

State of Misconsin 2017 - 2018 LEGISLATURE

January 2017 Special Session

LRB-1328/1 TJD:amn

## **ASSEMBLY BILL 5**

February 17, 2017 - Introduced by COMMITTEE ON ASSEMBLY ORGANIZATION, Representatives NYGREN, E. BROOKS, VANDERMEER, TRANEL, RIPP, QUINN, PETRYK, KLEEFISCH, SWEARINGEN, SKOWRONSKI, FIELDS, KULP, ALLEN, SPIROS, FELZKOWSKI, MURSAU, HORLACHER, ROHRKASTE, TUSLER, EDMING, KRUG, PETERSEN, JAGLER, RODRIGUEZ, BORN, MURPHY, BALLWEG, GENRICH, BERNIER and KNODL, cosponsored by Senators DARLING, VUKMIR, HARSDORF, TESTIN, OLSEN, WANGGAARD, L. TAYLOR, WIRCH and LASEE, by request of Governor Scott Walker. Referred to Committee on Judiciary.

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

#### Analysis by the Legislative Reference Bureau

This bill extends comprehensive programs established by the Department of Health Services, voluntary treatment, treatment and other services, certain emergency and involuntary commitment procedures, and civil rights among other services to those persons who are drug dependent. Currently, those provisions and services apply only to alcoholics and those who are intoxicated as a result of the use of alcohol.

The current emergency detention criteria and procedures for alcoholics and intoxicated persons, which are different from the traditional emergency detention criteria and procedures, specify that either an intoxicated person who has threatened, attempted, or inflicted physical harm on himself or herself or another and is likely to inflict physical harm unless committed or a person incapacitated by alcohol may be committed and brought to a facility for emergency treatment upon the petition of an individual and pending a preliminary hearing, which the court must schedule within 48 hours of receipt of the petition. Currently, three adults may petition the court for involuntary commitment of a person for use of alcohol, which is a separate procedure from a traditional involuntary commitment procedure. The petition for involuntary commitment must 1) allege habitual lack of self-control as to the use of alcohol to the extent that health is substantially impaired or endangered and social or economic functioning is substantially disrupted; 2) allege that the person's condition is evidenced by a pattern of conduct that is dangerous to the person or others; 3) state that the person is a child or state facts sufficient for a determination of indigency; 4) be supported by the affidavit of each petitioner who has personal knowledge of the factual basis for the allegations; and 5) contain a statement of each petitioner who does not have personal knowledge for the basis of his or her belief. The court must set a preliminary hearing on the petition to determine whether there is probable cause to believe that the allegations in the petition are true and then, if probable cause is found, must set a full hearing on the involuntary commitment. The bill extends these emergency and involuntary commitment procedures to persons who have drug dependence, who are incapacitated by use of other drugs, and who habitually lack self-control as to the use of drugs. The bill does not change the current criteria or procedures for involuntary commitment of a drug dependent person under the traditional involuntary commitment for treatment provision.

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

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

1	<b>SECTION 1.</b> 46.031 (2r) (a) 3. of the statutes is amended to read:
2	46.031 (2r) (a) 3. Is for the treatment of alcoholics or persons who are drug
3	<u>dependent</u> in treatment facilities which have not been approved by the department
4	in accordance with s. 51.45 (8).
5	<b>SECTION 2.</b> 46.04 (1) (b) of the statutes is amended to read:

1	46.04 (1) (b) "Drug dependent" has the meaning specified under s. 51.01 $(8)$
<b>2</b>	<u>(8b)</u> .
3	<b>SECTION 3.</b> 46.28 (1) (b) of the statutes is amended to read:
4	46.28 (1) (b) "Chronically disabled" means any person who is alcoholic,
5	developmentally disabled, drug dependent, or mentally ill, as defined in s. $51.01(1)$ ,
6	(5), (8) (8b), and (13), or any person who is physically disabled.
7	<b>SECTION 4.</b> 48.02 (5g) of the statutes is amended to read:
8	48.02 (5g) "Drug dependent" has the meaning given in s. 51.01 (8) (8b).
9	<b>SECTION 5.</b> 48.20 (6) of the statutes is amended to read:
10	48.20 (6) If the child is believed to be an intoxicated person who has threatened,
11	attempted, or inflicted physical harm on himself or herself or on another and is likely
12	to inflict such physical harm unless committed, or is incapacitated by alcohol <u>or</u>
13	another drug, the person taking the child into physical custody, the intake worker,
14	or other appropriate person shall proceed under s. 51.45 (11).
15	<b>SECTION 6.</b> 48.203 (5) of the statutes is amended to read:
16	48.203 (5) If the adult expectant mother is believed to be an intoxicated person
17	who has threatened, attempted, or inflicted physical harm on herself or on another
18	and is likely to inflict such physical harm unless committed, or is incapacitated by
19	alcohol <u>or another drug</u> , the person taking the adult expectant mother into physical
20	custody, the intake worker, or other appropriate person shall proceed under s. 51.45
21	(11).
22	<b>SECTION 7.</b> 49.45 (25) (am) 5. of the statutes is amended to read:
23	49.45 (25) (am) 5. Is drug dependent, as defined under s. 51.01 (8) (8b).
24	<b>SECTION 8.</b> 51.01 (8) of the statutes is amended to read:

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1 51.01 (8) "Drug dependent <u>dependence</u>" means a <u>person who uses disease that</u> 2 <u>is characterized by the dependency of a person on</u> one or more drugs to the extent that 3 the person's health is substantially impaired or his or her social or economic 4 functioning is substantially disrupted.

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

6 51.01 (8b) "Drug dependent" means suffering from drug dependence.

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

51.08 Milwaukee County Mental Health Complex. Any county having a 8 9 population of 500,000 or more may, pursuant to s. 46.17, establish and maintain a 10 county mental health complex. The county mental health complex shall be a hospital 11 devoted to the detention and care of drug addicts, alcoholics, chronic patients, and 12 mentally ill persons whose mental illness is acute. Such hospital shall be governed 13pursuant to s. 46.21. Treatment of alcoholics and persons who are drug dependent 14at the county mental health complex is subject to approval by the department under 15s. 51.45 (8). The county mental health complex established pursuant to this section 16 is subject to rules promulgated by the department concerning hospital standards. 17The county board may not sell the county mental health complex under this section 18 without approval of the Milwaukee County mental health board.

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**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
 <u>dependent</u>.

3 **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 4 5 dependent shall be in accordance with s. 51.45(10). 6 **SECTION 13.** 51.20 (16) (a) of the statutes is amended to read: 7 51.20 (16) (a) Except in the case of alcoholic commitments under s. 51.45 (13), 8 any patient who is involuntarily committed for treatment under this chapter, may 9 on the patient's own verified petition, except in the case of a minor who is under 14 10 years of age, or on the verified petition of the patient's guardian, relative, friend, or 11 any person providing treatment under the order of commitment, request a 12reexamination or request the court to modify or cancel an order of commitment. 13**SECTION 14.** 51.20 (17) of the statutes is amended to read: 14 51.20 (17) RIGHT TO REEVALUATION. With the exception of alcoholic 15commitments 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 16 17within 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.

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

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1 51.35 (3) (c) A licensed psychologist of a juvenile correctional facility or a  $\mathbf{2}$ secured residential care center for children and youth or a licensed physician of the 3 department of corrections, who has reason to believe that any individual confined in 4 the juvenile correctional facility or secured residential care center for children and 5 youth, in his or her opinion, has a mental illness, drug dependency, or developmental 6 disability and is dangerous as described in s. 51.20 (1) (a) 2., or is an alcoholic and 7 is dangerous and is an alcoholic or a person who is drug dependent as described in 8 s. 51.45 (13) (a) 1. and 2., shall file a written report with the superintendent of the 9 juvenile correctional facility or secured residential care center for children and 10 youth, stating the nature and basis of the belief. If the superintendent, upon review 11 of the allegations in the report, determines that transfer is appropriate, he or she 12shall file a petition according to s. 51.20 or 51.45 in the court assigned to exercise 13jurisdiction under chs. 48 and 938 of the county where the juvenile correctional 14facility or secured residential care center for children and youth is located. The court 15shall hold a hearing according to procedures provided in s. 51.20 or 51.45 (13).

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

1751.35 (3) (e) The department of corrections may authorize emergency transfer 18 of an individual from a juvenile correctional facility or a secured residential care 19 center for children and youth to a state treatment facility if there is cause to believe 20that the individual has a mental illness, drug dependency, or developmental 21disability and exhibits conduct that constitutes a danger as described under s. 51.20 22(1) (a) 2. a., b., c., or d. to the individual or to others, has a mental illness, is dangerous, 23and satisfies the standard under s. 51.20 (1) (a) 2. e., or is an alcoholic and is  $\mathbf{24}$ dangerous and is an alcoholic or a person who is drug dependent as provided in s. 2551.45 (13) (a) 1. and 2. The custodian of the sending juvenile correctional facility or

1 secured residential care center for children and youth shall execute a statement of  $\mathbf{2}$ emergency detention or petition for emergency commitment for the individual and 3 deliver it to the receiving state treatment facility. The department of health services 4 shall file the statement or petition with the court within 24 hours after the subject 5 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. 6 7 the director of the receiving facility may file a petition for continued commitment 8 under s. 51.20 (1) or 51.45 (13) or may return the individual to the juvenile 9 correctional facility or secured residential care center for children and youth from 10 which the transfer was made. As an alternative to this procedure, the procedure 11 provided in s. 51.15 or 51.45 (12) may be used, except that no individual may be 12 released without the approval of the court that directed confinement in the juvenile 13 correctional facility or secured residential care center for children and youth.

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

1551.37 (5) (a) When a licensed physician or licensed psychologist of a state 16 prison, of a county jail or of the department of corrections reports in writing to the 17officer in charge of a jail or institution that any prisoner is, in his or her opinion, 18 mentally ill, drug dependent, or developmentally disabled and is appropriate for 19 treatment as described in s. 51.20 (1), or is an alcoholic and is dangerous and is an 20 alcoholic or a person who is drug dependent as described in s. 51.45 (13) (a) 1. and 212.; or that the prisoner is mentally ill, drug dependent, developmentally disabled or 22is an alcoholic and is in need of psychiatric or psychological treatment, and that the 23prisoner voluntarily consents to a transfer for treatment, the officer shall make a 24written report to the department of corrections which may transfer the prisoner if 25a 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.

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

6 51.37 (5) (b) The department of corrections may authorize an emergency 7 transfer of an individual from a prison, jail or other criminal detention facility to a 8 state treatment facility if there is cause to believe that the individual is mentally ill, 9 drug dependent or developmentally disabled and exhibits conduct which constitutes 10 a danger as described in s. 51.20 (1) (a) 2. a., b., c. or d. of physical harm to himself 11 or herself or to others, or is mentally ill and satisfies the standard under s. 51.20(1)12(a) 2. e. or is an alcoholic and is dangerous and is an alcoholic or a person who is drug 13dependent as provided in s. 51.45 (13) (a) 1. and 2. The correctional custodian of the 14 sending institution shall execute a statement of emergency detention or petition for 15emergency commitment for the individual and deliver it to the receiving state 16 treatment facility. The department of health services shall file the statement or 17petition with the court within 24 hours after receiving the subject individual for 18 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 19 20file a petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return 21the individual to the institution from which the transfer was made. As an alternative 22to this procedure, the emergency detention procedure in s. 51.15 or 51.45 (12) may 23be used, except that no prisoner may be released without the approval of the court  $\mathbf{24}$ which directed confinement in the institution.

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

1 51.42 (3) (ar) 2. Enter into contracts for the use of any facility as an approved  $\mathbf{2}$ public treatment facility under s. 51.45 for the treatment of alcoholics or persons who 3 are drug dependent if the county department of community programs deems it to be 4 an effective and economical course to follow.

5 **SECTION 20.** 51.45 (title), (1), (2) (d), (f) and (g), (3) (b), (4) (a), (b), (c), (d), (e), 6 (f), (g), (h), (j), (k), (L), (m), (o), (p) and (q), (7) (a) and (c), (9) (intro.), (10) (title), (a), 7 (am), (c) and (e), (11) (title), (b), (bm) and (d), (12) (a) and (c) 4., (13) (a) (intro.) and 8 1. to 4. and (b) 4., (14) (a), (15) (c) and (19) of the statutes are amended to read:

9 **51.45** (title) Prevention and control of alcoholism and drug 10 dependence. (1) DECLARATION OF POLICY. It is the policy of this state that alcoholics, 11 persons who are drug dependent, and intoxicated persons may not be subjected to 12 criminal prosecution because of their consumption of alcohol beverages or other 13 drugs but rather should be afforded a continuum of treatment in order that they may 14 lead normal lives as productive members of society.

(2) (d) "Incapacitated by alcohol or another drug" means that a person, as a 1516 result of the use of or withdrawal from alcohol or another drug, is unconscious or has 17his or her judgment otherwise so impaired that he or she is incapable of making a 18 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 19 20 person, or to property.

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(f) "Intoxicated person" means a person whose mental or physical functioning 22is substantially impaired as a result of the use of alcohol, a controlled substance, a 23controlled substance analog, or another drug.

24(g) "Treatment" means the broad range of emergency, outpatient, intermediate, 25and 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
<u>dependent</u>, 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 <u>and drug dependence</u> and treatment of alcoholics, <u>persons who are drug dependent</u>, 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 <u>and</u>
 <u>drug dependence</u> and treatment of alcoholics, <u>persons who are drug dependent</u>, 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.

24 (d) Cooperate with the department of public instruction, local boards of
25 education, schools, including tribal schools, as defined in s. 115.001 (15m), police

1 departments, courts, and other public and private agencies, organizations, and  $\mathbf{2}$ individuals in establishing programs for the prevention of alcoholism and drug 3 dependence and treatment of alcoholics, persons who are drug dependent, and 4 intoxicated persons, and preparing curriculum materials thereon for use at all levels 5 of school education.

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(e) Prepare, publish, evaluate and disseminate educational material dealing 7 with the nature and effects of alcohol and other drugs.

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(f) Develop and implement and assure that county departments develop and 9 implement, as an integral part of treatment programs, an educational program for 10 use in the treatment of alcoholics, persons who are drug dependent, and intoxicated 11 persons, which program shall include the dissemination of information concerning 12 the nature and effects of alcohol and other drugs.

13 (g) Organize and foster training programs for all persons engaged in treatment 14 of alcoholics, persons who are drug dependent, and intoxicated persons.

15(h) Sponsor and encourage research into the causes and nature of alcoholism 16 and drug dependence and treatment of alcoholics, persons who are drug dependent, 17and intoxicated persons, and serve as a clearinghouse for information relating to 18 alcoholism and drug dependence.

19 (j) Advise the governor or the state health planning and development agency 20 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 2122inclusion in the state's comprehensive health plan.

23(k) Review all state health, welfare and treatment plans to be submitted for 24federal funding under federal legislation, and advise the governor or the state health 25planning 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.

3 (L) Develop and maintain, in cooperation with other state agencies, local 4 governments and businesses and industries in the state, appropriate prevention, 5 treatment and rehabilitation programs and services for alcohol abuse and, 6 alcoholism, controlled substance use, and drug dependence among employees 7 thereof.

8 (m) Utilize the support and assistance of interested persons in the community, 9 particularly recovered alcoholics <u>and recovered drug dependent persons</u>, to 10 encourage alcoholics <u>and persons who are drug dependent</u> voluntarily to undergo 11 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 <u>and drug dependence</u>.

(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:

8 (10) (title) VOLUNTARY TREATMENT OF ALCOHOLICS AND DRUG DEPENDENT PERSONS. 9 (a) An adult alcoholic or person who is drug dependent may apply for voluntary 10 treatment directly to an approved public treatment facility. If the proposed patient 11 is an individual adjudicated incompetent in this state who has not been deprived by 12 a court of the right to contract, the individual or his or her guardian or other legal 13 representative may make the application. If the proposed patient is an individual 14 adjudicated incompetent in this state who has been deprived by a court of the right 15to contract, the individual's guardian or other legal representative may make the 16 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
<u>or minor who is drug dependent</u> 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

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health and safety.

1 assistance in obtaining supportive services and residential facilities. If the patient  $\mathbf{2}$ is an individual who is adjudicated incompetent, the request for discharge from an 3 inpatient facility shall be made by a legal guardian or other legal representative or 4 by the individual who is adjudicated incompetent if he or she was the original 5 applicant. 6 (e) This subsection applies only to admissions of alcoholics and persons who are 7 <u>drug dependent</u> whose care and treatment is to be paid for by the department or a 8 county department. 9 (11) (title) TREATMENT AND SERVICES FOR INTOXICATED PERSONS AND OTHERS 10 INCAPACITATED BY ALCOHOL OR ANOTHER DRUG. 11 (b) A person who appears to be incapacitated by alcohol <u>or another drug</u> shall 12 be placed under protective custody by a law enforcement officer. The law 13enforcement officer shall either bring such person to an approved public treatment 14facility for emergency treatment or request a designated person to bring such person 15to the facility for emergency treatment. If no approved public treatment facility is 16 readily available or if, in the judgment of the law enforcement officer or designated 17person, the person is in need of emergency medical treatment, the law enforcement 18 officer or designated person upon the request of the law enforcement officer shall 19 take such person to an emergency medical facility. The law enforcement officer or 20designated person, in detaining such person or in taking him or her to an approved 21public treatment facility or emergency medical facility, is holding such person under

protective custody and shall make every reasonable effort to protect the person's

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

In placing the person under protective custody the law

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.

5 (bm) If the person who appears to be incapacitated by alcohol <u>or another drug</u> 6 under par. (b) is a minor, either a law enforcement officer or a person authorized to 7 take a child into custody under ch. 48 or to take a juvenile into custody under ch. 938 8 may take the minor into custody as provided in par. (b).

9 A person who by examination pursuant to par. (c) is found to be (d) 10 incapacitated by alcohol or another drug at the time of admission, or to have become 11 incapacitated at any time after admission, shall be detained at the appropriate 12 facility for the duration of the incapacity but may not be detained when no longer 13 incapacitated by alcohol or another drug, or if the person remains incapacitated by 14 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. 1516 (12). A person may consent to remain in the facility as long as the physician or official 17in 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 <u>or another drug</u>, 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 <u>or another drug</u>, 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.

5 (13) (a) (intro.) A person may be committed to the custody of the county 6 department by the circuit court upon the petition of 3 adults, at least one of whom 7 has personal knowledge of the conduct and condition of the person sought to be 8 committed. A refusal to undergo treatment shall not constitute evidence of lack of 9 judgment as to the need for treatment. The petition for commitment shall <u>do all of</u> 10 <u>the following</u>:

11 1. Allege that the condition of the person is such that he or she habitually lacks 12 self-control as to the use of alcohol beverages <u>or other drugs</u>, and uses such beverages 13 <u>or drugs</u> to the extent that health is substantially impaired or endangered and social 14 or economic functioning is substantially disrupted;<u>.</u>

15 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 <u>or another drug</u>, 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.

(14) (a) Except as otherwise provided in s. 51.30, the registration and
treatment records of alcoholism <u>or drug dependence</u> 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 <u>or drug dependence</u> treatment records
in conformity with federal requirements.

10 (15) (c) A private or public general hospital may not refuse admission or 11 treatment to a person in need of medical services solely because that person is an 12 "alcoholic", <u>is "drug dependent"</u>, <u>is</u> "incapacitated by alcohol", <u>is "incapacitated by</u> 13 <u>another drug"</u>, or is an "intoxicated person" as defined in sub. (2). This paragraph 14 does not require a hospital to admit or treat the person if the hospital does not 15 ordinarily provide the services required by the person. A private or public general 16 hospital which violates this paragraph shall forfeit not more than \$500.

17 (19) SHORT TITLE. This section may be cited as the "Alcoholism, Drug
 18 <u>Dependence</u>, and Intoxication Treatment Act".

19

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

20 101.121 (4) (b) Paragraph (a) does not apply to any owner of a nursing home
21 as defined in s. 50.01 (3), a hospital as defined in s. 50.33 (2) (a) and (c) or an approved
22 public or private treatment facility for alcoholics <u>and persons who are drug</u>
23 <u>dependent</u> as defined in s. 51.45 (2) (b) and (c).

24 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 <u>and persons who are drug</u>
 <u>dependent</u> in treatment facilities which have not been approved by the department
 of health services in accordance with s. 51.45 (8).

4

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

5 302.38 (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 6 7 of the jail or house of correction shall provide appropriate care or treatment and may 8 transfer the prisoner to a hospital or to an approved treatment facility under s. 51.45 9 (2) (b) and (c), making provision for the security of the prisoner. The sheriff, 10 superintendent or other keeper may provide appropriate care or treatment under 11 this subsection for a prisoner under 18 years of age and may transfer a prisoner 12under 18 years of age under this subsection without obtaining the consent of the 13prisoner's parent, guardian or legal custodian. The sheriff, superintendent or other 14 keeper may charge a prisoner for the costs of providing medical care to the prisoner 15while he or she is in the jail or house of correction. If the sheriff or other keeper 16 maintains a personal money account for an inmate's use for payment for items from 17canteen, vending or similar services, the sheriff or other keeper may make 18 deductions from the account to pay for the charges under this subsection.

19

**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 <u>a</u> treatment facility approved under s. 51.45, an emergency room

1 of a general hospital or a driver awareness program under s. 346.637. The court may 2 order the person to pay a reasonable fee, based on the person's ability to pay, to offset 3 the cost of establishing, maintaining and monitoring the community service work 4 ordered under this paragraph. If the opportunities available to perform community 5service work are fewer in number than the number of defendants eligible under this 6 subsection, the court shall, when making an order under this paragraph, give 7 preference to defendants who were under 21 years of age at the time of the offense. 8 All provisions of par. (am) apply to any community service work ordered under this 9 paragraph.

10

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

11 346.65 (2i) In addition to the authority of the court under sub. (2g) and s. 973.05 12 (3) (a), the court may order a defendant subject to sub. (2), or a defendant subject to 13 s. 973.05 (3) (a) who violated s. 346.63 (2), 940.09 (1), or 940.25, to visit a site that 14 demonstrates the adverse effects of substance abuse or of operating a vehicle while 15under the influence of an intoxicant or other drug, including an alcoholism a 16 treatment facility approved under s. 51.45 or an emergency room of a general 17hospital in lieu of part or all of any forfeiture imposed or in addition to any penalty 18 imposed. The court may order the defendant to pay a reasonable fee, based on the 19 person's ability to pay, to offset the costs of establishing, maintaining, and 20 monitoring the visits ordered under this subsection. The court may order a visit to 21the site only if agreed to by the person responsible for the site. If the opportunities 22available to visit sites under this subsection are fewer than the number of defendants 23eligible for a visit, the court shall, when making an order under this subsection, give 24preference to defendants who were under 21 years of age at the time of the offense. 25The court shall ensure that the visit is monitored. A visit to a site may be ordered

1 for a specific time and a specific day to allow the defendant to observe victims of  $\mathbf{2}$ vehicle accidents involving intoxicated drivers. If it appears to the court that the 3 defendant has not complied with the court order to visit a site or to pay a reasonable 4 fee, the court may order the defendant to show cause why he or she should not be held 5 in contempt of court. Any organization or agency acting in good faith to which a 6 defendant is assigned pursuant to an order under this subsection has immunity from 7 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 8 9 subsection does not entitle an indigent defendant who is subject to sub. (2) (am) 1. 10 to representation by counsel under ch. 977.

11

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

12 782.01 (2) Any person confined in any hospital or institution as mentally ill or 13 committed for treatment of alcoholism <u>or drug dependence</u> under s. 51.45 (13) may 14 prosecute such writ, and the question of mental illness or need for treatment shall 15 be determined by the court or judge issuing the same. If such court or judge decides 16 that the person is mentally ill or in need of treatment such decision shall not bar the 17 prosecution of such writ a 2nd time if it is claimed that such person has been restored 18 to reason or is no longer in need of treatment.

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

20 938.02 (**5g**) "Drug dependent" has the meaning given in s. 51.01 (8) (8b).

21 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 <u>or another drug</u>, the person taking the

- 1 juvenile into physical custody, the intake worker or other appropriate person shall
- 2 proceed under s. 51.45 (11).

3

(END)