



ASSISTANT DEMOCRATIC LEADER  
WISCONSIN STATE ASSEMBLY

**2013 Assembly Bill 500**  
**Testimony of State Representative Sandy Pasch**  
**Assembly Committee on Health**  
**November 13, 2013**

Good afternoon, Chairman Severson and fellow committee members. As the Vice-Chair of the Speaker's Task Force on Mental Health and the lead author of Assembly Bill 500, I thank you for the opportunity to provide testimony on this legislation.

To begin, I would like to thank everybody on this committee and on the Speaker's Task Force on Mental Health for their discussion and deliberations on this and many other pieces of mental health initiatives.

As a mental health nurse and a long-time advocate for improved mental health services, I have spent years fighting to address the critical issues facing individuals living with mental illness, as well as their families and our communities. This is one of the reasons why I first ran for office, and fighting to address these issues continues to be a top priority of mine.

Assembly Bill 500 will work to develop a pilot program in Milwaukee County to expand the authority to initiate emergency detentions to qualified mental health professionals. Currently, law enforcement officials are the only people authorized to initiate such an emergency detention. Wisconsin is one of the last remaining states to continue with this policy, and it's important that we work towards the goal of changing it state-wide, by starting in Milwaukee County.

By exclusively allowing the police to detain individuals requiring emergency psychiatric treatment, it criminalizes the emergency detention process and needlessly adds to the stigmatization of people living with mental illness. Creating a process where someone can gain access to psychiatric care through a clinical evaluation becomes a much more therapeutic and much less criminal intervention.

The authority would be expanded to treatment directors and treatment director designees, who include physicians and psychologists who are employees of, or on contract with, the Milwaukee County Behavioral Health Division and who actively assume clinical responsibility for providing emergency service care. These individuals are professionals trained to recognize mental health warning signs. They are educated in deescalating crisis situations and are aware of alternatives to emergency detentions, such as respite facilities, peer support services, and crisis resource centers. In addition, individuals can avoid unnecessary transports to the psychiatric crisis service for an evaluation, as the mobile team will be able to facilitate hospitalizations directly to a private facility.

I have spoken to individuals living with mental illness and advocates about the current process of police involvement in the emergency detention process. It is traumatic, stigmatizing, humiliating, and frequently results in inappropriate dispositions – unnecessary emergency detentions, and, tragically, incarceration. Our jails and prisons house too many individuals living with mental illness. My hope is that this legislation will help not only reduce this trend, but also reduce the stigma and trauma associated with criminalizing crisis situations that can be deescalated with evidence-based medical practices.

Chairman Severson and fellow committee members, thank you again for allowing me to testify on this legislation. I will entertain any questions you may have.

**10TH ASSEMBLY DISTRICT**

OFFICE: STATE CAPITOL, P.O. BOX 8953, MADISON, WI 53708    PHONE: (608) 266-7671  
TOLL-FREE: (888) 534-0010    E-MAIL: REP.PASCH@LEGIS.WI.GOV    FAX: (608) 282-3610





**INTERGOVERNMENTAL RELATIONS  
Milwaukee County**

November 13, 2013

TO: Honorable Representative Erik Severson, Chair Assembly Committee on Health  
Honorable Members of the Assembly Health Committee

FROM: Peggy Romo West, Chair of the Milwaukee County Health and Human Needs Committee  
Jason Haas, Chair of the Milwaukee County Intergovernmental Relations Committee  
Marina Dimitrijevic, Chair of the Milwaukee County Board of Supervisors

RE: **Support of Assembly Bill 500, Relating to an Emergency Detention Pilot Program in Milwaukee County**

---

Thank you to Representative Erik Severson, Chair of the Assembly Speaker's Task Force on Mental Health and the Assembly Committee on Health, for bringing this bill forward. Thank you also to Representative Sandy Pasch for introducing this important legislation, which will improve the mental health system in Milwaukee County.

We are writing in support of Assembly Bill 500. We encourage you to schedule a vote and move this legislation forward, similar to the other bills brought forward through the Taskforce.

The mental health system is complicated and ever changing. Currently Milwaukee County is in the process of implementing a number of initiatives aimed at keeping individuals in the community to avoid involuntary hospitalizations, including those that result from emergency detentions. We believe this proposed legislation, that creates a pilot program to broaden the definition of who can detain an individual under Chapter 51 to include behavioral health professionals, could go a long way to provide individuals with a medical professional contact earlier in the process and potentially avert a long-term detention.

Milwaukee County has done an internal evaluation of the Milwaukee County Mobile Crisis Teams, and the evaluation showed that early involvement in clinical interventions facilitated a drop in emergency detentions and an increase in voluntary alternatives in the community. Granting authority for a behavioral health professional earlier in the detention process can have a significant impact on individuals entering the mental health system. This change can decriminalize the emergency detention process and provide an enhanced clinical evaluation and more therapeutic intervention, which can lead to better outcomes for individuals and families.





OFFICE OF THE COUNTY EXECUTIVE

# *Milwaukee County*

CHRIS ABELE • COUNTY EXECUTIVE

## **AB 500 – A Milwaukee County Pilot Program for Clinical Detention *Assembly Committee on Health -- Wednesday, November 13, 2013***

Eric Peterson, Intergovernmental Relations Liaison - Milwaukee County Executive  
Jim Kubicek, LCSW, Deputy Administrator, Milwaukee County Behavioral Health Division

---

Honorable Chairman Severson and members –

Thank you for the opportunity to testify today before you in support of Assembly Bill 500. Milwaukee County offers its support of AB 500 as one of the crucial pieces of legislation to reform Milwaukee's mental health system. Milwaukee County appreciates the leadership of Chairman Severson and Rep. Pasch for both including the provisions of this bill in the final report of the Speaker's Taskforce on Mental Health and authoring this bill.

In plain language this bill will create a pilot for clinical detention for Milwaukee County. No longer will law enforcement need to criminalize a detention situation. As added benefit, generally when a Mobile Crisis Team is involved, voluntary community options are utilized over emergency detentions. This is a better option. For accountability sake, the pilot program in AB 500 is authorized for two years with reporting on its outcomes. This bill comes from long discussions between our clinical staff, advocates, and lawmakers about better ways to perform detentions in Milwaukee. The bill is supported by the County Executive and the County Board recently passed resolution 13-846 supporting this legislation.

### **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 circuit court system in Milwaukee County has provided the opinion that the aforementioned model is not allowable, so this option has been eliminated from Milwaukee County’s “toolbox”.

### **AB 500**

AB 500 will not remove detaining authority from law enforcement, rather it adds the treatment director or their designee to the authority for emergency detentions. 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 (The option in AB 500)

The addition of the treatment director in AB 500 as an individual given the authority to detain will likely not only have a 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.

On behalf of Milwaukee County and the County Executive we encourage your support of this legislation and urge its passage.

Thank you.

Date: November 13, 2013

Re: AB500 Relating to emergency detention pilot program in Milwaukee County

To: Chairman Severson and members of the Assembly Health Committee

From: Barbara Beckert, Disability Rights Wisconsin Milwaukee Office Director

Thank you for the opportunity to comment on AB500 which would create a pilot program in Milwaukee County relating to emergency detentions. Disability Rights Wisconsin is the protection and advocacy agency for Wisconsinites with disabilities. Our Milwaukee Office has been actively involved in investigating abuse and neglect at the Milwaukee County Mental Health Complex, addressing systemic problems with the mental health system in Milwaukee County, and working collaboratively for positive change.

AB500 proposes a pilot program which would grant authority to designated clinicians employed by the Milwaukee County Behavioral Health Division to take an individual into custody under the same standards as a law enforcement officer. These clinicians would be members of the Milwaukee County Mobile Crisis Team. Although we commend the intent of AB500 – to decrease the number of emergency detentions (EDs) and reduce related stigma and trauma - we are concerned the proposed changes to the law are not the right strategy to achieve this goal and are likely to have minimal impact. A change to the law will not increase the very limited availability of the Milwaukee County Mobile Crisis Team or add community resources to enable law enforcement or the Mobile Team to provide diversion from the County emergency room.

We believe the key strategies for reducing emergency detentions and related trauma, are to significantly expand crisis mobile team resources and provide 24/7 coverage, as well as promote diversion by expanding community services and supports that can provide an alternative to costly and traumatizing emergency and inpatient services. The current availability of the Mobile Crisis Team in Milwaukee County is extremely limited and AB500 will not change that. We continue to hear from law enforcement in Milwaukee County that when a mental health crisis occurs, the Mobile Crisis Team is often not called because their availability is so limited and the response is too slow. The work of the Mobile Crisis Team is well regarded and effective, but their availability is far too limited. Given the nearly 13,000 people who come to the Milwaukee County Psychiatric emergency room annually – the majority brought by police- there is clearly a need for many mobile crisis teams located throughout the County to ensure timely response. Current hours for the Milwaukee County Mobile Crisis Team are limited – Monday through Friday from 9 a.m. to midnight and on Saturday, Sunday and holidays from 11:30 a.m. to 8 p.m. Evenings, weekends, and holidays are in fact the time when many mental health crises occur and full mobile team coverage should be a priority. The County has taken a small first step to address the concerns raised by advocates about the lack of weekend and evening coverage by allocating \$200,000 annually to have a third party on call, but has not yet allocated funding to expand mobile team coverage to 24/7.

In addition, changes to the law will not address a key contributor to Milwaukee's high rate of emergency detentions: the lack of community based mental health resources. County funded community mental health services such as case management, psycho-social rehab, outpatient psychiatric care and therapy, Crisis Resource Center capacity, and supported housing have yet to significantly expand and the need far exceeds the available supply. We consistently hear from Law Enforcement that they see an urgent need for community resources, such as the Crisis Resource Center, to provide diversion and an alternative to taking people to the Mental Health Complex and County emergency room. County

leadership has committed to plans to transition from an institutional and crisis based system to a community based system and we strongly support this direction. However, very little community capacity has been added to date. The Southside Crisis Resource Center (CRC) was opened in 2007 to provide diversion and a community based alternative for people experiencing a mental health crisis – it is a proven model. When it opened in 2007, it had 8 beds, and six years later, those remain the only CRC beds in Milwaukee. In 2013 and 2014, the county did not increase the number of slots budgeted for case management; based on data provided by Milwaukee County, more people were served in 2011 and 2012 respectively than the county plans to serve in 2014. The County has taken positive steps to expand services at their Access Clinic; however the Clinic is located at the Mental Health Complex far away from the people in the community in need of services and from local law enforcement in search of community resources.

Everyone agrees that an emergency detention is something that should only be used as a last resort. Therefore, a substantial increase in mobile crisis team involvement in the decisions police officers currently must make regarding potential EDs is likely to be helpful in creating alternatives to the involuntary detention. However, the capability of mobile crisis teams to participate in these situations already exists under current law and any increase in this activity is largely a resource issue for the county and does not require changes to the law. Under Section 51.15(2) the police decision to transfer to a facility for an emergency detention is contingent: *"...if the county department of community programs in the county in which the individual was taken into custody approves of the need for detention, and for evaluation, diagnosis or treatment..."* then the transfer is permissible. This gateway power currently allows clinicians to participate in detention decisions. As a consequence the proposed statutory changes do not significantly change the role of role of clinicians or add much that already does not exist.

In addition, should the proposed changes to the law advance, they may not have the intended effect of reducing involvement of law enforcement. If the mobile team assesses an individual in crisis and makes the decision to detain, and the individual is not in agreement with the decision, it's highly likely that law enforcement would still need to be involved.

While decriminalization of mental illness and the emergency detention process is needed everywhere in Wisconsin, including Milwaukee County, close scrutiny still needs to be given to any proposed change in who has the power to detain. If this power is expanded to include certain designated clinicians in a manner that would avoid unnecessary trips to the county's emergency room (Psychiatric Crisis Services aka PCS), it could be a big step forward. However, there are competing concerns that must also be considered before making any such change.

For example, this authority to detain could be misused by some treating clinicians as a coercive measure thus hindering an individual's engagement in their own treatment and recovery. In addition, if clinicians have the primary legal responsibility of making the decision of whether to detain, this may change the relationship with the consumer in a detrimental way and erode the consumer's trust and willingness to speak openly to the clinician. Finally, it is imperative that there are adequate assurances that people in psychiatric crisis who are deflected away from inpatient care actually receive an adequate level of sustained community diversion services and follow-up beyond the crisis situation or the effect could be fewer emergency detentions but many more community issues of equal concern. At this time, we have yet to see a significant expansion of such community diversion services in Milwaukee County – we believe such an expansion will ultimately be the most effective way to reduce emergency detentions rather than the proposed change to the law.

For these reasons, Disability Rights Wisconsin does not support the proposed changes and instead urges an expansion of mobile crisis team resources, including the addition of multiple teams deployed through the county with 24/7 coverage, as well as significant expansion of community mental health services and supports as the most effective ways to reduce emergency detentions, address stigma, and promote voluntary treatment. Thank you for your consideration of our concerns.