

October 4, 2010 Public Hearing by the Special Committee on Review of Emergency Detention and Admission of Minors under Chapter 51

Testimony submitted by:

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Chapter 51 of Wisconsin Statutes requires counties with populations of 500,000 or more (Milwaukee County) that an individual, within 24 hours, shall be detained, evaluated, diagnosed and treated and shall either be released or detained not to exceed 72 hours. Anytime within the 72 hours, the treatment director must present before the court through a probable cause hearing the evidence for commitment.

Over the past four years, Milwaukee County has accounted for 1/3 or 33% of all Emergency Detentions in the State of Wisconsin, approximately 8,000 ED's a year. By way of comparison, Milwaukee County accounts for 17% of the overall state population, more than a proportionate share of Emergency Detentions. This is a key fact that points to the significance of this discussion today.

1. In Milwaukee County there are two major difficulties with the Chapter 51 statute; the first is the interpretation of the Delores M. ruling and the second is the Treatment Director Supplement, or TDS requirement.
  - The two issues in many ways overlap. The TDS requirement is that an individual that has been seen by a BHD medical staff within 24 hours of the time of detention. The time of detention is defined by Delores M. as the time an individual arrives at a designated Chapter 51 facility. In Milwaukee County any medical hospital is considered a Chapter 51 facility.
  - Historically, Delores M. has been interpreted in a number of ways:
    - At one time, the time of arrival at PCS was considered to be the time of detention.
    - Then, later, it was allowable for law enforcement to re-date and time the ED to reflect when the patient was brought to PCS if the 24-hour time period had lapsed.
2. The issue with TDS is when a patient requires medical clearance. Many times, patients are unable to get to PCS within the prescribed 24-hour period due to either a pre-existing medical condition or as a result of some physical harm they have done to themselves that led to the ED. For example, a patient who is admitted to the ICU could be there for several days before becoming stable.

However, the original ED could have lapsed, requiring the individual to go through the re-detention process.

If the TDS requirement was lifted for Milwaukee County, the Chapter 51 statute would be consistently applied throughout the state of Wisconsin.

It would also eliminate the redundancy requiring a patient who is medically ill to be re-detained before transfer to the psychiatric facility.

Thank you for your time.

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