation counsel may prepare a statement meeting the requirements of s. 51.15  
19 ~~(4)~~ or <sup>✓</sup>(5), 51.45 (13) (a), or 55.135 based on the allegations of the criminal complaint  
20 and the evidence in the case. This statement shall be given to the director of the  
21 facility to which the defendant is delivered and filed with the branch of circuit court  
22 assigned to exercise criminal jurisdiction in the county in which the criminal charges  
23 are pending, where it shall suffice, without corroboration by other petitioners, as a  
24 petition for commitment under s. 51.20 or 51.45 (13) or a petition for protective

1 placement under s. 55.075. This section does not restrict the power of the branch of  
2 circuit court in which the petition is filed to transfer the matter to the branch of  
3 circuit court assigned to exercise jurisdiction under ch. 51 in the county. Days spent  
4 in commitment or protective placement pursuant to a petition under this paragraph  
5 shall not be deemed days spent in custody under s. 973.155.

History: 1981 c. 367; 1985 a. 29, 176; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 85, 403; 1989 a. 31, 107; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 32; 1995 a. 27 s. 9126 (19); 1995 a. 268; 1997 a. 252; 2001 a. 16; 2003 a. 122; 2005 a. 264; 2007 a. 20 ss. 3871 to 3874, 9121 (6) (a); 2009 a. 214.

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**(END)**

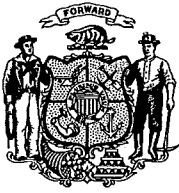
1/23/15

Per Ryan Hutter (DOA):

For standardization of emergency detention across

counties; require crisis assessment draft (LRB-1074) -

have a delayed effective date of 7/1/16.



(Sat or Sun)  
State of Wisconsin  
2015 - 2016 LEGISLATURE



LRB-1074/P1  
TJD:jld:rs

In: 1/23/15

egs

P2

DOA:.....Hutter, BB0391 – Standardization of emergency detention across counties; require crisis assessment

**FOR 2015-2017 BUDGET – NOT READY FOR INTRODUCTION**

do NOT gen

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES**

Currently, a law enforcement officer or certain other persons, in counties other than Milwaukee County, 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 other evidence of the standards for emergency detention. 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. In Milwaukee County, currently, the law enforcement officer or other person must sign a statement of emergency detention and delivers the statement of emergency detention along with the individual to the detention facility. The treatment director of the facility must determine whether the individual is detained or detained, evaluated, diagnosed, and treated. After a detention of up to 72 hours, the treatment director determines whether the individual is eligible for involuntary commitment. If involuntary commitment is appropriate, the treatment director files the statement of detention with the court.



Currently, a pilot program in Milwaukee County grants authority for a treatment director or treatment director designee to take an individual into custody for emergency detention under the same standards as a law enforcement officer. In the pilot program, “treatment director” also includes a physician or psychologist who is an employee of or contractor of the Milwaukee County Behavioral Health Division and who actively assumes clinical responsibility for providing emergency care. Once a treatment director takes an individual into custody for emergency detention under the pilot program, the procedure is similar to that of other emergency detentions in Milwaukee County.

This bill eliminates the emergency detention procedure and the pilot program in Milwaukee County and applies the existing procedure for emergency detentions in other counties to Milwaukee County. The bill adds that a physician who has completed a residency in psychiatry, a psychologist, or a licensed mental health professional must perform a crisis assessment on the individual and agree with the need for detention in order for the county department to approve the detention.

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

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

1           **SECTION 1.** 51.15 (2) of the statutes is amended to read:

2           **51.15 (2) FACILITIES FOR DETENTION.** The law enforcement officer or other person  
3 authorized to take a child into custody under ch. 48 or to take a juvenile into custody  
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5 for detention, if the county department of community programs in the county in  
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11 need for detention and the county department reasonably believes the individual will  
12 not voluntarily consent to evaluation, diagnosis, and treatment necessary to  
13 stabilize the individual and remove the substantial probability of physical harm,

1 impairment, or injury to himself, herself, or others. Detention may only be in a  
2 treatment facility approved by the department or the county department, if the  
3 facility agrees to detain the individual, or a state treatment facility.

\*\*\*NOTE: Please review the description of those individuals who can perform a crisis assessment before an individual may be emergently detained. "Licensed mental health professional" is defined for chapter 51 to mean a clinical social worker, marriage and family therapist, or professional counselor.

4 **SECTION 2.** 51.15 (4) of the statutes is repealed.

5 **SECTION 3.** 51.15 (4m) of the statutes is repealed.

6 **SECTION 4.** 51.15 (5) of the statutes is amended to read:

7 51.15 (5) ~~DETENTION PROCEDURE; OTHER COUNTIES. In counties having a~~  
8 ~~population of less than 750,000, the~~ The law enforcement officer or other person  
9 authorized to take a child into custody under ch. 48 or to take a juvenile into custody  
10 under ch. 938 shall sign a statement of emergency detention that shall provide  
11 detailed specific information concerning the recent overt act, attempt, or threat to  
12 act or omission on which the belief under sub. (1) is based and the names of persons  
13 observing or reporting the recent overt act, attempt, or threat to act or omission. The  
14 law enforcement officer or other person is not required to designate in the statement  
15 whether the subject individual is mentally ill, developmentally disabled, or drug  
16 dependent, but shall allege that he or she has cause to believe that the individual  
17 evidences one or more of these conditions. The statement of emergency detention  
18 shall be filed by the officer or other person with the detention facility at the time of  
19 admission, and with the court immediately thereafter. The filing of the statement  
20 has the same effect as a petition for commitment under s. 51.20. When, upon the  
21 advice of the treatment staff, the director of a facility specified in sub. (2) determines  
22 that the grounds for detention no longer exist, he or she shall discharge the  
23 individual detained under this section. Unless a hearing is held under s. 51.20 (7)

1 or 55.135, the subject individual may not be detained by the law enforcement officer  
2 or other person and the facility for more than a total of 72 hours after the individual  
3 is taken into custody for the purposes of emergency detention, exclusive of  
4 Saturdays, Sundays, and legal holidays.

5 **SECTION 5.** 51.15 (7) of the statutes is amended to read:

6 51.15 (7) INTERCOUNTY AGREEMENTS. Counties may enter into contracts  
7 whereby one county agrees to conduct commitment hearings for individuals who are  
8 detained in that county but who are taken into custody under this section in another  
9 county. Such contracts shall include provisions for reimbursement to the county of  
10 detention for all reasonable direct and auxiliary costs of commitment proceedings  
11 conducted under this section and s. 51.20 by the county of detention concerning  
12 individuals taken into custody in the other county and shall include provisions to  
13 cover the cost of any voluntary or involuntary services provided under this chapter  
14 to the subject individual as a result of proceedings or conditional suspension of  
15 proceedings resulting from the notification of detention. Where there is such a  
16 contract binding the county where the individual is taken into custody and the  
17 county where the individual is detained, the statements of detention specified in  
18 ~~subs. (4) and sub. (5) and the notification specified in sub. (4)~~ shall be filed with the  
19 court having probate jurisdiction in the county of detention, unless the subject  
20 individual requests that the proceedings be held in the county in which the  
21 individual is taken into custody.

22 **SECTION 6.** 51.15 (12) of the statutes is amended to read:

23 51.15 (12) PENALTY. Whoever signs a statement under sub. (4), (5) or (10)  
24 knowing the information contained therein to be false is guilty of a Class H felony.

25 **SECTION 7.** 51.20 (4) (c) of the statutes is amended to read:

1           51.20 (4) (c) Paragraph (b) does not apply to a petition originating under s.  
2           51.15 (4), (5), or (10).

3           **SECTION 8.** 51.35 (2) of the statutes is amended to read:

4           51.35 (2) **TRANSFER OF CERTAIN DEVELOPMENTALLY DISABLED PATIENTS.** The  
5           department may authorize a transfer of a patient from a center for the  
6           developmentally disabled to a state treatment facility if the patient is mentally ill  
7           and exhibits conduct which constitutes a danger as described in s. 51.20 (1) (a) 2. to  
8           himself or herself or to others in the treatment facility where he or she is present.  
9           The department shall file a statement of emergency detention with the committing  
10          court within 24 hours after receiving the person for emergency detention. The  
11          statement shall conform to the requirements specified in s. 51.15 (4) (5).

12          **SECTION 9.** 51.35 (3) (e) of the statutes is amended to read:

13          51.35 (3) (e) The department of corrections may authorize emergency transfer  
14          of an individual from a juvenile correctional facility or a secured residential care  
15          center for children and youth to a state treatment facility if there is cause to believe  
16          that the individual has a mental illness, drug dependency, or developmental  
17          disability and exhibits conduct that constitutes a danger as described under s. 51.20  
18          (1) (a) 2. a., b., c., or d. to the individual or to others, has a mental illness, is dangerous,  
19          and satisfies the standard under s. 51.20 (1) (a) 2. e., or is an alcoholic and is  
20          dangerous as provided in s. 51.45 (13) (a) 1. and 2. The custodian of the sending  
21          juvenile correctional facility or secured residential care center for children and youth  
22          shall execute a statement of emergency detention or petition for emergency  
23          commitment for the individual and deliver it to the receiving state treatment facility.  
24          The department of health services shall file the statement or petition with the court  
25          within 24 hours after the subject individual is received for detention or commitment.

1 The statement or petition shall conform to s. 51.15 ~~(4) or~~ (5) or 51.45 (12) (b). After  
2 an emergency transfer is made, the director of the receiving facility may file a  
3 petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return the  
4 individual to the juvenile correctional facility or secured residential care center for  
5 children and youth from which the transfer was made. As an alternative to this  
6 procedure, the procedure provided in s. 51.15 or 51.45 (12) may be used, except that  
7 no individual may be released without the approval of the court that directed  
8 confinement in the juvenile correctional facility or secured residential care center for  
9 children and youth.

10 **SECTION 10.** 51.37 (5) (b) of the statutes is amended to read:

11 51.37 (5) (b) The department of corrections may authorize an emergency  
12 transfer of an individual from a prison, jail or other criminal detention facility to a  
13 state treatment facility if there is cause to believe that the individual is mentally ill,  
14 drug dependent or developmentally disabled and exhibits conduct which constitutes  
15 a danger as described in s. 51.20 (1) (a) 2. a., b., c. or d. of physical harm to himself  
16 or herself or to others, or is mentally ill and satisfies the standard under s. 51.20 (1)  
17 (a) 2. e. or is an alcoholic and is dangerous as provided in s. 51.45 (13) (a) 1. and 2.  
18 The correctional custodian of the sending institution shall execute a statement of  
19 emergency detention or petition for emergency commitment for the individual and  
20 deliver it to the receiving state treatment facility. The department of health services  
21 shall file the statement or petition with the court within 24 hours after receiving the  
22 subject individual for detention. The statement or petition shall conform to s. 51.15  
23 ~~(4) or~~ (5) or 51.45 (12) (b). After an emergency transfer is made, the director of the  
24 receiving facility may file a petition for continued commitment under s. 51.20 (1) or  
25 51.45 (13) or may return the individual to the institution from which the transfer was

1 made. As an alternative to this procedure, the emergency detention procedure in s.  
2 51.15 or 51.45 (12) may be used, except that no prisoner may be released without the  
3 approval of the court which directed confinement in the institution.

4 **SECTION 11.** 971.14 (6) (b) of the statutes is amended to read:

5 971.14 (6) (b) When the court discharges a defendant from commitment under  
6 par. (a), it may order that the defendant be taken immediately into custody by a law  
7 enforcement official and promptly delivered to a facility specified in s. 51.15 (2), an  
8 approved public treatment facility under s. 51.45 (2) (c), or an appropriate medical  
9 or protective placement facility. Thereafter, detention of the defendant shall be  
10 governed by s. 51.15, 51.45 (11), or 55.135, as appropriate. The district attorney or  
11 corporation counsel may prepare a statement meeting the requirements of s. 51.15  
12 ~~(4) or~~ (5), 51.45 (13) (a), or 55.135 based on the allegations of the criminal complaint  
13 and the evidence in the case. This statement shall be given to the director of the  
14 facility to which the defendant is delivered and filed with the branch of circuit court  
15 assigned to exercise criminal jurisdiction in the county in which the criminal charges  
16 are pending, where it shall suffice, without corroboration by other petitioners, as a  
17 petition for commitment under s. 51.20 or 51.45 (13) or a petition for protective  
18 placement under s. 55.075. This section does not restrict the power of the branch of  
19 circuit court in which the petition is filed to transfer the matter to the branch of  
20 circuit court assigned to exercise jurisdiction under ch. 51 in the county. Days spent  
21 in commitment or protective placement pursuant to a petition under this paragraph  
22 shall not be deemed days spent in custody under s. 973.155.

23

(END)

Insert 7-23

**2015-2016 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1074/P2ins  
TJD:.....

1           **INSERT 7-23**

2           **SECTION 9418. Effective dates; Health Services.**

3           (1) EMERGENCY DETENTION STANDARDIZATION; CRISIS ASSESSMENTS. The treatment  
4 of sections 51.15 (2), (4), (4m), (5), (7), and (12), 51.20 (4) (c), 51.35 (2) and (3) (e), 51.37  
5 (5) (b), and 971.14 (6) (b) of the statutes takes effect on July 1, 2016.

6           **END INSERT 7-23**



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-1074/P2

TJD:jld:rs

DOA:.....Hutter, BB0391 – Standardization of emergency detention across counties; require crisis assessment

**FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION**

1 **AN ACT ...; relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES**

Currently, a law enforcement officer or certain other persons, in counties other than Milwaukee County, 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 other evidence of the standards for emergency detention. 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. In Milwaukee County, currently, the law enforcement officer or other person must sign a statement of emergency detention and delivers the statement of emergency detention along with the individual to the detention facility. The treatment director of the facility must determine whether the individual is detained or detained, evaluated, diagnosed, and treated. After a detention of up to 72 hours, the treatment director determines whether the individual is eligible for involuntary commitment. If involuntary commitment is appropriate, the treatment director files the statement of detention with the court.



Currently, a pilot program in Milwaukee County grants authority for a treatment director or treatment director designee to take an individual into custody for emergency detention under the same standards as a law enforcement officer. In the pilot program, “treatment director” also includes a physician or psychologist who is an employee of or contractor of the Milwaukee County Behavioral Health Division and who actively assumes clinical responsibility for providing emergency care. Once a treatment director takes an individual into custody for emergency detention under the pilot program, the procedure is similar to that of other emergency detentions in Milwaukee County.

This bill eliminates the emergency detention procedure and the pilot program in Milwaukee County and applies the existing procedure for emergency detentions in other counties to Milwaukee County. The bill adds that a physician who has completed a residency in psychiatry, a psychologist, or a licensed mental health professional must perform a crisis assessment on the individual and agree with the need for detention in order for the county department to approve the detention.

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

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

1           **SECTION 1.** 51.15 (2) of the statutes is amended to read:

2           51.15 (2) FACILITIES FOR DETENTION. The law enforcement officer or other person  
3 authorized to take a child into custody under ch. 48 or to take a juvenile into custody  
4 under ch. 938 shall transport the individual, or cause him or her to be transported,  
5 for detention, if the county department of community programs in the county in  
6 which the individual was taken into custody approves the need for detention, and for  
7 evaluation, diagnosis, and treatment if permitted under sub. (8). The county  
8 department may approve the detention only if a physician who has completed a  
9 residency in psychiatry, a psychologist licensed under ch. 455, or a mental health  
10 professional has performed a crisis assessment on the individual and agrees with the  
11 need for detention and the county department reasonably believes the individual will  
12 not voluntarily consent to evaluation, diagnosis, and treatment necessary to  
13 stabilize the individual and remove the substantial probability of physical harm,

1 impairment, or injury to himself, herself, or others. Detention may only be in a  
2 treatment facility approved by the department or the county department, if the  
3 facility agrees to detain the individual, or a state treatment facility.

4 **SECTION 2.** 51.15 (4) of the statutes is repealed.

5 **SECTION 3.** 51.15 (4m) of the statutes is repealed.

6 **SECTION 4.** 51.15 (5) of the statutes is amended to read:

7 51.15 (5) DETENTION PROCEDURE; ~~OTHER COUNTIES.~~ ~~In counties having a~~  
8 ~~population of less than 750,000, the~~ The law enforcement officer or other person  
9 authorized to take a child into custody under ch. 48 or to take a juvenile into custody  
10 under ch. 938 shall sign a statement of emergency detention that shall provide  
11 detailed specific information concerning the recent overt act, attempt, or threat to  
12 act or omission on which the belief under sub. (1) is based and the names of persons  
13 observing or reporting the recent overt act, attempt, or threat to act or omission. The  
14 law enforcement officer or other person is not required to designate in the statement  
15 whether the subject individual is mentally ill, developmentally disabled, or drug  
16 dependent, but shall allege that he or she has cause to believe that the individual  
17 evidences one or more of these conditions. The statement of emergency detention  
18 shall be filed by the officer or other person with the detention facility at the time of  
19 admission, and with the court immediately thereafter. The filing of the statement  
20 has the same effect as a petition for commitment under s. 51.20. When, upon the  
21 advice of the treatment staff, the director of a facility specified in sub. (2) determines  
22 that the grounds for detention no longer exist, he or she shall discharge the  
23 individual detained under this section. Unless a hearing is held under s. 51.20 (7)  
24 or 55.135, the subject individual may not be detained by the law enforcement officer  
25 or other person and the facility for more than a total of 72 hours after the individual

1 is taken into custody for the purposes of emergency detention, exclusive of  
2 Saturdays, Sundays, and legal holidays.

3 **SECTION 5.** 51.15 (7) of the statutes is amended to read:

4 51.15 (7) INTERCOUNTY AGREEMENTS. Counties may enter into contracts  
5 whereby one county agrees to conduct commitment hearings for individuals who are  
6 detained in that county but who are taken into custody under this section in another  
7 county. Such contracts shall include provisions for reimbursement to the county of  
8 detention for all reasonable direct and auxiliary costs of commitment proceedings  
9 conducted under this section and s. 51.20 by the county of detention concerning  
10 individuals taken into custody in the other county and shall include provisions to  
11 cover the cost of any voluntary or involuntary services provided under this chapter  
12 to the subject individual as a result of proceedings or conditional suspension of  
13 proceedings resulting from the notification of detention. Where there is such a  
14 contract binding the county where the individual is taken into custody and the  
15 county where the individual is detained, the statements of detention specified in  
16 ~~subs. (4) and sub. (5) and the notification specified in sub. (4)~~ shall be filed with the  
17 court having probate jurisdiction in the county of detention, unless the subject  
18 individual requests that the proceedings be held in the county in which the  
19 individual is taken into custody.

20 **SECTION 6.** 51.15 (12) of the statutes is amended to read:

21 51.15 (12) PENALTY. Whoever signs a statement under sub. (4), (5) or (10)  
22 knowing the information contained therein to be false is guilty of a Class H felony.

23 **SECTION 7.** 51.20 (4) (c) of the statutes is amended to read:

24 51.20 (4) (c) Paragraph (b) does not apply to a petition originating under s.  
25 51.15 (4), (5), or (10).

1           **SECTION 8.** 51.35 (2) of the statutes is amended to read:

2           51.35 (2) **TRANSFER OF CERTAIN DEVELOPMENTALLY DISABLED PATIENTS.** The  
3 department may authorize a transfer of a patient from a center for the  
4 developmentally disabled to a state treatment facility if the patient is mentally ill  
5 and exhibits conduct which constitutes a danger as described in s. 51.20 (1) (a) 2. to  
6 himself or herself or to others in the treatment facility where he or she is present.  
7 The department shall file a statement of emergency detention with the committing  
8 court within 24 hours after receiving the person for emergency detention. The  
9 statement shall conform to the requirements specified in s. 51.15 ~~(4)~~ (5).

10           **SECTION 9.** 51.35 (3) (e) of the statutes is amended to read:

11           51.35 (3) (e) The department of corrections may authorize emergency transfer  
12 of an individual from a juvenile correctional facility or a secured residential care  
13 center for children and youth to a state treatment facility if there is cause to believe  
14 that the individual has a mental illness, drug dependency, or developmental  
15 disability and exhibits conduct that constitutes a danger as described under s. 51.20  
16 (1) (a) 2. a., b., c., or d. to the individual or to others, has a mental illness, is dangerous,  
17 and satisfies the standard under s. 51.20 (1) (a) 2. e., or is an alcoholic and is  
18 dangerous as provided in s. 51.45 (13) (a) 1. and 2. The custodian of the sending  
19 juvenile correctional facility or secured residential care center for children and youth  
20 shall execute a statement of emergency detention or petition for emergency  
21 commitment for the individual and deliver it to the receiving state treatment facility.  
22 The department of health services shall file the statement or petition with the court  
23 within 24 hours after the subject individual is received for detention or commitment.  
24 The statement or petition shall conform to s. 51.15 ~~(4)~~ or (5) or 51.45 (12) (b). After  
25 an emergency transfer is made, the director of the receiving facility may file a

1 petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return the  
2 individual to the juvenile correctional facility or secured residential care center for  
3 children and youth from which the transfer was made. As an alternative to this  
4 procedure, the procedure provided in s. 51.15 or 51.45 (12) may be used, except that  
5 no individual may be released without the approval of the court that directed  
6 confinement in the juvenile correctional facility or secured residential care center for  
7 children and youth.

8 **SECTION 10.** 51.37 (5) (b) of the statutes is amended to read:

9 51.37 (5) (b) The department of corrections may authorize an emergency  
10 transfer of an individual from a prison, jail or other criminal detention facility to a  
11 state treatment facility if there is cause to believe that the individual is mentally ill,  
12 drug dependent or developmentally disabled and exhibits conduct which constitutes  
13 a danger as described in s. 51.20 (1) (a) 2. a., b., c. or d. of physical harm to himself  
14 or herself or to others, or is mentally ill and satisfies the standard under s. 51.20 (1)  
15 (a) 2. e. or is an alcoholic and is dangerous as provided in s. 51.45 (13) (a) 1. and 2.  
16 The correctional custodian of the sending institution shall execute a statement of  
17 emergency detention or petition for emergency commitment for the individual and  
18 deliver it to the receiving state treatment facility. The department of health services  
19 shall file the statement or petition with the court within 24 hours after receiving the  
20 subject individual for detention. The statement or petition shall conform to s. 51.15  
21 ~~(4) or~~ (5) or 51.45 (12) (b). After an emergency transfer is made, the director of the  
22 receiving facility may file a petition for continued commitment under s. 51.20 (1) or  
23 51.45 (13) or may return the individual to the institution from which the transfer was  
24 made. As an alternative to this procedure, the emergency detention procedure in s.

1 51.15 or 51.45 (12) may be used, except that no prisoner may be released without the  
2 approval of the court which directed confinement in the institution.

3 **SECTION 11.** 971.14 (6) (b) of the statutes is amended to read:

4 971.14 (6) (b) When the court discharges a defendant from commitment under  
5 par. (a), it may order that the defendant be taken immediately into custody by a law  
6 enforcement official and promptly delivered to a facility specified in s. 51.15 (2), an  
7 approved public treatment facility under s. 51.45 (2) (c), or an appropriate medical  
8 or protective placement facility. Thereafter, detention of the defendant shall be  
9 governed by s. 51.15, 51.45 (11), or 55.135, as appropriate. The district attorney or  
10 corporation counsel may prepare a statement meeting the requirements of s. 51.15  
11 ~~(4) or~~ (5), 51.45 (13) (a), or 55.135 based on the allegations of the criminal complaint  
12 and the evidence in the case. This statement shall be given to the director of the  
13 facility to which the defendant is delivered and filed with the branch of circuit court  
14 assigned to exercise criminal jurisdiction in the county in which the criminal charges  
15 are pending, where it shall suffice, without corroboration by other petitioners, as a  
16 petition for commitment under s. 51.20 or 51.45 (13) or a petition for protective  
17 placement under s. 55.075. This section does not restrict the power of the branch of  
18 circuit court in which the petition is filed to transfer the matter to the branch of  
19 circuit court assigned to exercise jurisdiction under ch. 51 in the county. Days spent  
20 in commitment or protective placement pursuant to a petition under this paragraph  
21 shall not be deemed days spent in custody under s. 973.155.

22 **SECTION 9418. Effective dates; Health Services.**

