

State of Wisconsin



2023 Senate Bill 722

Date of enactment: **March 27, 2024**

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2023 WISCONSIN ACT 229

AN ACT *to renumber* 51.01 (1); *to amend* 46.28 (1) (b), 49.45 (25) (am) 4., 51.37 (5) (a) and 51.37 (5) (b); and *to create* 51.01 (1d), 51.01 (8m), 51.37 (5) (bm) and 301.28 (3) of the statutes; **relating to:** active psychosis and mental health treatment for prisoners.

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

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

46.28 (1) (b) "Chronically disabled" means any person who is alcoholic, developmentally disabled, drug dependent, or mentally ill, as defined in s. 51.01 (4) (1h), (5), (8b), and (13), or any person who is physically disabled.

SECTION 2. 49.45 (25) (am) 4. of the statutes is amended to read:

49.45 (25) (am) 4. Is an alcoholic, as defined under s. 51.01 (4) (1h).

SECTION 3. 51.01 (1) of the statutes is renumbered 51.01 (1h).

SECTION 4. 51.01 (1d) of the statutes is created to read:

51.01 (1d) "Active psychosis" means a severe mental condition where an individual's mental reality is separated from the individual's physical reality and the individual experiences symptoms such as hallucinations or delusions.

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

51.01 (8m) "Health care professional" means any of the following:

(a) A registered nurse who is licensed under s. 441.06, who is permitted under s. 441.08, or who holds a multistate license, as defined in s. 441.51 (2) (h), issued in a party state, as defined in s. 441.51 (2) (k).

(b) A licensed practical nurse who is licensed or has a temporary permit under s. 441.10 or who holds a multistate license, as defined in s. 441.51 (2) (h), issued in a party state, as defined in s. 441.51 (2) (k).

(c) A physician who is licensed to practice medicine and surgery under s. 448.02.

(d) A physician assistant who is licensed under s. 448.974.

(e) A psychologist who is licensed to practice psychology under subch. I of ch. 455.

(f) A person providing psychological services under s. 455.02 (2m) (o).

SECTION 6. 51.37 (5) (a) of the statutes is amended to read:

51.37 (5) (a) When a ~~licensed physician or licensed psychologist~~ health care professional of a state prison, of a county jail, or of the department of corrections reports in writing to the officer in charge of a jail or institution that any prisoner is, in his or her opinion, mentally ill, drug dependent, or developmentally disabled and is appropriate for treatment as described in s. 51.20 (1), or is dangerous and is an alcoholic or a person who is drug

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

dependent as described in s. 51.45 (13) (a) 1. and 2.; or that the prisoner is mentally ill, drug dependent, developmentally disabled or is an alcoholic and is in need of psychiatric or psychological treatment, and that the prisoner voluntarily consents to a transfer for treatment, the officer shall make a written report to the department of corrections which may transfer the prisoner if a voluntary application is made and the department of health services consents. If voluntary application is not made, the department of corrections may file a petition for involuntary commitment under s. 51.20 (1) or 51.45 (13). Any time spent by a prisoner in an institution designated under sub. (3) or s. 51.37 (2), 1983 stats., shall be included as part of the individual's sentence.

SECTION 7. 51.37 (5) (b) of the statutes is amended to read:

51.37 (5) (b) The department of corrections may authorize an emergency transfer of an individual from a prison, jail, or other criminal detention facility to a state treatment facility if there is cause to believe that the individual is mentally ill, drug dependent, or developmentally disabled and exhibits conduct which constitutes a danger as described in s. 51.20 (1) (a) 2. a., b., c., or d. of physical harm to himself or herself or to others, or is mentally ill and satisfies the standard under s. 51.20 (1) (a) 2. e. or is dangerous and is an alcoholic or a person who is drug dependent as provided in s. 51.45 (13) (a) 1. and 2. If there is cause to believe that an individual is in active psychosis and exhibits conduct which constitutes a danger as described in s. 51.20 (1) (a) 2. a., b., c., or d. of physical harm to himself or herself or to others and the individual remains in active psychosis for more than 72 hours and has not been stabilized, the department of corrections shall authorize the emergency transfer of the individual from a prison, and the sheriff or other keeper of a jail or other criminal detention facility shall authorize the emergency transfer of the individual from a jail or other criminal detention facility to a state treatment facility or, if the individual has been sentenced to prison, to the Wisconsin Resource Center established under s. 46.056. The correctional custodian of the sending institution and

the attending health care professional of the sending institution shall jointly execute a statement of emergency detention or petition for emergency commitment for the individual and deliver it to the receiving state treatment facility or the Wisconsin Resource Center established under s. 46.056. The department of health services shall file the statement or petition with the court within 24 hours after receiving the subject individual for detention. The statement or petition shall conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After an emergency transfer is made, the director of the receiving facility or center may file a petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return the individual to the institution from which the transfer was made. As an alternative to this procedure, the emergency detention procedure in s. 51.15 or 51.45 (12) may be used, except that no prisoner may be released without the approval of the court which directed confinement in the institution. Any transportation expenses related to a transfer under this paragraph shall be paid for by the department of corrections.

SECTION 8. 51.37 (5) (bm) of the statutes is created to read:

51.37 (5) (bm) If an individual in active psychosis has not been transferred to a state treatment facility or the Wisconsin Resource Center established under s. 46.056 within 48 hours after the department of corrections authorized an emergency transfer under par. (b), the attending health care professional of the sending institution shall evaluate the individual every 24 hours until the individual is transferred.

SECTION 9. 301.28 (3) of the statutes is created to read:

301.28 (3) The training program approved by the department under sub. (2) (b) shall include a requirement that each correctional officer be trained to identify symptoms of active psychosis, as defined in s. 51.01 (1d), among prisoners and how to report such symptoms to the superintendent of the correctional institution and to appropriate medical personnel at the correctional institution.