

State of Wisconsin



January 2017 Special Session
2017 Assembly Bill 5

Date of enactment: **July 17, 2017**
Date of publication*: **July 18, 2017**

2017 WISCONSIN ACT 34

AN ACT to amend 46.031 (2r) (a) 3., 46.04 (1) (b), 46.28 (1) (b), 48.02 (5g), 48.20 (6), 48.203 (5), 49.45 (25) (am) 5., 51.01 (8), 51.08, 51.09, 51.10 (3), 51.20 (16) (a), 51.20 (17), 51.35 (3) (c), 51.35 (3) (e), 51.37 (5) (a), 51.37 (5) (b), 51.42 (3) (ar) 2., 51.45 (title), (1), (2) (d), (f) and (g), (3) (b), (4) (a), (b), (c), (d), (e), (f), (g), (h), (j), (k), (L), (m), (o), (p) and (q), (7) (a) and (c), (9) (intro.), (10) (title), (a), (am), (c) and (e), (11) (title), (b), (bm) and (d), (12) (a) and (c) 4., (13) (a) (intro.) and 1. to 4., (b) 4., (c) and (g) 1. b., (14) (a), (15) (c) and (19), 101.121 (4) (b), 301.031 (2r) (a) 3., 302.38 (1), 346.65 (2g) (b), 346.65 (2i), 782.01 (2), 938.02 (5g) and 938.20 (6); and **to create** 51.01 (8b) of the statutes; **relating to:** prevention and control of, emergency and involuntary commitment for, and treatment programs and services for drug dependence.

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

SECTION 1. 46.031 (2r) (a) 3. of the statutes is amended to read:

46.031 (2r) (a) 3. Is for the treatment of alcoholics or persons who are drug dependent in treatment facilities which have not been approved by the department in accordance with s. 51.45 (8).

SECTION 2. 46.04 (1) (b) of the statutes is amended to read:

46.04 (1) (b) "Drug dependent" has the meaning specified under s. 51.01 (~~8~~) (8b).

SECTION 3. 46.28 (1) (b) of the statutes is amended to read:

46.28 (1) (b) "Chronically disabled" means any person who is alcoholic, developmentally disabled, drug dependent, or mentally ill, as defined in s. 51.01 (1), (5), (~~8~~) (8b), and (13), or any person who is physically disabled.

SECTION 4. 48.02 (5g) of the statutes is amended to read:

48.02 (5g) "Drug dependent" has the meaning given in s. 51.01 (~~8~~) (8b).

SECTION 5. 48.20 (6) of the statutes is amended to read:

48.20 (6) If the child is believed to be an intoxicated person who has threatened, attempted, or inflicted physical harm on himself or herself or on another and is likely to inflict such physical harm unless committed, or is incapacitated by alcohol or another drug, the person taking the child into physical custody, the intake worker, or other appropriate person shall proceed under s. 51.45 (11).

SECTION 6. 48.203 (5) of the statutes is amended to read:

48.203 (5) If the adult expectant mother is believed to be an intoxicated person who has threatened, attempted, or inflicted physical harm on herself or on another and is likely to inflict such physical harm unless committed, or is incapacitated by alcohol or another drug, the person taking the adult expectant mother into

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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physical custody, the intake worker, or other appropriate person shall proceed under s. 51.45 (11).

SECTION 7. 49.45 (25) (am) 5. of the statutes is amended to read:

49.45 (25) (am) 5. Is drug dependent, as defined under s. 51.01 (8) (8b).

SECTION 8. 51.01 (8) of the statutes is amended to read:

51.01 (8) “Drug dependent dependence” means a person who uses disease that is characterized by a person’s use of one or more drugs that is beyond the person’s ability to control to the extent that the person’s physical health is substantially impaired or his or her social or economic functioning is substantially disrupted.

SECTION 9. 51.01 (8b) of the statutes is created to read:

51.01 (8b) “Drug dependent” means suffering from drug dependence.

SECTION 10. 51.08 of the statutes is amended to read:

51.08 Milwaukee County Mental Health Complex. Any county having a population of 500,000 or more may, pursuant to s. 46.17, establish and maintain a county mental health complex. The county mental health complex shall be a hospital devoted to the detention and care of drug addicts, alcoholics, chronic patients, and mentally ill persons whose mental illness is acute. Such hospital shall be governed pursuant to s. 46.21. Treatment of alcoholics and persons who are drug dependent at the county mental health complex is subject to approval by the department under s. 51.45 (8). The county mental health complex established pursuant to this section is subject to rules promulgated by the department concerning hospital standards. The county board may not sell the county mental health complex under this section without approval of the Milwaukee County mental health board.

SECTION 11. 51.09 of the statutes is amended to read:

51.09 County hospitals. Any county having a population of less than 500,000 may establish a hospital or facilities for the detention and care of mentally ill persons, alcoholics, and drug addicts; and in connection therewith a hospital or facility for the care of cases afflicted with pulmonary tuberculosis. County hospitals established pursuant to this section are subject to rules promulgated by the department concerning hospital standards, including standards for ~~alcoholic~~ treatment facilities under s. 51.45 (8) for alcoholics and persons who are drug dependent.

SECTION 12. 51.10 (3) of the statutes is amended to read:

51.10 (3) Voluntary admission of adult alcoholics and adults who are drug dependent shall be in accordance with s. 51.45 (10).

SECTION 13. 51.20 (16) (a) of the statutes is amended to read:

51.20 (16) (a) Except in the case of ~~alcoholic~~ commitments under s. 51.45 (13), any patient who is involuntarily committed for treatment under this chapter, may on the patient’s own verified petition, except in the case of a minor who is under 14 years of age, or on the verified petition of the patient’s guardian, relative, friend, or any person providing treatment under the order of commitment, request a reexamination or request the court to modify or cancel an order of commitment.

SECTION 14. 51.20 (17) of the statutes is amended to read:

51.20 (17) RIGHT TO REEVALUATION. With the exception of ~~alcoholic~~ commitments under s. 51.45 (13), every patient committed involuntarily to a board under this chapter shall be reevaluated by the treatment staff or visiting physician within 30 days after the commitment, and within 3 months after the initial reevaluation, and again thereafter at least once each 6 months for the purpose of determining whether such patient has made sufficient progress to be entitled to transfer to a less restrictive facility or discharge. The findings of such reevaluation shall be written and placed with the patient’s treatment record, and a copy shall be sent to the board ~~which~~ that has responsibility for the patient and to the committing court.

SECTION 15. 51.35 (3) (c) of the statutes is amended to read:

51.35 (3) (c) A licensed psychologist of a juvenile correctional facility or a secured residential care center for children and youth or a licensed physician of the department of corrections, who has reason to believe that any individual confined in the juvenile correctional facility or secured residential care center for children and youth, in his or her opinion, has a mental illness, drug dependency, or developmental disability and is dangerous as described in s. 51.20 (1) (a) 2., or ~~is an alcoholic~~ and is dangerous and is an alcoholic or a person who is drug dependent as described in s. 51.45 (13) (a) 1. and 2., shall file a written report with the superintendent of the juvenile correctional facility or secured residential care center for children and youth, stating the nature and basis of the belief. If the superintendent, upon review of the allegations in the report, determines that transfer is appropriate, he or she shall file a petition according to s. 51.20 or 51.45 in the court assigned to exercise jurisdiction under chs. 48 and 938 of the county where the juvenile correctional facility or secured residential care center for children and youth is located. The court shall hold a hearing according to procedures provided in s. 51.20 or 51.45 (13).

SECTION 16. 51.35 (3) (e) of the statutes is amended to read:

51.35 (3) (e) The department of corrections may authorize emergency transfer of an individual from a juvenile correctional facility or a secured residential care center for children and youth to a state treatment facility

if there is cause to believe that the individual has a mental illness, drug dependency, or developmental disability and exhibits conduct that constitutes a danger as described under s. 51.20 (1) (a) 2. a., b., c., or d. to the individual or to others, has a mental illness, is dangerous, and satisfies the standard under s. 51.20 (1) (a) 2. e., or is ~~an alcoholic and is dangerous~~ and is an alcoholic or a person who is drug dependent as provided in s. 51.45 (13) (a) 1. and 2. The custodian of the sending juvenile correctional facility or secured residential care center for children and youth shall execute a statement of emergency detention or petition for emergency commitment for the individual and deliver it to the receiving state treatment facility. The department of health services shall file the statement or petition with the court within 24 hours after the subject individual is received for detention or commitment. The statement or petition shall conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After an emergency transfer is made, the director of the receiving facility may file a petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return the individual to the juvenile correctional facility or secured residential care center for children and youth from which the transfer was made. As an alternative to this procedure, the procedure provided in s. 51.15 or 51.45 (12) may be used, except that no individual may be released without the approval of the court that directed confinement in the juvenile correctional facility or secured residential care center for children and youth.

SECTION 17. 51.37 (5) (a) of the statutes is amended to read:

51.37 (5) (a) When a licensed physician or licensed psychologist of a state prison, of a county jail or of the department of corrections reports in writing to the officer in charge of a jail or institution that any prisoner is, in his or her opinion, mentally ill, drug dependent, or developmentally disabled and is appropriate for treatment as described in s. 51.20 (1), or ~~is an alcoholic and is dangerous~~ and is an alcoholic or a person who is drug dependent as described in s. 51.45 (13) (a) 1. and 2.; or that the prisoner is mentally ill, drug dependent, developmentally disabled or is an alcoholic and is in need of psychiatric or psychological treatment, and that the prisoner voluntarily consents to a transfer for treatment, the officer shall make a written report to the department of corrections which may transfer the prisoner if a voluntary application is made and the department of health services consents. If voluntary application is not made, the department of corrections may file a petition for involuntary commitment under s. 51.20 (1) or 51.45 (13). Any time spent by a prisoner in an institution designated under sub. (3) or s. 51.37 (2), 1983 stats., shall be included as part of the individual's sentence.

SECTION 18. 51.37 (5) (b) of the statutes is amended to read:

51.37 (5) (b) The department of corrections may authorize an emergency transfer of an individual from a prison, jail or other criminal detention facility to a state treatment facility if there is cause to believe that the individual is mentally ill, drug dependent or developmentally disabled and exhibits conduct which constitutes a danger as described in s. 51.20 (1) (a) 2. a., b., c. or d. of physical harm to himself or herself or to others, or is mentally ill and satisfies the standard under s. 51.20 (1) (a) 2. e. or is ~~an alcoholic and is dangerous~~ and is an alcoholic or a person who is drug dependent as provided in s. 51.45 (13) (a) 1. and 2. The correctional custodian of the sending institution shall execute a statement of emergency detention or petition for emergency commitment for the individual and deliver it to the receiving state treatment facility. The department of health services shall file the statement or petition with the court within 24 hours after receiving the subject individual for detention. The statement or petition shall conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After an emergency transfer is made, the director of the receiving facility may file a petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return the individual to the institution from which the transfer was made. As an alternative to this procedure, the emergency detention procedure in s. 51.15 or 51.45 (12) may be used, except that no prisoner may be released without the approval of the court which directed confinement in the institution.

SECTION 19. 51.42 (3) (ar) 2. of the statutes is amended to read:

51.42 (3) (ar) 2. Enter into contracts for the use of any facility as an approved public treatment facility under s. 51.45 for the treatment of alcoholics or persons who are drug dependent if the county department of community programs deems it to be an effective and economical course to follow.

SECTION 20. 51.45 (title), (1), (2) (d), (f) and (g), (3) (b), (4) (a), (b), (c), (d), (e), (f), (g), (h), (j), (k), (L), (m), (o), (p) and (q), (7) (a) and (c), (9) (intro.), (10) (title), (a), (am), (c) and (e), (11) (title), (b), (bm) and (d), (12) (a) and (c) 4., (13) (a) (intro.) and 1. to 4., (b) 4., (c) and (g) 1. b., (14) (a), (15) (c) and (19) of the statutes are amended to read:

51.45 (title) Prevention and control of alcoholism and drug dependence. (1) **DECLARATION OF POLICY.** It is the policy of this state that alcoholics, persons who are drug dependent, and intoxicated persons may not be subjected to criminal prosecution because of their consumption of alcohol beverages or other drugs but rather should be afforded a continuum of treatment in order that they may lead normal lives as productive members of society.

(2) (d) "Incapacitated by alcohol or another drug" means that a person, as a result of the use of or withdrawal from alcohol or another drug, is unconscious or has his or her judgment otherwise so impaired that he or she is inca-

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pable of making a rational decision, as evidenced objectively by such indicators as extreme physical debilitation, physical harm or threats of harm to himself or herself or to any other person, or to property.

(f) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol, a controlled substance, a controlled substance analog, or another drug.

(g) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, surgical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling, which may be extended to alcoholics, persons who are drug dependent, and intoxicated persons, and psychiatric, psychological and social service care which may be extended to their families. Treatment may also include, but shall not be replaced by, physical detention of persons, in an approved treatment facility, who are involuntarily committed or detained under sub. (12) or (13).

(3) (b) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including contracts with public and private agencies, organizations, and individuals to pay them for services rendered or furnished to alcoholics, persons who are drug dependent, or intoxicated persons.

(4) (a) Develop, encourage and foster statewide, regional, and local plans and programs for the prevention of alcoholism and drug dependence and treatment of alcoholics, persons who are drug dependent, and intoxicated persons in cooperation with public and private agencies, organizations, and individuals and provide technical assistance and consultation services for these purposes.

(b) Coordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in prevention of alcoholism and drug dependence and treatment of alcoholics, persons who are drug dependent, and intoxicated persons.

(c) Assure that the county department provides treatment for alcoholics, persons who are drug dependent, and intoxicated persons in county, town and municipal institutions for the detention and incarceration of persons charged with or convicted of a violation of a state law or a county, town or municipal ordinance.

(d) Cooperate with the department of public instruction, local boards of education, schools, including tribal schools, as defined in s. 115.001 (15m), police departments, courts, and other public and private agencies, organizations, and individuals in establishing programs for the prevention of alcoholism and drug dependence and treatment of alcoholics, persons who are drug dependent, and intoxicated persons, and preparing curriculum materials thereon for use at all levels of school education.

(e) Prepare, publish, evaluate and disseminate educational material dealing with the nature and effects of alcohol and other drugs.

(f) Develop and implement and assure that county departments develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of alcoholics, persons who are drug dependent, and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of alcohol and other drugs.

(g) Organize and foster training programs for all persons engaged in treatment of alcoholics, persons who are drug dependent, and intoxicated persons.

(h) Sponsor and encourage research into the causes and nature of alcoholism and drug dependence and treatment of alcoholics, persons who are drug dependent, and intoxicated persons, and serve as a clearinghouse for information relating to alcoholism and drug dependence.

(j) Advise the governor or the state health planning and development agency under P.L. 93-641, as amended, in the preparation of a comprehensive plan for treatment of alcoholics, persons who are drug dependent, and intoxicated persons for inclusion in the state's comprehensive health plan.

(k) Review all state health, welfare and treatment plans to be submitted for federal funding under federal legislation, and advise the governor or the state health planning and development agency under P.L. 93-641, as amended, on provisions to be included relating to alcoholics, persons who are drug dependent, and intoxicated persons.

(L) Develop and maintain, in cooperation with other state agencies, local governments and businesses and industries in the state, appropriate prevention, treatment and rehabilitation programs and services for alcohol abuse and, alcoholism, controlled substance use, and drug dependence among employees thereof.

(m) Utilize the support and assistance of interested persons in the community, particularly recovered alcoholics and recovered drug dependent persons, to encourage alcoholics and persons who are drug dependent voluntarily to undergo treatment.

(o) Encourage general hospitals and other appropriate health facilities to admit without discrimination alcoholics, persons who are drug dependent, and intoxicated persons and to provide them with adequate and appropriate treatment.

(p) Submit to the governor or the state health planning and development agency under P.L. 93-641, as amended, an annual report covering the activities of the department relating to treatment of alcoholism and drug dependence.

(q) Gather information relating to all federal programs concerning alcoholism and drug dependence,

whether or not subject to approval by the department, to assure coordination and avoid duplication of efforts.

(7) (a) The department shall establish a comprehensive and coordinated program for the treatment of alcoholics, persons who are drug dependent, and intoxicated persons.

(c) The department shall provide for adequate and appropriate treatment for alcoholics, persons who are drug dependent, and intoxicated persons admitted under subs. (10) to (13). Treatment may not be provided at a correctional institution except for inmates.

(9) ACCEPTANCE FOR TREATMENT; RULES. (intro.) The secretary shall promulgate rules for acceptance of persons into the treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics, persons who are drug dependent, and intoxicated persons. In promulgating the rules the secretary shall be guided by the following standards:

(10) (title) VOLUNTARY TREATMENT OF ALCOHOLICS AND DRUG DEPENDENT PERSONS. (a) An adult alcoholic or person who is drug dependent may apply for voluntary treatment directly to an approved public treatment facility. If the proposed patient is an individual adjudicated incompetent in this state who has not been deprived by a court of the right to contract, the individual or his or her guardian or other legal representative may make the application. If the proposed patient is an individual adjudicated incompetent in this state who has been deprived by a court of the right to contract, the individual's guardian or other legal representative may make the application.

(am) Except as provided in s. 51.47, a minor may apply for treatment directly to an approved public treatment facility, but only for those forms of treatment specified in sub. (7) (b) 5. and 7. Section 51.13 governs admission of a minor alcoholic or minor who is drug dependent to an inpatient treatment facility.

(c) If a patient receiving inpatient care leaves an approved public treatment facility, the patient shall be encouraged to consent to appropriate outpatient or intermediate treatment. If it appears to the superintendent in charge of the treatment facility that the patient is an alcoholic, person who is drug dependent, or intoxicated person who requires help, the county department shall arrange for assistance in obtaining supportive services and residential facilities. If the patient is an individual who is adjudicated incompetent, the request for discharge from an inpatient facility shall be made by a legal guardian or other legal representative or by the individual who is adjudicated incompetent if he or she was the original applicant.

(e) This subsection applies only to admissions of alcoholics and persons who are drug dependent whose care and treatment is to be paid for by the department or a county department.

(11) (title) TREATMENT AND SERVICES FOR INTOXICATED PERSONS AND OTHERS INCAPACITATED BY ALCOHOL OR ANOTHER DRUG.

(b) A person who appears to be incapacitated by alcohol or another drug shall be placed under protective custody by a law enforcement officer. The law enforcement officer shall either bring such person to an approved public treatment facility for emergency treatment or request a designated person to bring such person to the facility for emergency treatment. If no approved public treatment facility is readily available or if, in the judgment of the law enforcement officer or designated person, the person is in need of emergency medical treatment, the law enforcement officer or designated person upon the request of the law enforcement officer shall take such person to an emergency medical facility. The law enforcement officer or designated person, in detaining such person or in taking him or her to an approved public treatment facility or emergency medical facility, is holding such person under protective custody and shall make every reasonable effort to protect the person's health and safety. In placing the person under protective custody the law enforcement officer may search such person for and seize any weapons. Placement under protective custody under this subsection is not an arrest. No entry or other record shall be made to indicate that such person has been arrested or charged with a crime. A person brought to an approved public treatment facility under this paragraph shall be deemed to be under the protective custody of the facility upon arrival.

(bm) If the person who appears to be incapacitated by alcohol or another drug under par. (b) is a minor, either a law enforcement officer or a person authorized to take a child into custody under ch. 48 or to take a juvenile into custody under ch. 938 may take the minor into custody as provided in par. (b).

(d) A person who by examination pursuant to par. (c) is found to be incapacitated by alcohol or another drug at the time of admission, or to have become incapacitated at any time after admission, shall be detained at the appropriate facility for the duration of the incapacity but may not be detained when no longer incapacitated by alcohol or another drug, or if the person remains incapacitated by alcohol or another drug for more than 72 hours after admission as a patient, exclusive of Saturdays, Sundays and legal holidays, unless he or she is committed under sub. (12). A person may consent to remain in the facility as long as the physician or official in charge believes appropriate.

(12) (a) An intoxicated person who has threatened, attempted or inflicted physical harm on himself or herself or on another and is likely to inflict such physical harm unless committed, or a person who is incapacitated by alcohol or another drug, may be committed to the county department and brought to an approved public treatment facility for emergency treatment. A refusal to undergo

treatment does not constitute evidence of lack of judgment as to the need for treatment.

(c) 4. Set a time for a preliminary hearing under sub. (13) (d), such hearing to be held not later than 48 hours after receipt of a petition under par. (b), exclusive of Saturdays, Sundays and legal holidays. If at such time the person is unable to assist in the defense because he or she is incapacitated by alcohol or another drug, an extension of not more than 48 hours, exclusive of Saturdays, Sundays and legal holidays, may be had upon motion of the person or the person's attorney.

(13) (a) (intro.) A person may be committed to the custody of the county department by the circuit court upon the petition of 3 adults, at least one of whom has personal knowledge of the conduct and condition of the person sought to be committed. A refusal to undergo treatment shall not constitute evidence of lack of judgment as to the need for treatment. The petition for commitment shall do all of the following:

1. Allege that the condition of the person is such that he or she habitually lacks self-control as to the use of alcohol beverages or other drugs, and uses such beverages or drugs to the extent that health is substantially impaired or endangered and social or economic functioning is substantially disrupted;

2. Allege that such condition of the person is evidenced by a pattern of conduct which is dangerous to the person or to others;

3. State that the person is a child or state facts sufficient for a determination of indigency of the person;

4. Be supported by the affidavit of each petitioner who has personal knowledge which avers with particularity the factual basis for the allegations contained in the petition; and

(b) 4. Set a time for a preliminary hearing under par. (d). If the person is taken into protective custody, such hearing shall be held not later than 72 hours after the person arrives at the approved public treatment facility, exclusive of Saturdays, Sundays and legal holidays. If at that time the person is unable to assist in the defense because he or she is incapacitated by alcohol or another drug, an extension of not more than 48 hours, exclusive of Saturdays, Sundays and legal holidays, may be had upon motion of the person or the person's attorney.

(c) Effective and timely notice of the preliminary hearing, together with a copy of the petition and supporting affidavits under par. (a), shall be given to the person unless he or she has been taken into custody under par. (b), the legal guardian if the person is adjudicated incompetent, the person's counsel, corporation counsel in the county in which the petition is filed, and the petitioner. The notice shall include a written statement of the person's right to an attorney, the right to trial by jury, the right to be examined by a physician, and the standard under which he or she may be committed under this section. If the person is taken into custody under par. (b), upon

arrival at the approved public treatment facility, the person shall be advised both orally and in writing of the right to counsel, the right to consult with counsel before a request is made to undergo voluntary treatment under sub. (10), the right not to converse with examining physicians, psychologists or other personnel, the fact that anything said to examining physicians, psychologists or other personnel may be used as evidence against him or her at subsequent hearings under this section, the right to refuse medication under s. 51.61 (6), the exact time and place of the preliminary hearing under par. (d), the right to trial by jury, the right to be examined by a physician and of the reasons for detention, and the standards under which he or she may be committed prior to all interviews with physicians, psychologists, or other personnel. Such notice of rights shall be provided to the person's immediate family if they can be located and may be deferred until the person's incapacitated condition, if any, has subsided to the point where the person is capable of understanding the notice. Under no circumstances may interviews with physicians, psychologists, or other personnel be conducted until such notice is given, except that the person may be questioned to determine immediate medical needs. The person may be detained at the facility to which he or she was admitted or, upon notice to the attorney and the court, transferred by the county department to another appropriate public or private treatment facility, until discharged under this subsection. A copy of the petition and all supporting affidavits shall be given to the person at the time notice of rights is given under this paragraph by the superintendent, who shall provide a reasonable opportunity for the patient to consult counsel.

(g) 1. b. That there is a relationship between the alcoholic or drug dependent condition and the pattern of conduct during the 12-month period immediately preceding the time of petition which is dangerous to the person or others and that this relationship has been established to a reasonable medical certainty.

(14) (a) Except as otherwise provided in s. 51.30, the registration and treatment records of alcoholism or drug dependence treatment programs and facilities shall remain confidential and are privileged to the patient. The application of s. 51.30 is limited by any rule promulgated under s. 51.30 (4) (c) for the purpose of protecting the confidentiality of alcoholism or drug dependence treatment records in conformity with federal requirements.

(15) (c) A private or public general hospital may not refuse admission or treatment to a person in need of medical services solely because that person is an "alcoholic", is "drug dependent", is "incapacitated by alcohol", is "incapacitated by another drug", or is an "intoxicated person" as defined in sub. (2). This paragraph does not require a hospital to admit or treat the person if the hospital does not ordinarily provide the services required by the person. A private or public general hospital which violates this paragraph shall forfeit not more than \$500.

(19) SHORT TITLE. This section may be cited as the “Alcoholism, Drug Dependence, and Intoxication Treatment Act”.

SECTION 21. 101.121 (4) (b) of the statutes is amended to read:

101.121 (4) (b) Paragraph (a) does not apply to any owner of a nursing home as defined in s. 50.01 (3), a hospital as defined in s. 50.33 (2) (a) and (c) or an approved public or private treatment facility for alcoholics and persons who are drug dependent as defined in s. 51.45 (2) (b) and (c).

SECTION 22. 301.031 (2r) (a) 3. of the statutes is amended to read:

301.031 (2r) (a) 3. Is for the treatment of alcoholics and persons who are drug dependent in treatment facilities which have not been approved by the department of health services in accordance with s. 51.45 (8).

SECTION 23. 302.38 (1) of the statutes is amended to read:

302.38 (1) If a prisoner needs medical or hospital care or is intoxicated or incapacitated by alcohol or another drug the sheriff, superintendent or other keeper of the jail or house of correction shall provide appropriate care or treatment and may transfer the prisoner to a hospital or to an approved treatment facility under s. 51.45 (2) (b) and (c), making provision for the security of the prisoner. The sheriff, superintendent or other keeper may provide appropriate care or treatment under this subsection for a prisoner under 18 years of age and may transfer a prisoner under 18 years of age under this subsection without obtaining the consent of the prisoner’s parent, guardian or legal custodian. The sheriff, superintendent or other keeper may charge a prisoner for the costs of providing medical care to the prisoner while he or she is in the jail or house of correction. If the sheriff or other keeper maintains a personal money account for an inmate’s use for payment for items from canteen, vending or similar services, the sheriff or other keeper may make deductions from the account to pay for the charges under this subsection.

SECTION 24. 346.65 (2g) (b) of the statutes is amended to read:

346.65 (2g) (b) The court may require a person ordered to perform community service work under par. (a) or (ag), or under s. 973.05 (3) (a) if that person’s fine resulted from violating s. 346.63 (2), 940.09 (1) or 940.25, to participate in community service work that demonstrates the adverse effects of substance abuse or of operating a vehicle while under the influence of an intoxicant or other drug, including working at ~~an alcoholism~~ a treatment facility approved under s. 51.45, an emergency room of a general hospital or a driver awareness program under s. 346.637. The court may order the person to pay a reasonable fee, based on the person’s ability to pay, to offset the cost of establishing, maintaining and monitoring the community service work ordered under

this paragraph. If the opportunities available to perform community service work are fewer in number than the number of defendants eligible under this subsection, the court shall, when making an order under this paragraph, give preference to defendants who were under 21 years of age at the time of the offense. All provisions of par. (am) apply to any community service work ordered under this paragraph.

SECTION 25. 346.65 (2i) of the statutes is amended to read:

346.65 (2i) In addition to the authority of the court under sub. (2g) and s. 973.05 (3) (a), the court may order a defendant subject to sub. (2), or a defendant subject to s. 973.05 (3) (a) who violated s. 346.63 (2), 940.09 (1), or 940.25, to visit a site that demonstrates the adverse effects of substance abuse or of operating a vehicle while under the influence of an intoxicant or other drug, including ~~an alcoholism~~ a treatment facility approved under s. 51.45 or an emergency room of a general hospital in lieu of part or all of any forfeiture imposed or in addition to any penalty imposed. The court may order the defendant to pay a reasonable fee, based on the person’s ability to pay, to offset the costs of establishing, maintaining, and monitoring the visits ordered under this subsection. The court may order a visit to the site only if agreed to by the person responsible for the site. If the opportunities available to visit sites under this subsection are fewer than the number of defendants eligible for a visit, the court shall, when making an order under this subsection, give preference to defendants who were under 21 years of age at the time of the offense. The court shall ensure that the visit is monitored. A visit to a site may be ordered for a specific time and a specific day to allow the defendant to observe victims of vehicle accidents involving intoxicated drivers. If it appears to the court that the defendant has not complied with the court order to visit a site or to pay a reasonable fee, the court may order the defendant to show cause why he or she should not be held in contempt of court. Any organization or agency acting in good faith to which a defendant is assigned pursuant to an order under this subsection has immunity from any civil liability in excess of \$25,000 for acts or omissions by or impacting on the defendant. The issuance or possibility of the issuance of an order under this subsection does not entitle an indigent defendant who is subject to sub. (2) (am) 1. to representation by counsel under ch. 977.

SECTION 26. 782.01 (2) of the statutes is amended to read:

782.01 (2) Any person confined in any hospital or institution as mentally ill or committed for treatment of alcoholism or drug dependence under s. 51.45 (13) may prosecute such writ, and the question of mental illness or need for treatment shall be determined by the court or judge issuing the same. If such court or judge decides that the person is mentally ill or in need of treatment such

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decision shall not bar the prosecution of such writ a 2nd time if it is claimed that such person has been restored to reason or is no longer in need of treatment.

SECTION 27. 938.02 (5g) of the statutes is amended to read:

938.02 (5g) “Drug dependent” has the meaning given in s. 51.01 (8) (8b).

SECTION 28. 938.20 (6) of the statutes is amended to read:

938.20 (6) DELIVERY OF INTOXICATED JUVENILE. If the juvenile is believed to be an intoxicated person who has threatened, attempted or inflicted physical harm on himself or herself or on another and is likely to inflict such physical harm unless committed, or is incapacitated by alcohol or another drug, the person taking the juvenile into physical custody, the intake worker or other appropriate person shall proceed under s. 51.45 (11).

