



WISCONSIN LEGISLATIVE COUNCIL
REPORT TO THE LEGISLATURE

SPECIAL COMMITTEE ON
RECODIFICATION OF CH. 55,
STATS., PLACEMENT AND
SERVICES FOR PERSONS
WITH DISABILITIES

[2005 ASSEMBLY BILL 785]

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Special Committee on Recodification of Ch. 55, Placement and Services for Persons With Disabilities

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PART I

KEY PROVISIONS OF COMMITTEE RECOMMENDATIONS

The Special Committee on Recodification of Ch. 55, Placement and Services for Persons With Disabilities recommended the following proposal which the Joint Legislative Council approved for introduction in the 2005-06 Session of the Legislature.

2005 Assembly Bill 785, Relating to Reorganizing and Revising Ch. 55 of the Statutes

2005 Assembly Bill 785 relating to reorganizing and revising ch. 55 of the statutes, does all of the following:

- Organizes ch. 55 into a more logical structure.
- Revises outdated definitions and terminology in the chapter.
- Clarifies the respective responsibilities of the Department of Health and Family Services (DHFS) and county departments in the protective services system.
- Clarifies the procedures relating to the petition, hearing, and court order for protective placement and protective services, including emergency placement and services and the legal rights of the person sought to be protected and the rights, duties, and roles of other involved parties in each type of proceeding, including guardians, guardians ad litem, and health care agents.
- Clarifies procedures for transfer of protectively placed persons, including involuntary transfer to an acute psychiatric treatment facility, and modification and termination of protective placements.
- Modifies the provisions in ch. 880 that assign responsibility for the costs of a guardianship petition and applies the provision to all protective placement petitions.
- Clarifies procedures for guardians to admit wards to certain facilities without court involvement and expands the authority of a guardian to consent to such admissions.
- Modifies the procedure for involuntary admission of an incompetent person to an inpatient treatment facility.
- Codifies the procedures for annual reviews of protective placements required by the Wisconsin Supreme Court's decision in *State ex rel. Watts v. Combined Community Services*, 122 Wis. 2d 65 (1985).
- Modifies the procedures for involuntary administration of psychotropic medications.
- Authorizes a guardian to consent to involuntary administration of medication, other than psychotropic medication, and involuntary medical treatment that is in the best interests of the ward.

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PART II

COMMITTEE ACTIVITY

Assignment

The Joint Legislative Council established the Special Committee on Recodification of Ch. 55, Placement and Services for Persons With Disabilities and appointed the co-chairs by a May 22, 2002 mail ballot. The committee was directed to conduct a recodification of ch. 55, Stats. The recodification included a review of court decisions interpreting various provisions of the chapter and several cases that found provisions of the chapter to be unconstitutional. The committee also examined different interpretations of ch. 55, Stats., that have arisen over time and determined which practices should be applied statewide. Finally, the Special Committee examined areas of ch. 55 that are unclear or vague and considered how best to clarify those provisions.

Membership of the Special Committee, appointed by a July 15, 2002 mail ballot, consisted of one Senator, three Representatives and 10 public members. A list of committee members is included as *Appendix 3* to this report.

Summary of Meetings

The Special Committee held 11 meetings. The first meeting was held in the State Capitol in Madison; subsequent meetings were held at the offices of the Legislative Council staff. The meetings of the committee were held on the following dates:

August 22, 2002	May 19, 2003
September 26, 2002	June 16, 2003
October 30, 2002	July 24, 2003
December 9, 2002	September 22, 2003
January 31, 2003	December 5, 2003
April 4, 2003	

August 22, 2002: At the first meeting, the committee heard testimony from several people familiar with the issues regarding the recodification of ch. 55. Linda Dawson, Deputy Legal Counsel of DHFS, described the changes recommended to ch. 55 by the DHFS' Adult Protective Services Modernization Project. Lynn Breedlove, Executive Director of the Wisconsin Coalition for Advocacy, described the work of the Wisconsin Council on Long Term Care's ADA Title II Advisory Committee, and its recommendations for ch. 55 revisions. Jim Jaeger, an attorney in private practice in Madison, described the State Bar of Wisconsin's project on ch. 880 revisions, relating to guardianship, and how those revisions relate to the work of the committee.

The committee also heard testimony from the Wisconsin Counties Association representatives, Craig Thompson and Attorney Andy Phillips. They provided the Counties Association's perspective on recent Supreme Court cases relating to ch. 55. Finally, Roy Froemming, a Madison attorney with extensive experience with ch. 55, offered recommendations for improvements to ch. 55.

September 26, 2002: At this meeting, the committee began review of Memo No. 2, *Preliminary Outline of Issues Relating to the Recodification of Ch. 55, Stats.*, and gave preliminary drafting instructions for:

- Revising and updating terminology in the Declaration of Policy in ch. 55.
- Clarifying the county and state roles in the protective services system.

- Ensuring consistency between procedures in chs. 55 and 880, relating to guardianship, that relate to payment of fees, duties of the guardian ad litem, and the availability of, and payment for, independent evaluations of a subject of a protective placement petition.
- Codifying certain decisions of the Wisconsin Supreme Court and Court of Appeals.
- Creating a subcommittee to develop draft language that would address issues relating to certain short-term admissions to nursing homes while awaiting a protective placement proceeding.

October 30, 2002: On October 30, the committee continued its review of items in Memo No. 2, *Preliminary Outline of Issues Relating to the Recodification of Ch. 55, Stats.*, which sets forth suggestions for various changes to ch. 55. Based on that discussion, the committee directed staff to prepare a draft relating to annual reviews of protective placements (“Watts” reviews) and a draft relating to transfers of protectively placed persons. The committee then reviewed 18 drafts which had been prepared by staff. The committee made recommendations for changes to several of the drafts, requested further information regarding some of the drafts, and approved the remaining drafts by unanimous consent. The committee also established a working group on issues related to psychotropic medications and asked the group to develop recommendations for consideration by the full committee.

December 9, 2002: At this meeting, the committee reviewed 11 drafts relating to procedures for protective placement and services, statutory definitions, duties of guardians ad litem and annual reviews of protective placement. The committee also received and discussed the report of the Working Group, which met on December 3rd to discuss issues relating to mental health treatment of persons under guardianship. The Working Group advised creating new procedures for admitting persons under guardianship to psychiatric hospitals and administering psychotropic medications to persons under guardianship. The committee directed staff to prepare a draft based on the Working Group’s recommendations. The committee concluded its meeting by reviewing statutory changes to the adult protective services system proposed by DHFS, and asked staff to prepare a draft based on the proposal for its consideration.

January 31, 2003: The committee reviewed redrafted versions of several bill drafts covering the following topics:

- Payment of costs and fees in ch. 55 proceedings.
- Procedures for ordering protective services and emergency protective services.
- Specifying a guardian ad litem’s duties in ch. 55 proceedings.
- Procedures for annual reviews of protective placements (“Watts” reviews).
- Procedures for the transfer, modification, and termination of protective placement.

The committee also reviewed issues arising out of the Wisconsin Supreme Court decision on the county shield law: *Dunn County v. Judy K.* Finally, the committee reviewed new bill drafts prepared on voluntary and involuntary psychiatric admissions and voluntary and involuntary administration of medication under ch. 55.

April 4, 2003: The committee approved drafts relating to annual reviews of protective placements (“Watts” reviews); voluntary admissions to treatment facilities and voluntary administration of psychotropic medication to persons who have been adjudicated incompetent; and changing the term “chronic mental illness” to “serious and persistent mental illness.” The committee requested redrafts of proposals relating to modification, termination, and transfer of protectively placed individuals, and involuntary admission to treatment facilities and involuntary administration of psychotropic medication to persons who have been adjudicated incompetent. Drafts relating to adult protective services, and health care agents in ch. 55 proceedings, were distributed, but action was

deferred on these drafts until the next meeting to give committee members the opportunity to review the drafts.

Finally, the court discussed the Wisconsin Supreme Court's recent decision in *Dunn County v. Judy K.*, and decided to take no action regarding the issues raised by the *Judy K.* decision.

May 19, 2003: The committee heard a presentation by Irene Anderson, Bureau of Long Term Care Resources, DHFS, regarding the MA home and community-based services waiver and issues relating to a recipient's freedom of choice for services funded under the waiver. The committee also reviewed and requested changes to bill drafts relating to the following topics: annual reviews of protective placements, transfers, modifications and terminations of protective placements, involuntary administration of psychotropic and other medications, adult protective services, and vulnerable adult restraining orders. The co-chairs assigned a working group to meet to discuss several issues regarding involuntary administration of psychotropic and other medications and to report back to the full committee at its next meeting.

The committee also approved a letter to be sent to the Wisconsin Supreme Court expressing support for a petition before the Court that would require an attorney to receive specialized training in order to act as a guardian ad litem for an adult.

June 16, 2003: The committee reviewed bill drafts pertaining to protective placement procedures; annual reviews of protective placements; the involvement of certain health care agents in those proceedings; statutory changes to the adult protective services system; changes to the law governing vulnerable adult restraining orders; and authorizing a guardian to consent to the involuntary administration of psychotropic medication to a ward. The committee also discussed the provision of public defenders to indigent persons in ch. 55 proceedings and is awaiting a proposal from the state public defenders office on that topic.

July 24, 2003: The committee reviewed bill drafts relating to involvement of certain health care agents in protective placement proceedings; procedures for annual reviews of protective placements; procedures for transfers of protectively placed persons and modification and termination of protective placements and court-ordered protective services; changes to the adult protective services laws; public defender representation in cases involving persons subject to petitions for protective placements or services under ch. 55; consent by a legal representative for participation in the community integration program for residents of state centers; venue, residency, and county of responsibility for certain proceedings under chs. 51, 55, and 880; authorizing a guardian to consent to involuntary administration of psychotropic medication; ordering involuntary administration of psychotropic medication as a protective service; and authority of a guardian to consent to involuntary administration of other medications and involuntary medical treatment.

The committee gave approval to several of these bill drafts, and requested staff to redraft others to reflect changes requested by committee members.

September 22, 2003: The Special Committee heard a presentation from three speakers from DHFS: Mike Peters, Gerard Gierl, and Vaughn Brandt. They discussed issues relating to residency determination of persons in chs. 55, 51, and 880 proceedings.

The committee approved bill drafts relating to the following:

- Venue, residency, and county of responsibility for certain proceedings under chs. 51, 55, and 880; involvement of certain health care agents in protective placement proceedings; annual reviews of protective placements; authorizing a guardian to consent to involuntary administration of psychotropic medication; ordering involuntary administration of psychotropic medication as a protective service; and authority of a guardian to consent to involuntary administration of other medications and involuntary medical treatment; transfers of protectively placed persons and modification and termination of protective placements and court-ordered protective services; adult protective services; annual review of an order authorizing involuntary administration of psychotropic

medication; and public defender representation in cases involving person subject to petitions for protective placement or services under ch. 55.

The committee also approved an amendment to the adult protective services draft to address concerns relating to required reporting of suspected abuse of adults-at-risk.

December 5, 2003: The committee reviewed two bill drafts and made minor changes to each draft. The committee agreed that drafts would be sent out to committee members for a final vote via a mail ballot.

The first draft, WLC: 0220/1, combines all of the bill drafts approved by the Special Committee that affect provisions in ch. 55 of the statutes and related provisions in other chapters.

The second draft, WLC: 0143/7, relates to the system for protection of adults at risk of abuse, neglect and financial exploitation.

It was later determined by the co-chairs that certain provisions in WLC: 0220/1 should be removed and placed in a third and fourth draft.

The third draft, WLC: 0253/1, relates to consent by a legal representative for participation in MA waiver programs.

The fourth draft, WLC: 0254/1, relates to establishing venue, residency, and the county of financial responsibility in proceedings under chs. 51, 55, and 880.

PART III

RECOMMENDATION INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL

This part of the report provides background information on, and a description of, the bill as recommended by the Special Committee on Recodification of Ch. 55, Placement and Services for Persons With Disabilities.

2005 Assembly Bill 785, Relating to Reorganizing and Revising Ch. 55 of the Statutes

Background

Chapter 55, Stats., is entitled “Protective Services System.” It was created by Ch. 284, Laws of 1973, which established “a protective services program for the developmentally disabled, aged infirm and certain other persons,” and made various changes in the guardianship laws.

Chapter 55 is a relatively short chapter of the statutes. The chapter currently consists of seven pages (including annotations) and only 10 statutory sections. However, one of these sections, s. 55.06, accounts for three of the seven pages and contains the bulk of the procedural requirements for protective placement. This section is difficult to navigate and does not fully delineate procedures to be followed, creating uncertainty for individuals and practitioners involved in the ch. 55 system.

In addition to being difficult to read, ch. 55 contains several provisions that have been found unconstitutional by the Wisconsin Supreme Court. These provisions remain in the statutes because no legislation has been enacted to repeal it. The court has also issued decisions that require certain procedures to be followed in ch. 55 proceedings, but these procedures have not been codified into statutory law and are not sufficiently delineated in the court decisions to provide clear direction to practitioners, guardians, the courts, and other parties involved in ch. 55 proceedings. See Staff Brief 02-3, dated August 15, 2002, for a synopsis of the Wisconsin Supreme Court cases that interpret or affect ch. 55.

Description

General descriptions of the major provisions of the bill are set forth below. A more detailed description of each provision is set forth in the Joint Legislative Council prefatory note to the bill.

Voluntary Admission of an Incompetent Person to an Inpatient Treatment Facility

The bill authorizes the voluntary admission to an inpatient treatment facility of an adult who has been adjudicated incompetent if his or her guardian consents to the admission and if procedures under current law that require an explanation by a physician of the rights, responsibilities, risks, and benefits of admission and requiring a hearing after seven days are followed.

Involuntary Transfer of a Protectively Placed Individual to an Acute Psychiatric Treatment Facility

Under ch. 55, an individual who has been adjudicated incompetent and has been protectively placed may be involuntarily transferred to a facility that provides acute psychiatric treatment for diagnosis or treatment with far fewer procedural and legal rights than are provided to individuals in similar circumstances under the mental health laws (generally, ch. 51 of the statutes).

In *State ex rel. Watts v. Combined Community Services*, 122 Wis. 2d 65 (1985), the court held that this inconsistency in procedural requirements is unconstitutional. The court stated that the

constitutional guarantee of equal protection requires that the procedural requirements for emergency detention and involuntary commitment under the mental health laws must also be provided to a protectively placed individual who is involuntarily transferred to a mental health facility.

This bill amends ch. 55 to comply with the court's ruling. The bill applies the procedures under the mental health laws concerning emergency detention and involuntary commitment to protectively placed persons in appropriate cases and prohibits the involuntary transfer of protectively placed persons to a mental health treatment facility unless standards and procedures under the mental health laws concerning emergency detention or involuntary commitment are applied.

Definition and Terminology Changes

This bill replaces the term "infirmities of aging" with "degenerative brain disorder" and defines that term and creates definitions of "protective services" and "protective placement."

This bill changes the term "chronic mental illness" in ch. 51 to "serious and persistent mental illness" and defines that term.

This bill deletes the outdated term "mental retardation."

DHFS and County Responsibilities in Ch. 55 System

Current law (s. 55.02) requires the DHFS to establish a statewide system of protective services, in accordance with rules promulgated by DHFS. Current law (s. 55.04) also requires the DHFS to administer certain protective services, as well as evaluate, monitor, and provide protective placements. This bill revises the law to accurately reflect the department's and the county departments' actual roles in the ch. 55 system.

Admissions Without Court Involvement

Current law provides for admissions of persons who are under guardianship to certain facilities without court involvement, including admission of a person to a nursing home, if the person is admitted directly from a hospital inpatient unit for recuperative care for a period not to exceed three months, unless the hospital admission was for psychiatric care. Prior to providing consent to the admission, the guardian of the person to be admitted must review the ward's right to the least restrictive residential environment and consent only to admission to a nursing home that implements those rights. Following the three-month period, a protective placement proceeding under s. 55.06 is required.

This bill does the following:

1. Permits a guardian to consent to a ward's admission to a nursing home, or other facility for which protective placement is required, for a period not to exceed 60 days, without having to be admitted from a hospital setting under certain circumstances.
2. Allows a guardian of a person under a guardianship that was imposed in another state to consent to admissions under current s. 55.05 (5) (b) (which is renumbered to s. 55.055 (2) in the bill) if the ward is currently a resident of Wisconsin, and if a petition for guardianship and protective placement is filed in Wisconsin within 60 days of the person's admission.
3. Creates a new provision that allows a Wisconsin resident guardian of a person who has been found incompetent in, and resides in, another state to consent to admissions under current s. 55.05 (5) (b) (which is renumbered to s. 55.055 (2) in the bill) if the guardian intends to move the ward to Wisconsin within 30 days of the consent to the admission. A petition for guardianship and protective placement must be filed in Wisconsin within 60 days of the person's admission to the Wisconsin facility.

Under current law, s. 50.06 of the statutes creates a procedure for a short-term admission of an incapacitated person to a nursing home from a hospital without having a guardianship or protective placement in place. Admissions are authorized based on the consent of a statutorily specified person,

for a time period not to exceed 60 days. The admission may be extended once for up to 30 days for the purpose of allowing discharge planning for the person to take place.

This bill also creates a provision in s. 50.06 that addresses the situation where an incapacitated person for whom a guardian has not been appointed and who is admitted to a nursing home protests the admission.

Protective Placement Petition Required When Guardianship Petition Filed for Resident of a Nursing Home

The bill codifies the ruling of the Wisconsin Supreme Court in *Agnes T. v. Milwaukee County*, 189 Wis. 2d 520, 525 N.W.2d 268 (1995). In that case, the court stated that a guardian may not consent to the continued residence of a person in a nursing home licensed for 16 or more beds without a protective placement order and that upon appointing a guardian for an incompetent person in a nursing home licensed for 16 or more beds, the court must hold a protective placement hearing.

Fees and Costs of Petition Under Ch. 55

Chapter 55 does not currently specify who is responsible for the attorney fees and costs of a person who files a petition for protective services or placement under s. 55.06 (2). However, s. 880.24 (3) specifies that under certain circumstances, the court must award payment of reasonable attorney fees and costs to a person who petitions for appointment of a guardian and protective placement of the ward if a guardian is appointed.

The bill adds to ch. 55 similar provisions requiring the court to award payment of reasonable attorney fees and costs to a person who petitions for protective services or placement. These provisions apply when a petition for protective placement or services is brought independently of or at the same time as a petition for guardianship.

With respect to guardianships under ch. 880, current law provides that if the court finds that a ward had executed a durable power of attorney or a power of attorney for health care or engaged in other advance planning to avoid guardianship, the court may not award payment of the petitioner's attorney fees and costs from the ward's estate. The bill provides, instead, that the court may consider these items as factors in determining whether to award the payment, both under chs. 55 and 880.

Time Limit for Protective Placement Hearing

The bill specifies that a court must hold a hearing on any petition for protective placement within 60 days after it is filed. The bill provides that the court may extend the date for the hearing by up to 45 days if an extension of time is requested by the petitioner, the individual sought to be placed or his or her guardian ad litem, or the county department.

Attendance at Hearing of Person Sought to be Protected

The bill eliminates the presumption that a person sought to be protectively placed is able to attend the hearing on protective placement. The bill provides instead that the person must be present at the hearing unless the guardian ad litem certifies to the court specific reasons why the person is unable to attend, or certifies that the person is unwilling to participate or is unable to participate in a meaningful way.

The bill also provides that, if the person is unable to attend a hearing because of physical inaccessibility or lack of transportation, the court must hold the hearing in a place where the person may attend, if requested. The bill specifies that the court is *not* required to hold the hearing in the presence of the person sought to be placed if the guardian ad litem certifies that the person is unwilling to participate or unable to participate in a meaningful way.

The bill amends s. 880.08 (1) relating to the appointment of a guardian in the same way.

Procedural Rights in Ch. 55 Proceedings

Currently, s. 55.06 (6) states that s. 880.33 (2), which sets forth certain procedural rights and the right to counsel in a guardianship hearing, applies to all hearings under ch. 55 except hearings regarding certain transfers of placement. The bill deletes that cross-reference and instead inserts the language to which it refers to into appropriate sections of ch. 55.

The bill also replaces the term “county of legal settlement” with the term “county in which the hearing is held,” as recommended by the committee.

Right to an Independent Evaluation in Ch. 55 Proceedings

Current law provides that the individual who is the subject of a guardianship petition, or anyone on the individual’s behalf, has the right to secure an independent medical or psychological examination relevant to the issue involved at the hearing on the petition, and to present a report of this independent evaluation or the evaluator’s personal testimony as evidence at the hearing.

This bill provides the same right to an independent evaluation to an individual who is the subject of a protective placement proceeding.

Duties of Guardian ad Litem in Ch. 55 Proceedings

This bill specifies that the duties of a guardian ad litem in a guardianship proceeding in s. 880.331 also apply to a guardian ad litem in a protective placement proceeding. This bill also creates additional duties of a guardian ad litem in guardianship and protective placement proceedings. The new duties are: to interview the proposed guardian; to make a recommendation to the court regarding the fitness of the proposed guardian; to interview the guardian, if one has already been appointed, of a subject of a petition for protective placement or court-ordered protective services; to inform the court and the petitioner or the petitioner’s counsel, if any, if the proposed ward requests representation by counsel; to attend all court proceedings related to the guardianship; and to notify any guardian of an individual who is the subject of a protective placement proceeding about the hearing on the petition, as well as the right to be present at the hearing, the right to present and cross-examine witnesses, and the right to receive a copy of the evaluations.

Role of Power of Attorney for Health Care in Ch. 55 Proceedings

This bill clarifies the role of the power of attorney for health care in ch. 55 proceedings. It provides that, if a court has made a determination under s. 880.33 (8) (b) that a power of attorney for health care under ch. 155 should remain in effect, and the courts limits the power of the guardian to make health care decisions, the provisions of ch. 55 that confer upon the guardian the rights to notice and participation, and the authority to act, in a proceeding under ch. 55, shall also apply to the health care agent.

Rights of “Interested Persons” in Ch. 55 Proceedings

This bill codifies the Wisconsin Court of Appeals’ decision in *Coston v. Joseph P.*, 586 N.W.2d 52 (Ct. App. 1998), by providing that an interested person may participate in the hearing on the guardianship and protective placement petition at the court’s discretion. In that case, two interested persons, who were relatives of the subject of the petition, asserted that they had a right to participate in the hearing. The court disagreed, saying that the rights of interested persons to participate in guardianship and protective placement hearings are specific and limited. However, the court also stated that circuit courts are not foreclosed from allowing for the participation of interested persons, if the court decided to exercise its discretion to allow interested persons to participate to the extent it would deem appropriate.

Procedures for Protective Services Order

Current law provides that the court may order protective services for an individual for whom a determination of incompetency is made if the individual entitled to the protective services will

otherwise incur a substantial risk of physical harm or deterioration or will present a substantial risk of physical harm to others. However, no procedures are specified in statute for obtaining a court order for protective services.

This bill includes court-ordered protective services under the revised procedural provisions for protective placement.

Procedures for Emergency Protective Services

This bill establishes procedures for obtaining emergency protective services. Under the bill, if the provider of the emergency protective services has reason to believe that protective services must continue to be provided beyond the 72-hour period, a petition for court-ordered protective services may be filed. If a petition is filed, a preliminary hearing must be held within 72 hours, excluding Saturdays, Sundays, and holidays, to establish probable cause to believe that the grounds for court-ordered protective services are present. If probable cause is found, the court may order protective services for up to 60 days, pending a hearing on the petition for court-ordered protective services.

Emergency Protective Placements

This bill makes several changes to the law governing emergency protective placements.

Current law provides that a sheriff, police officer, fire fighter, guardian, or authorized representative of a county board or an agency designated by a county board may make an emergency protective placement of an individual if, *based on their personal observation*, it appears probable that the individual meets the criteria for emergency placement. The bill provides that emergency placement may be made by the persons listed above *based on a reliable report made to them* as well as based on their personal observation.

Current law provides that an individual may be protectively placed on an emergency basis if it appears probable that the individual *will suffer irreparable injury or death or will present a substantial risk of serious physical harm to others* as a result of developmental disabilities, infirmities of aging, chronic mental illness, or other like incapacities. The bill amends this language to provide that an individual described above may be protectively placed on an emergency basis if it appears probable that the individual *is so totally incapable of providing for his or her own care or custody as to create a substantial risk of serious physical harm to himself or herself or others* as a result of developmental disabilities, degenerative brain disorder, serious and persistent mental illness, or other like incapacities if not immediately placed.

Current law provides that a person may be protectively placed on an emergency basis in an appropriate medical or protective placement facility. The bill provides that emergency protective placement may also be made to a hospital.

The bill requires each county department to designate at least one appropriate medical facility, hospital, or other protective placement facility as an intake facility for the purpose of emergency protective placements.

Voluntary Administration of Medication, Including Psychotropic Medication, to an Incompetent Person

Under current law, if the court finds that a person is not competent to refuse psychotropic medication and that the medication is necessary, the court must appoint a guardian to consent to or refuse the medication on behalf of the person and order development of a treatment plan. If the person fails to comply with the treatment plan and if certain conditions are met, the court may authorize the person's guardian to consent to the forcible administration of psychotropic medication to the person.

This bill defines "psychotropic medication" and authorizes the guardian of a nonprotesting ward with whom the guardian has discussed the receipt of medication, including psychotropic medication, to give an informed consent to the voluntary receipt by the ward of the medication, without the necessity of court procedures for approval.

Involuntary Administration of Psychotropic Medication

This bill provides that a guardian may be authorized to consent to involuntary administration of psychotropic medication to a ward and involuntary administration of psychotropic medication as a protective service if certain requirements are met.

Petition

The bill requires a petition for involuntary administration of psychotropic medication to meet all requirements for a protective services petition under ch. 55 and the following allegations.

1. A physician has prescribed psychotropic medication for the person.
2. The person is not competent to refuse psychotropic medication.
3. The person has refused to take the medication voluntarily or attempting to administer the medications to the person voluntarily is not feasible or is not in the person's best interests.
4. The person's condition for which psychotropic medication has been prescribed is likely to be improved by psychotropic medication and the person is likely to respond positively to psychotropic medication.
5. That unless psychotropic medication is administered involuntarily, the person will incur an immediate or imminent substantial probability of physical harm, impairment, injury, or debilitation or will present a substantial probability of physical harm to others.

The bill requires the petition to include a written statement containing certain information signed by a physician who has personal knowledge of the person

Guardian ad Litem Report

The bill requires the guardian ad litem appointed for a person who is the subject of a petition for involuntary administration of psychotropic medication as a protective service to provide a report to the court containing certain information.

Appointment of Legal Counsel

The bill requires the court to appoint legal counsel on behalf of a person who is the subject of a petition for involuntary administration of psychotropic medication as a protective service.

Independent Evaluation

The bill provides that if requested by the person who is the subject of the petition, or anyone on his or her behalf, the person has the right to an independent medical or psychological evaluation relevant to the person's competency to refuse psychotropic medication, whether the allegations in the petition pertaining to the person's dangerousness are true, and whether involuntary administration of psychotropic medication is in the best interest of the person. The person may present the independent evaluation as evidence at the hearing. The evaluation must be performed at the expense of the person who is the subject of the petition unless the person is indigent, in which case it shall be performed at the expense of the county where the petition is filed.

Court Order

The bill provides that the court may authorize a guardian to consent to involuntary administration of psychotropic medication to a ward and may order involuntary administration of psychotropic medication to the person as a protective service, with the guardian's consent, if the court or jury finds that all requirements have been met, psychotropic medication is necessary for treating the

specific condition outlined in the physician's statement and all other requirements for ordering protective services under ch. 55 have been met.

The order must specify the methods of involuntary administration to which the guardian may consent. An order authorizing the forcible restraint of a person must require a registered nurse, a licensed practical nurse, a physician or a physician's assistant to be present at all times that psychotropic medication is administered in this manner.

The court must also order development of a treatment plan and order the county department or an agency designated by it to ensure that psychotropic medication is administered in accordance with the treatment plan.

Enforcement

The bill specifies that if a person who is subject to an order refuses to take the medication and it is necessary for the person to be transported to an appropriate facility so that the person may be forcibly restrained for administration, the corporation counsel may file a statement of noncompliance with the court. The court may authorize the sheriff or other law enforcement agency to take the person into custody and transport the person to an appropriate facility for administration of psychotropic medication using forcible restraint, with consent of the guardian.

Annual Review of Order Authorizing Involuntary Administration of Psychotropic Medication

The bill specifies an order authorizing a guardian to consent to involuntary administration of psychotropic medication as a protective service must be reviewed by the court annually under generally the same procedure that protective placements are reviewed ("Watts" reviews), using generally the same standards that apply to issuance of an initial order.

Other Provisions

The bill repeals the following statutory provisions in ch. 880, relating to a guardian's authority to consent to administration, including forcible administration, of psychotropic medication to a ward: (1) s. 880.01 (7m), which defines "not competent to refuse psychotropic medication" for purposes of ch. 880; (2) s. 880.07 (1m), which sets forth required contents of a petition alleging that a person for whom guardianship is sought is not competent to refuse psychotropic medication; and (3) s. 880.33 (4m) and (4r), which set forth procedures under which the guardian may consent to or refuse psychotropic medication on behalf of the ward, including consent to forcible administration of psychotropic medication.

The bill specifies that any orders issued under those provisions remain in effect until modified or terminated by the court and are subject to annual review.

The bill specifies that involuntary administration of psychotropic medication may be ordered as an emergency protective service.

The bill requires counties to provide to the department a copy of any order for involuntary administration of psychotropic medications to any protectively placed person in the county.

The bill requires the DHFS to annually submit to the legislature a report regarding orders for involuntary administration of psychotropic medication.

Involuntary Administration of Medication and Involuntary Medical Treatment Other Than Psychotropic Medication

The bill authorizes a guardian to consent, without further court involvement, to involuntary administration of medication, other than psychotropic medication, and involuntary medical treatment that is in the ward's best interest. In determining whether medication or medical treatment is in the

ward's best interest, the guardian shall consider the invasiveness of the medication or treatment and the likely benefits and side effects of the medication or treatment.

Transfers of Protectively Placed Persons

Under current law, a person who is protectively placed in a facility may be transferred between placement units or from a placement unit to a medical facility (other than a locked unit or a facility providing acute psychiatric treatment) by a guardian or placement facility without approval by a court. When a transfer is made by a placement facility, 24 hours' prior written notice of the transfer shall be provided to the guardian, when feasible. If that is not feasible, written notice must be provided immediately upon transfer, and notice must also be provided to the court and the board under s. 55.02, or the board's designated agency, within a reasonable period of time not to exceed 48 hours from the time of transfer.

Currently, if a guardian, ward or attorney, or other interested person objects to the transfer by petition, the court must order a hearing within 96 hours after filing of the petition, to determine whether the transfer is consistent with the requirements in s. 55.06 (9) (a) and is necessary for the best interests of the ward.

This bill creates definitions of "placement facility" and "placement unit."

This bill provides that transfers between placement units, between placement facilities, or from a placement facility to a medical facility (other than a psychiatric facility), may be made by a county department or the DHFS, in addition to a guardian or placement facility. Ten days' prior written notice must be given to the guardian, the county department, the department, and the placement facility. Further, this bill requires that the transferring entity must obtain the prior written consent of the guardian. In an emergency, written notice must be provided immediately upon transfer.

The bill requires an entity who seeks a transfer to obtain the prior written consent of the county department if the transfer is to a facility that is more costly to the county, except in an emergency.

If an individual under protective placement, the individual's guardian or attorney, or other interested person files a petition specifying objections to a transfer, the court must order a hearing within 10 days. The purpose of the hearing is to determine whether the proposed placement meets the standards of s. 55.12; is in the least restrictive environment consistent with the person's needs and with the factors in s. 55.12 (3), (4), and (5) or, if the transfer is to an intermediate facility or nursing facility, is in the most integrated setting; and is in the best interests of the ward.

The bill also sets forth the options for a court order on a transfer petition.

Modification and Termination of Protective Placements

Current law sets forth limited procedures for modification and termination of a protective placement. That statute allows the department, an agency, a guardian or ward, or any other interested person to petition the court for modification or termination of a protective placement at any time. The petition must be heard if a hearing has not been held within the previous 6 months but a hearing may be held at any time in the discretion of the court. The petition must be heard within 21 days of its receipt by the court.

This bill provides more detailed procedures for modification or termination of a protective placement or an order for protective services.

The bill requires the following:

Modification of Protective Placement

A petition for modification of an order for protective placement may be filed by an individual subject to a protective placement; the individual's guardian or guardian ad litem; the DHFS; the county

department that placed the individual; a contractual agency; or any interested person. The petition must be served on the individual; the individual's guardian; the individual's legal counsel and guardian ad litem, if any; and the county department. The petition must contain specific allegations, and a hearing must be held within 21 days if a hearing on a protective placement petition or transfer has not been held within the previous six months. The hearing must comply with the requirements of s. 55.10 (4), which sets forth rights in a protective placement proceeding.

The order must contain specific findings regarding whether the person currently meets the standard for protective placement or court-ordered protective services. If the person continues to meet the standard for protective placement or court-ordered protective services, the court must either continue the order or modify the order so that the placement or services are consistent with the person's needs if the person's needs have changed. If the person does not meet the standard for protective placement or protective services, the order must require termination of the protective placement or court-ordered protective services. Notice of the order must be provided to the individual; the individual's guardian, guardian ad litem, and legal counsel, if any; and the residential facility, if the person receives services in such a facility.

Termination of Protective Placement or Court-Ordered Protective Services

The provisions described above pertaining to who may petition, the contents of the petition, service of the petition, and requirement for conducting the hearing for modification of protective placement or court-ordered protective services apply to petitions for termination of placement or services.

The court may make one of the following orders after a hearing on a petition for termination of protective placement or services:

1. If the individual continues to meet the standards under s. 55.08 (1) and the placement is in the least restrictive environment consistent with the person's needs and with the factors under s. 55.12 (3), (4), and (5), order continuation of the person's protective placement in the same facility.

2. If the individual continues to meet the standards under s. 55.08 (1) but the placement is not in an environment consistent with the person's needs and with the factors under s. 55.12 (3), (4), and (5), the court shall transfer the person to a facility that is in the least restrictive environment consistent with the person's needs and with the factors in current s. 55.12 (3), (4), and (5). In addition to this option, the court may also order protective services.

3. If the individual no longer meets the standard in current s. 55.06 (2), the court shall terminate the protective placement. If the placement is terminated, the court must either order protective services or ensure the development of a proper living arrangement for the person if the individual is being transferred or discharged from his or her current residential facility.

If the person who is the subject of the petition is under an order for protective services, the court may order continuation of the protective services order if the person continues to meet the standard under s. 55.08 (2); order that the protective services be provided in a manner more consistent with the person's needs; or terminate the order for protective services if the person no longer meets the standard under s. 55.08 (2).

Annual Reviews of Protective Placements

This bill establishes the requirements and procedures for annual reviews of protective placements as required by *State ex rel. Watts v. Combined Community Services*, 122 Wis. 2d 65, 365 N.W.2d 104 (1985) and *County of Dunn v. Goldie H.*, 245 Wis. 2d 538, 629 N.W.2d 189 (2001).

County Department Review and Report

The bill requires the county department of the county of residence of any individual who is protectively placed to annually review the status of the individual.

The county review must include a written evaluation of the physical, mental, and social condition of the individual and the service needs of the individual. The county department must inform the individual's guardian of the review and invite the individual and his or her guardian to submit comments concerning the individual's need for protective placement or protective services. In performing the review, the county department or contractual agency staff member performing the review must visit the individual and must contact the individual's guardian. The review may not be conducted by a person who is an employee of the facility in which the individual resides.

The county must prepare and file a report containing information on all of the following:

1. The functional abilities and disabilities of the individual at the time the review is made including the needs of the individual for health, social, or rehabilitation services, and the level of supervision needed.
2. The ability of community services to provide adequate support for the individual's needs.
3. The ability of the individual to live in a less restrictive setting.
4. Whether sufficient services are available to support the individual and meet the individual's needs in the community and if so, an estimate of the cost of such services, including the use of county funds.
5. Whether the protective placement order should be terminated or the individual should be placed in a different residential facility.
6. A summary of the comments of the individual and the individual's guardian and the county's response to those comments.
7. The comments, if any, of any staff member at the facility in which the individual is placed which are relevant to the review of the individual's placement.

Responsibilities of the Guardian Ad Litem

The court is required to appoint a guardian ad litem who must do all of the following:

1. Review the report filed by the county, the annual report of the guardian, and any other relevant reports on the individual's condition and placement.
2. Meet with the individual and contact the individual's guardian and explain to the individual and guardian rights and procedures in the annual review all of the following:
3. Review the individual's condition, placement, and rights with the individual's guardian.
4. Ascertain whether the individual wishes to exercise any of his or her legal rights.
5. File a written report with the court which includes a discussion of whether the individual appears to continue to meet the standards for protective placement and whether the protective placement is in the least restrictive environment that is consistent with the individual's needs. The report must also state whether any of the following have been requested: an independent evaluation; modification or termination of the protective placement; appointment of legal counsel for the individual; or a full due process hearing.

Court Review of Reports, Hearing, and Order

The court must review the reports of the county and the guardian ad litem, and the annual report filed by the guardian, and determine whether any of the following is necessary: performance of an independent evaluation; obtaining any other information with respect to the individual; appointment of legal counsel; or a full due process hearing.

Upon completion of its review, the court must order either a summary hearing or a full due process hearing.

Following the hearing, the court must do one of the following:

1. Order the continuation of the individual's protective placement in the facility in which he or she resides at the time of the hearing.
2. Order transfer of protective placement to a less restrictive residential facility or order the county department of residency to develop or recommend a less restrictive protective placement.
3. Terminate the protective placement.

The bill provides that any individual whose protective placement is terminated pursuant to an annual review may reside in his or her current residential facility for up to 60 days after the termination in order to arrange for alternative living. If the residential facility has fewer than 16 beds, the individual may remain in the residential facility as long as the requirements of current s. 55.05 (5) are met. The bill specifies that admission of the individual, if an adult, to another residential facility, must be under s. 55.05 (5).

The bill requires the court to provide a copy of its order to the individual, the individual's guardian, guardian ad litem and legal counsel, the residential facility in which the individual is protectively placed, and the county department.

Establishment of County Policy

This bill requires each county protective services agency to ensure that no later than December 31, 2004, the county establishes a written policy that specifies procedures to be followed in the county which are designed to ensure that reviews of all protectively placed persons residing in the county are conducted annually. The county protective services agency must maintain a copy of the written policy and must make the policy available for public inspection.

Statement Required

The bill also requires the register in probate to file with the chief judge of the judicial administrative district a statement indicating whether the county has filed a petition and a report for each annual review required to be undertaken for protectively placed persons in the county that year. The statement must include an explanation of the reasons that any required report or petition has not been filed.

Appointment of Legal Counsel in Protective Placement Proceedings

Under current law, s. 55.06 (6), relating to procedures in protective placement proceedings, provides that s. 880.33 (2) applies to all hearings under ch. 55 except for transfers of protective placements. Section 880.33 (2) (a) 1. provides that the proposed ward has the right to counsel in incompetency proceedings. Section 880.33 (2) (a) 2. further provides that if the person requests, but is unable to obtain legal counsel, the court shall appoint legal counsel. The statutes also provide that if the person is represented by counsel appointed under s. 977.08 in a proceeding for a protective placement under s. 55.06, the court shall order the counsel appointed under s. 977.08 to represent the person.

Although ch. 55 does not explicitly provide for counsel appointed under s. 977.08 in case of an indigent subject, the language in s. 880.33 (2) (a) 2. implies that counsel should be appointed. Further, s. 55.06 (11), relating to emergency protective placements, clearly provides for counsel appointed under s. 977.08 in the case of an indigent subject. Finally, it is the practice in this state to appoint counsel under s. 977.08 in the case of an indigent subject of a ch. 55 petition.

This bill amends the public defender statute that sets forth to whom the state public defender must provide legal services by clearly setting forth the requirement that the state public defender

provide legal services in cases involving persons who are subject to petitions for protective placement under ch. 55. This codifies current practice.

Committee and Joint Legislative Council Votes

This Appendix identifies the votes by the Special Committee on Recodification of Ch. 55, Placement and Services for Persons With Disabilities to the Joint Legislative Council on the proposal that was approved by the Special Committee for recommendation to the Joint Legislative Council for introduction in the 2005-06 Session of the Legislature.

Special Committee Votes

The following draft was recommended by the Special Committee on Recodification of Ch. 55, Placement and Services for Persons With Disabilities to the Joint Legislative Council for introduction in the 2005-06 Session of the Legislature:

- WLC: 0220/2, relating to reorganizing and revising ch. 55 of the statutes, was recommended by a vote of Ayes, 9 (Senators Wirch and Hansen; Representatives Jeskewitz and Miller; and Public Members Abramson, Greenley, Huelsman, Seltzer, and Thornton); and Noes, 4 (Public Members Barthen, Blackburn, Cox, and Underwood).

Joint Legislative Council Votes

At its March 9, 2005 meeting, the Joint Legislative Council voted as follows on the recommendation of the Special Committee:

- WLC: 0220/2, relating to reorganizing and revising ch. 55 of the statutes. The motion to introduce was adopted by a vote of Ayes, 18 (*Reps. Wieckert, Ainsworth, Freese, Gard, Huebsch, Kaufert, Nischke, Pohan and Schneider; and Sens. Lasee, Brown, Decker, Kapanke, Miller, Risser, Robson, Schultz and Zien*); Noes, 1 (*Sen. Grothman*); and Excused, 3 (*Reps. Kreuser and Travis; and Sen. Fitzgerald*).

[Sen. Fitzgerald and Reps. Kreuser and Travis noted that had they been present, they would have voted "aye" on the draft.]

The proposal that the Joint Legislative Council voted to introduce was subsequently introduced as 2005 Assembly Bill 785.

Appendix 2

Joint Legislative Council

[Joint Legislative Council Members Who Selected and Appointed Committee and Its Membership]

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DEAN KAUFERT

1360 Alpine Lane
Neenah, WI 54956

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees. [s. 13.81, Stats.]

Joint Legislative Council

[Current Joint Legislative Council Members Receiving Committee Report]

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This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees. [s. 13.81, Stats.]

**Recodification of Ch. 55, Placement and Services
for Persons With Disabilities**

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Kevin C. Underwood
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STUDY ASSIGNMENT: The Committee is directed to conduct a recodification of ch. 55, Stats. The recodification may include a review of court decisions relating to the chapter to determine whether the court decisions should be codified as is or with modifications. The Special Committee should also examine the different interpretations of ch. 55, Stats., that have arisen over time and determine which practices could be applied statewide and examine areas of ch. 55 that are unclear or vague and require clarification.

Established and Co-Chairs appointed by a May 22, 2002 mail ballot; members appointed by a July 15, 2002 mail ballot.

13 MEMBERS: 2 Senators; 2 Representatives; and 9 Public Members.

LEGISLATIVE COUNCIL STAFF: Laura Rose, Deputy Director; Mary Matthias, Senior Staff Attorney; and Rachel Veum, Support Staff.

* Formerly a Senator on the Special Committee; appointed as a Public Member by a December 18, 2002 mail ballot.

Committee Materials List

February 6, 2004 Mail Ballot

[Mail Ballot](#)

[WLC: 0220/1](#), relating to reorganizing and revising ch. 55 of the statutes

[WLC: 0143/7](#), relating to adult protective services

[Memorandum](#), *Revisions to WLC: 0143/6, Relating to Adult Protective Services*, from Laura Rose (2-6-04)

[Memorandum](#), *Proposed Language Changes Concerning A "Legal Representative,"* from Kevin D. Bailey, Attorney, Office of Legal Counsel, Department of Health and Family Services (12-23-03)

December 5, 2003 Meeting

[WLC: 0143/6](#), relating to adult protective services

[WLC: 0220/P1](#), relating to placement and services for persons with disabilities

[Letter](#), *WLC: 0212/1, Revisions to Chapter 55 Regarding Residency, Venue and County of Responsibility*, from Dyann Hafner, Assistant Corporation Counsel, Office of the Corporation Counsel (October 6, 2003)

[Letter](#), *Suggested modifications to the revisions to WLC: 0220/1 proposed by Dyann Hafner, Dane County Assistant Corporation Counsel*, from Michael A. Peters, DHFS Residency Coordinator, Office of the Administrator (December 5, 2003)

September 22, 2003 Meeting

[WLC: 0036/4](#), relating to involvement of certain health care agents in protective placement proceedings

[WLC: 0054/7](#), relating to annual reviews of protective placements

[WLC: 0125/4](#), relating to authorizing a guardian to consent to involuntary administration of psychotropic medication; ordering involuntary administration of psychotropic medication as a protective service; and authority of a guardian to consent to involuntary administration of other medications and involuntary medical treatment

[WLC: 0133/5](#), relating to transfers of protectively placed persons and modification and termination of protective placements and court-ordered protective services

[WLC: 0143/5](#), relating to adult protective services

[WLC: 0217/1](#), relating to annual review of an order authorizing involuntary administration of psychotropic medication

[Letter](#) to **Wisconsin Supreme Court** recommending adoption of SCR chapter 36 (7-30-03)

[Letter](#), from George F. Potaracke, Director and Wisconsin State Ombudsman, State of Wisconsin Board on Aging and Long Term Care (9-18-03)

[Memorandum](#), *Responses to Questions asked by Dianne Greenley as a member of the Legislative Council's Chapter 55 Study Committee*, from Mike Peters, Coordinator of Special Investigations (9-18-03)

[Handout](#), Legal Residency in Wisconsin, prepared by Michael A. Peters, Residency Coordinator, Wisconsin Department of Health and Family Services, Division of Supportive Living

[Handout](#), A Guide to Residency in Wisconsin, prepared by Michael A. Peters, Residency Coordinator, Wisconsin Department of Health and Family Services, Division of Supportive Living

[Memorandum](#), Emergency Detention Services for Non-Wisconsin Residents and Procedures for Reimbursement Authorization, from Sinikka McCabe, Administrator, Division of Supportive Living, and Laura Flood, Administrator, Division of Care and Treatment Facilities, submitted by Michael A. Peters, Residency Coordinator, Wisconsin Department of Health and Family Services, Division of Supportive Living (11-14-02)

[Excerpt](#), Section 51.22, Stats., Care and custody of persons, submitted by Michael A. Peters, Residency Coordinator, Wisconsin Department of Health and Family Services, Division of Supportive Living

[Excerpt](#), Material Taken From Emergency Detention of Non-Wisconsin Residents Memo Series Document, submitted by Michael A. Peters, Residency Coordinator, Wisconsin Department of Health and Family Services, Division of Supportive Living

[Draft Memo](#), Residency Determinations Pursuant to s. 51.40, Stats. and Administrative Determinations, from Sinikka McCabe, Administrator, Division of Disability and Elder Services, submitted by Michael A. Peters, Residency Coordinator, Wisconsin Department of Health and Family Services, Division of Supportive Living

July 24, 2003 Meeting

[WLC: 0036/3](#), relating to involvement of certain health care agents in protective placement proceedings

[WLC: 0054/6](#), relating to annual reviews of protective placements.

[WLC: 0133/4](#), relating to transfers of protectively placed persons and modification and termination of protective placements and court-ordered protective services

[WLC: 0143/4](#), relating to adult protective services

[WLC: 0206/1](#), an amendment to WLC: 0143/4 (Working Group Recommendation #1), relating to adult protective services

[WLC: 0207/1](#), an amendment to WLC: 0143/4 (Working Group Recommendation #2), relating to adult protective services

[WLC: 0208/1](#), an amendment to WLC: 0027/1, relating to certain procedural rights in a hearing for protective placement

[WLC: 0209/1](#), an amendment to WLC: 0031/4, relating to participation of an interested person in a guardianship and protective placement proceeding

[WLC: 0210/1](#), relating to public defender representation in cases involving person subject to petitions for protective placement or services under ch. 55

[WLC: 0211/1](#), relating to consent by a legal representative for participation in the community integration program for residents of state centers

[WLC: 0212/1](#), relating to venue, residency, and county of responsibility for certain proceedings under chs. 51, 55, and 880

June 16, 2003 Meeting

[WLC: 0036/2](#), relating to involvement of certain health care agents in protective placement proceedings

[WLC: 0054/5](#), relating to annual reviews of protective placements

[WLC: 0125/3](#), relating to authorizing a guardian to consent to involuntary administration of psychotropic medication; ordering involuntary administration of psychotropic medication as a protective service; and authority of a guardian to consent to involuntary administration of other medications and involuntary medical treatment

[WLC: 0133/3](#), relating to transfers of protectively placed persons and modification and termination of protective placements and court-ordered protective services

[WLC: 0143/3](#), relating to adult protective services

[WLC: 0145/2](#), relating to vulnerable adult restraining orders

[WLC: 0160/2](#), relating to requiring counties to establish a policy and requiring a register in probate to file annual statements regarding annual reviews of protective placements

[Memorandum, Watts Reviews and Tribal Courts](#), to Linda Dawson, Deputy Chief Legal Counsel, Department of Health and Family Services (DHFS), from Smith Carlson, Legal Counsel, DHFS (06-11-03)

[Letter](#) to Representative Mark Miller, from Helen Marks Dicks, Director, Elder Law Center (06-12-03)

[Chart, Signs of Adult Abuse, Who Must Report and to Whom Must They Report?](#), submitted by Helen Marks Dicks, Director, Elder Law Center (10-00)

May 19, 2003 Meeting

[WLC: 0036/2](#), relating to involvement of certain health care agents in protective placement proceedings

[WLC: 0054/4](#), relating to annual reviews of protective placement

[WLC: 0122/2](#), relating to involuntary transfers of protectively placed individuals to treatment facilities, voluntary admissions to treatment facilities, and voluntary receipt of medication by persons who are adjudicated incompetent

[WLC: 0125/2](#), relating to authorizing a guardian to consent to involuntary administration of psychotropic medication; ordering involuntary administration of psychotropic medication as a protective service; and authority of a guardian to consent to involuntary administration of other medications and involuntary medical treatment

[WLC: 0133/2](#), relating to transfers of protectively placed persons and modification and termination of protective placements and court-ordered protective services

[WLC: 0143/2](#), relating to adult protective services

[WLC: 0145/1](#), relating to vulnerable adult restraining orders

[WLC: 0160/1](#), relating to requiring counties to establish a policy regarding annual reviews of protective placements

[Letter](#) to **Wisconsin Supreme Court** recommending adoption of SCR chapter 36 (5-12-03)

[Petition, In re creation of SCR Chapter 36](#), related to required training for guardians ad litem of adults, from Betsy Abramson (undated)

[Packet, Watts Reviews and Family Care](#), from Dianne Greenley (4-15-03)

[Letter](#) from **Brown County Vulnerable Adults Interdisciplinary Team** (4-2-03)

[Handout, 42 CFR 441.302 - Waiver Requirements for Medical Assistance Home and Community-](#)

Based Services, submitted by Kevin Underwood

[Packet](#) containing documents re: "guardian" and "legal representative," submitted by Kevin Underwood

[Handout](#), **Freedom of Choice in Home and Community-Based Waiver Services**, submitted by Irene Anderson, Bureau of Aging and Long Term Care, DHFS

April 4, 2003 Meeting

[WLC: 0031/4](#), relating to specifying the procedures for ordering protective services and emergency protective services

[WLC: 0036/2](#), relating to involvement of certain health care agents in protective placement proceedings

[WLC: 0054/3](#), relating to annual reviews of protective placements

[WLC: 0122/1](#), relating to involuntary transfers of protectively placed individuals to treatment facilities, voluntary admissions to treatment facilities, and voluntary receipt of medication by persons who are adjudicated incompetent

[WLC: 0125/1](#), relating to a court order for involuntary administration of medication as a protective service

[WLC: 0133/1](#), relating to transfers of protectively placed persons and modification and termination of protective placements and court-ordered protective services

[WLC: 0140/1](#), relating to changing the term chronic mental illness to serious and persistent mental illness

[WLC: 0143/1](#), relating to adult protective services

[Memorandum](#), **Chapter 55 Placements at the Mental Health Institutes**, from Dianne Greenley (2-11-03)

[Memorandum](#), **WCA Objectives in Any Amendments to 55.06**, from Dianne Greenley, Lynn Breedlove, Mitchell Hagopian, Wisconsin Coalition for Advocacy (2-20-03)

[Letter](#), **Special Committee on Recodification of Chapter 55**, from Todd Liebman (3-3-03)

[Memorandum](#), **Removal of Protective Placements & Community Based Service Waivers Program for Individuals With Developmental Disabilities**, submitted by Public Member Kevin Underwood

January 31, 2003 Meeting

[WLC: 0025/3](#), relating to responsibility for certain costs related to a petition for protective services or placement

[WLC: 0026/3](#), relating to requiring a protective placement petition to be filed when a guardian is appointed for a person residing in a facility licensed for 16 or more beds

[WLC: 0031/3](#), relating to specifying the procedures for ordering protective services and emergency protective services

[WLC: 0032/3](#), relating to specifying the duties of a guardian ad litem in a proceeding to order protective placement or protective services

[WLC: 0054/2](#), relating to annual reviews of protective placements

[WLC: 0071/2](#), relating to providing notice of transfers of protective placements

[WLC: 0072/2](#), relating to the modification and termination of protective placement

[WLC: 0122/1](#), relating to mental health treatment

[WLC: 0125/1](#), relating to involuntary administration of medication

[Handout](#), Proposal to Amend Wisconsin Laws Related to Vulnerable Adults Restraining Orders - secs. 813.123 and 55.043, Stats., Betsy Abramson

[Handout](#), Residency, Venue and County of Responsibility, Betsy Abramson

[Memorandum](#), Opposition to WLC: 0025/2, Relating to Involuntary Payment of Petitioner's Attorney's Fees by Ward Who Opposes the Guardianship, prepared by Bob Andersen, Legal Action of Wisconsin, Inc.

[Handout](#), Fees and Costs of the Petitioner in a Guardianship Case, prepared by Patricia Jursik

[Memorandum](#), Senate Bill 257 - Payment of Attorney Fees in Guardianship Cases, prepared by Dianne Greenley

[E-mail](#), from Ed Fischer (January 16, 2003)

December 9, 2002 Meeting

[WLC: 0024/2](#), relating to requiring a court to hold a hearing on a petition for protective placement or services within 60 days

[WLC: 0025/2](#), relating to responsibility for certain costs related to a petition for protective services or placement

[WLC: 0026/2](#), relating to requiring a protective placement petition to be filed when a guardian is appointed for a person residing in a nursing home licensed for 16 or more beds

[WLC: 0031/2](#), relating to specifying the procedures for ordering protective services and emergency protective services

[WLC: 0032/2](#), relating to specifying the duties of a guardian ad litem in a proceeding to order protective placement or protective services

[WLC: 0035/2](#), relating to permitting the subject of a protective placement proceeding to secure an independent evaluation

[WLC: 0037/2](#), relating to creating definitions of degenerative brain disorder, protective services, and protective placement

[WLC: 0041/2](#), relating to admissions without court involvement

[WLC: 0054/1](#), relating to annual reviews of protective placements

[WLC: 0071/1](#), relating to providing notice of transfers of protective placements

[WLC: 0072/1](#), relating to the modification and termination of protective placement

[Handout](#), **Adult Protective Services (APS) Modernization Project - Proposed Statutory Changes**, Department of Health and Family Services

[Handout](#), **Kevin Underwood**

December 3, 2002 Working Group Meeting

[Memo No. 5](#), **Attorney General Opinion (OAG 5-99), Relating to Psychotropic Medication (9-18-02)**

[Draft memorandum](#) of the DHFS Forcible Administration of Medication Workgroup (11-7-01)

[LRB-1358/3](#), relating to involuntary transfers of protectively placed individuals to treatment facilities, voluntary admissions to treatment facilities, and voluntary receipt of medication by persons who are adjudicated incompetent

[Memorandum](#), Issues relating to mental health treatment for persons under guardianship, prepared by Dianne Greenley

[Notice](#) of **Working Group** meeting

October 30, 2002 Meeting

[WLC: 0024/1](#), relating to requiring a court to hold a hearing on a petition for protective placement or services within 60 days

[WLC: 0025/1](#), responsibility for certain costs related to a petition for protective services or placement

[WLC: 0026/1](#), requiring a protective placement petition to be filed when a guardian is appointed for a person residing in a nursing home licensed for 16 or more beds

[WLC: 0027/1](#), certain procedural rights in a hearing for protective placement

[WLC: 0028/1](#), the attendance of the person sought to be placed at a hearing on protective placement

[WLC: 0028/2](#), the attendance of the person sought to be placed at a hearing on protective placement

[WLC: 0029/1](#), replacing the term county of legal settlement with the county in which the hearing is held

[WLC: 0030/1](#), specifying the duties of the Department of Health and Family Services and county departments in the protective services and protective placement system

[WLC: 0031/1](#), specifying the procedures for ordering protective services

[WLC: 0032/1](#), requiring the guardian ad litem to notify the guardian of a ward who is subject to a protective placement proceeding of the guardian's right to participate in the proceedings

[WLC: 0033/1](#), transfers from a locked unit to a less restrictive environment

[WLC: 0034/1](#), participation of an interested person in a guardianship and protective placement proceeding

[WLC: 0035/1](#), permitting a ward who is the subject of a protective placement proceeding to secure an independent medical or psychological evaluation

[WLC: 0036/1](#), including a health care agent in the definition of interested person

[WLC: 0037/1](#), creating definitions of degenerative brain disorder, protective services, and protective placement

[WLC: 0038/1](#), revising the declaration of policy in chapter 55 of the statutes

[WLC: 0041/1](#), relating to admissions without court involvement

[WLC: 0042/1](#), relating to objections to short-term nursing home admissions

[WLC: 0043/1](#), relating to emergency protective placements

September 26, 2002 Meeting

[Memo No. 2](#), **Preliminary Outline of Issues Relating to the Recodification of Ch. 55, Stats.** (9-18-02)

[Memo No. 3](#), **The Olmstead Decision** (9-18-02)

[Memo No. 4](#), **Ch. 880, Guardians and Wards** (9-18-02)

[Memo No. 5](#), **Attorney General Opinion (OAG 5-99), Relating to Psychotropic Medication** (9-18-02)

[Memo No. 6](#), **Selected Provisions of Ch. 51, Stats., Mental Health Act** (9-25-02)

August 22, 2002 Meeting

[Staff Brief 02-3](#), **Background Information on the Recodification of Ch. 55, Stats.** (8-15-02)

[Memo No. 1](#), **Ch. 55, Protective Service System** (8-15-02)

[Testimony](#), **Linda Dawson**, Deputy Legal Counsel, Department of Health and Family Services, and [handout](#)

[Testimony](#), **Lynn Breedlove**, Wisconsin Council on Long Term Care, ADA Title II Advisory Committee

[Testimony](#), **Roy Froemming**, Housing Trust Attorney, Movin' Out, Inc.