

State of Misconsin 2003 - 2004 LEGISLATURE

LRB-3086/2 DAK:kmg:rs

## 2003 ASSEMBLY BILL 631

October 29, 2003 – Introduced by Representatives J. WOOD, LADWIG, GUNDERSON, MCCORMICK, KRAWCZYK, GROTHMAN, OWENS, VRAKAS, OTT, SERATTI and ALBERS, cosponsored by Senators ZIEN, BROWN, SCHULTZ and STEPP. Referred to Committee on Aging and Long-Term Care.

1 AN ACT *to amend* 51.35 (1) (b) 2. of the statutes; **relating to:** requiring approval 2 by the guardian of a resident of a center for the developmentally disabled for 3 transfer of the resident by the Department of Health and Family Services.

## Analysis by the Legislative Reference Bureau

Under current law, as affected by 2003 Wisconsin Act 33 (the biennial budget act), the Department of Health and Family Services (DHFS) or a county department of community programs or developmental disabilities services (county department) may transfer a patient or resident who is admitted to a public treatment facility (including a mental health institute or center for the developmentally disabled), between treatment facilities, or from a treatment facility into the community, if the transfer is consistent with reasonable medical and clinical judgment. A DHFS transfer of a patient in a mental health institute or of a resident of a center for the developmentally disabled is, however, subject to approval of the county department to which the patient was committed or resident was admitted, unless the condition of the patient or resident requires immediate transfer, the county department is unable to locate an approved treatment facility in the community, or the county department has acted arbitrarily or capriciously to prevent the transfer.

This bill requires that a DHFS transfer of a resident of a center for the developmentally disabled be subject to the approval of the resident's guardian, in addition to approval of the county department. Further, the bill prohibits DHFS from coercing, or attempting to coerce, approval by a guardian of transfer of the guardian's ward from the Northern Center for the Developmentally Disabled by indicating that the care at that center will be diminished.

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

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

SECTION 1. 51.35 (1) (b) 2. of the statutes, as created by 2003 Wisconsin Act 33,
 is amended to read:

3	51.35 (1) (b) 2. Except as provided in pars. (c) and (d), a transfer of a resident
4	of a center for the developmentally disabled by the department is subject to the
5	approval of the appropriate county department under s. 51.42 or 51.437 to which the
6	resident was committed or through which the resident was admitted to the center
7	and to the approval of the resident's guardian. The department may not, under this
8	subdivision, coerce or attempt to coerce approval by a guardian of transfer of the
9	guardian's ward from the Northern Center for the Developmentally Disabled by
10	indicating that the quality of care at the Northern Center for the Developmentally
11	<u>Disabled will be diminished</u> .
12	SECTION 2. Initial applicability.

- (1) This act first applies to transfers by the department of health and family
  services on the effective date of this subsection.
- 15

(END)