
Wisconsin Legislative Council

ACT MEMO



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2023 Wisconsin Act 229
[2023 Senate Bill 722]

**Active Psychosis and Mental
Health Treatment for Prisoners**

BACKGROUND

State law permits the Department of Corrections (DOC) to 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 of physical harm to himself or herself or to others, or satisfies certain other criteria. Prior to 2023 Wisconsin Act 229, state law did not separately address emergency transfer of an individual who is in active psychosis from a criminal detention facility to a state treatment facility or the Wisconsin Resource Center.

2023 WISCONSIN ACT 229

2023 Wisconsin Act 229 requires a criminal detention facility to authorize the emergency transfer of an individual from a criminal detention facility to a state treatment facility or the Wisconsin Resource Center if an individual is in active psychosis and meets certain criteria. The term “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.

Specifically, DOC must authorize the emergency transfer of an individual from a prison to a state treatment facility or the Wisconsin Resource Center if there is cause to believe that an individual meets the all of the following criteria:

- An individual is in active psychosis.
- An individual exhibits conduct which constitutes a danger of physical harm to himself or herself or to others.¹
- An individual remains in active psychosis for more than 72 hours.
- An individual has not been stabilized.

Similarly, the sheriff or other keeper of a jail or other criminal detention facility must 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 if the individual meets the same criteria.

DOC must pay for any transportation expenses related to a transfer under the act. If DOC authorizes an emergency transfer of an individual and the individual is not transferred within 48 hours, then the act requires additional evaluation. Specifically, if an individual in active psychosis has not been transferred

¹ The term “danger” under the act refers to certain provisions of current law on a petition for examination in involuntary commitment.

to a state treatment facility or the Wisconsin Resource Center within 48 hours after DOC authorized an emergency transfer, the attending health care professional of the sending institution must evaluate the individual every 24 hours until the individual is transferred.

The act generally requires that each correctional officer be trained how to identify symptoms of active psychosis among prisoners and how to report such symptoms to the superintendent of the correctional institution and to appropriate medical personnel at the correctional institution.

Additionally, the act changes some procedural requirements. Prior law required the correctional custodian of the sending institution to execute a statement of emergency detention or petition for emergency commitment for the individual and deliver it to the receiving state treatment facility. Under the act, both the correctional custodian and the attending health care professional of the sending institution must 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.

Under prior law, when a licensed physician or licensed psychologist of a state prison, of a county jail, or of DOC 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 meets certain other criteria the officer must make a written report to DOC. Under the act, a report by a health care professional initiates that requirement. The act defines the term “health care professional” as a registered nurse, licensed practical nurse, physician, physician assistant, psychologist, or certain person providing psychological services.

Effective date: March 29, 2024

For a full history of the bill, visit the Legislature’s [bill history page](#).

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