STATE SENATOR **JESSE JAMES** 23RD DISTRICT

May 27th, 2025

Members of the Senate Committee on Mental Health, Substance Abuse Prevention, and Children and Families
Members of the Assembly Committee on Mental Health and Substance Abuse Prevention

Testimony on 2025 Senate Bill 106, 107, 108, and 109

Thank you, Chair Tittl and other members of both committees, for the opportunity to testify today. I am pleased for the opportunity today to ask for your support for four bills that were developed by the Study Committee on Emergency Detention and Civil Commitment of Minors. I had the pleasure of chairing that study committee last year, which was tasked with studying various issues related to the appropriateness of current emergency detention and involuntary commitment laws as applied to minors.

As many of you know, these issues are deeply personal to me. As a law enforcement officer, some of the most challenging moments on the job come when I'm called to assist someone in the midst of a mental health crisis. It's always difficult, but it's especially heartbreaking when that person is a child. From the start, I hoped this committee would accomplish at least two things. The first was to provide a process to have psychiatric residential treatment facilities (PRTFs) in Wisconsin so kiddos can get the help they need without having to be sent out of the state. The second was to find ways to minimize the involvement of law enforcement in mental health crises so that children in crisis are not further traumatized by being placed in handcuffs.

After careful study and thoughtful consideration, the committee crafted a package of bills that I believe will move the ball closer to these goals. Throughout the process, the committee received assistance from a wide variety of stakeholders and experts, including the Department of Health Services, the Department of Children and Families and the Counties Association, among many others. The committee voted to advance six bills, all with strong support, and the Joint Legislative Council introduced them earlier this year.

Four of these bills are in front of you today.

- **Senate Bill 106 (Assembly Bill 111)** provides a process that would allow for the establishment of Psychiatric Residential Treatment Facilities, or PRTFs, in Wisconsin. A PRTF provides psychiatric services to individuals under the age of 21 but is not a hospital. For that reason, a PRTF can provide intensive psychiatric treatment in an environment that is less restrictive than a psychiatric hospital. Wisconsin does not currently certify or otherwise regulate PRTFs, so there are none in Wisconsin. This bill provides a framework for PRTFs to operate in Wisconsin. The framework is largely based on federal law, but incorporates some additional state-specific aspects, based on feedback from stakeholders.
- **Senate Bill 107 (Assembly Bill 112)** revises requirements to obtain a minor's consent for mental health services to make it easier for a parent to get their child mental health treatment they know their kiddo needs in circumstances in which the child may be unwilling to consent to treatment. The bill allows either a minor age 14 or older, or the minor's parent or guardian, to consent to begin outpatient or inpatient mental health treatment for the minor. If a parent consented to treatment without the minor's agreement, a petition must be filed for review of the appropriateness of the treatment.
- **Senate Bill 108 (Assembly Bill 113)** establishes a framework for minors to develop and share safety plans to provide guidance to law enforcement, mental health providers, schools, and other persons or entities when they experience a mental health crisis. This bill is modeled on a successful program currently operating in Ashland and Bayfield Counties.

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STATE SENATOR JESSE JAMES 23RD DISTRICT

- **Senate Bill 109 (Assembly Bill 114)** provides counties with the option to allow certain behavioral health clinicians to initiate the emergency detention of a minor. Most emergency detentions currently begin with a law enforcement officer taking a person into custody. This bill would provide a procedure that would minimize law enforcement involvement and permit emergency detention decisions to be made by approved behavioral health clinicians in consultation with the county human services department. This process is optional for counties under the bill. A county that elects to use the procedure would have the authority to approve individual clinicians and to review and approve each emergency detention. This new procedure would only apply to emergency detentions involving minors.

Before I conclude, I want to take a moment to thank the members of the study committee for their time and dedication. Their insights and expertise were invaluable to this process, and I truly appreciate the effort, thoughtfulness, and commitment each of them brought to our work. I also want to extend my gratitude to the teams at DHS, DCF, the Counties Association, all the other stakeholders who provided essential feedback throughout this process, as well as Legislative Council's David, Margit, and Kelly for all your assistance along the way. Thank you for considering the study committee's recommendations. I am happy to answer any questions you may have.

Respectfully,

Senator Jesse James
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WISCONSIN STATE REPRESENTATIVE
Shelia Stubbs
78TH ASSEMBLY DISTRICT

May 27, 2025

Assembly Bill 111/Senate Bill 106—Relating to: psychiatric residential treatment facilities, providing an exemption from emergency rule procedures, and granting rule-making authority.

Assembly Committee on Mental Health and Substance Abuse Prevention/Senate Committee on Mental Health, Substance Abuse Prevention, Children and Families

Dear Chair Representative Paul Tittl, Chair Senator Jesse James, and Members of the Assembly Committee on Mental Health and the Senate Committee on Mental Health, Substance Abuse Prevention, Children and Families,

Thank you for the opportunity to provide my support for Assembly Bill 111/Senate Bill 106—Relating to: psychiatric residential treatment facilities, providing an exemption from emergency rule procedures, and granting rule-making authority.

Over the course of several months, the Study Committee on Emergency Detention and Civil Commitment of Minors gathered together legislators, legal experts, law enforcement, and youth mental health professionals to develop proposed legislation that will make the process of emergency detention and civil commitment for youth facing mental and behavioral health or substance abuse crises more efficient and supportive, as well as expanding Wisconsin's capacity to care for youth experiencing these issues.

I am proud to support this bill, which would empower the Department of Health Services to establish a certification process for and certify psychiatric residential treatment facilities (PRTFs) to provide inpatient psychiatric services for individuals under age 21, under the direction of a physician, with services provided by a facility that meets PRTF standards under federal regulations.

Across the state of Wisconsin we are facing an increased need for psychiatric residential treatment services for youth, so much so that our existing facilities cannot support that need. This has resulted in youth who are already vulnerable due to a mental or behavioral health condition or a substance abuse disorder being sent to treatment facilities out of state and far away from their families. We cannot continue to further disservice these children by removing them from all family and community supports and sending them across state lines to facilities where we have decreased oversight.

I appreciate your time in considering my testimony and ask that you vote yes on Assembly Bill 111/Senate Bill 106. Our youth deserve the best possible care in times of mental health crisis, and this bill empowers Wisconsin to better meet the needs of and care for this vulnerable population. I would like to thank my colleagues on the Study Committee on Emergency Detention and Civil Commitment of Minors for coming together and proposing legislation to improve mental health crisis responses for our youth.

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TO: Honorable Chairs Senator Jesse James and Representative Paul Tittl
Honorable Members of the Senate Committee on Mental Health, Substance Abuse Prevention, Children & Families and the Assembly Committee on Mental Health and Substance Abuse Prevention

FROM: Kathy Markeland, Executive Director

DATE: May 27, 2025

RE: **Support and Comments on Legislation to Improve Youth Mental Health Treatment and Access**

On behalf of the members of the Wisconsin Association of Family & Children's Agencies (WAFCA), thank you for the opportunity to appear before you today to share our support for legislation emerging from the Legislative Council Study Committee on Emergency Detention and Civil Commitment of Minors. We are grateful for the diligent and thoughtful efforts of the Study Committee participants who devoted their time and expertise to this critical policy discussion. After decades of treating children in need of mental health care as adults, and more than a decade of sending children out of their home state to receive psychiatric mental health care, this legislation reflects the sincere efforts of those closest to the policies, procedures, practices, and service array to craft solutions that respect the lived realities of the children, families, and workforce who move through our care systems daily.

WAFCA is a statewide association that represents private providers delivering essential services, often in partnership with government, and advocates for the more than 200,000 individuals, children, and families that they impact each year. Our members' services include family preservation services; community-based outpatient and day treatment therapies; crisis services; and residential care for both children and adults, among others.

As an integral part of the human services ecosystem, we actively partner with counties, health care, schools, family advocates and others throughout the state to ensure individuals, children and families have the services and supports they need, when and where they need them. Over the past decade, we have been at many tables discussing the challenges associated with our continuum of care and its inability to respond to the changing needs of Wisconsin residents – particularly children with complex needs. It is from this vantage point that we offer the following reflections on the legislation before the committees today.

WAFCA's overarching policy priorities for these proposals include the following key objectives:

- To improve timely, appropriate access to care and address capacity constraints.
- To prevent children from placement out of state.
- To move our system point of access from "placement" to "treatment"
- To deliver better outcomes for children and families by evolving Wisconsin's mental health and substance use systems into a more effective, coordinated system of care that responds to needs in a way that is more therapeutic, holistic, equitable and less punitive.

<u>Support for SB 106/AB 111: Establishing psychiatric residential treatment facilities</u>

SB 106/AB 111 creates a pathway for implementing psychiatric residential treatment facilities (PRTFs) in Wisconsin while empowering the state to plan for regional and statewide capacity needs. In addition, the bill

incorporates the option for facilities to adopt important safety measures, such as video recording and locked options that will support safer environments.

On any given day, more than twenty Wisconsin children are receiving mental health heath treatment in an out-of-state facility. We know that most children leaving the state to receive psychiatric care are being served in a PRTF. Under this bill, Wisconsin would be able to establish PRTFs which are a unique setting capable of meeting the needs of children presenting with high acuity. The advantages include:

Mental health service covered by health insurance. Under the bill a child could access the intensive services of a PRTF without having to rely on their local county human services department or a protective services or emergency detention order.

Higher security and safety. PRTFs provide a locked setting, if needed, to ensure the safety of a child who may be a danger to themselves, their family, and/or the community due to their untreated or acute mental health condition. Other 24/7 care settings in Wisconsin are unable to provide these secure options due to current regulations and the populations they serve.

Longer periods of care to stabilize and treat mental health conditions. Other resources, such as short-term hospitalizations and/or crisis stabilization facilities, focus on stabilizing and then returning a child to the community for treatment – treatment which may or may not be accessible.

Medicaid reimbursement. As referenced in the bill, psychiatric residential treatment facilities can bill Medicaid and should be included in commercial health insurance plans as well. Other 24/7 care settings providing treatment for children, such as residential care centers, are paid for solely by county dollars.

PRTFs will fill an important gap in Wisconsin's continuum of care and it is imperative that the state move forward with this legislation to move us toward implementation. DHS should receive the necessary staffing and funding resources to certify and support the development of this capacity as expeditiously as possible.

SB 107/AB 112: Revising minor/parent consent for mental health treatment

This proposal would modify current statutes to allow for either a minor age 14 or older, or a parent or guardian, to consent to outpatient or inpatient mental health treatment. WAFCA member agencies provide outpatient mental health and substance use treatment in communities across the state of Wisconsin and appreciate the challenge that SB 107/AB 112 is seeking to address. It is noteworthy that SB 107/AB 112 would not change the expectation that consent be sought from both a minor and a guardian for mental health treatment. The bill establishes that initiation of treatment is permitted if either parent or child consents and then provides appeal options for non-consenting parties. We note that there continue to be questions and practical considerations regarding the implementation of this bill that are worthy of further discussion. For example, in the event of parental non-consent, it is unclear how payment might be secured for the treatment services. In addition, there are questions regarding the efficacy of compelling a minor to access outpatient treatment in the absence of consent.

WAFCA fully appreciates the intention informing SB 107/AB 112 and notes that other key stakeholders, who share the goal of timely access to care, are also raising reasonable questions that should be more fully explored before this legislation advances.

SB 108/AB 113: Sharing minor safety plans

This proposal would require DHS to develop a portal and a statewide mechanism to support sharing minor safety plans to be accessed in the event of a crisis. The proposal builds on the CAtCH Safety Plan process whose founders in northern Wisconsin provided compelling testimony regarding the efficacy of sharing safety plans within a network of key partners to better support individuals facing mental health crisis. WAFCA endorses the concept and believes that there is value in the proposed investment in further exploration. We defer to those with greater responsibility for current health care information sharing systems regarding the best options for moving the CAtCH model from a pilot into a system with broader reach.

SB 109/AB 114: Clinician initiation of emergency detention of a minor

This proposal creates a process for certain medical and mental health clinicians to initiate the emergency detention of a minor in counties that allow for this to occur. The bill would further require that counties opting to permit clinician initiated holds, must train and certify clinicians who seek to participate in the initiation process. WAFCA supports the intent of this legislation to establish non-law enforcement based options for initiating an emergency hold on a minor. As community-based mental health providers, WAFCA member agencies currently participate in mobile response teams and participate in crisis services/response under contract with county partners. While we envision that some additional clinicians may opt to work with counties to support options in emergency hold procedures, we appreciate that there continue to be significant questions from other stakeholder partners regarding the need for further clarity and definition in order to move the system envisioned in the bill forward. In addition, we understand the bill's allowance for county discretion in adopting this alternative initiation process, however, we question whether this statutory alternative might further exacerbate some of the inconsistencies in practice across the state rather than moving toward a more cohesive mental health crisis response system.

The complexity of the emergency detention process across the state engages a broad range of stakeholders, and WAFCA commits to continuing to engage with counties, health care, advocates, law enforcement, peers, the courts and the Legislature to seek system improvements that reduce the trauma and inequities of our current emergency response and care continuum for all those experiencing a mental health crisis.

Improving the Continuum of Care for Wisconsin's Youth in Crisis and with Complex Mental Health Needs

As noted previously, WAFCA members have long served children and families facing mental health crisis. Our member providers stand at the intersection of our child welfare, youth justice, educational and mental health systems. Too frequently our continuum of care fails to engage with the right response at the right time. We would be remiss in our testimony today if we did not note our support for the initiative represented in SB 110/AB 115 which is not before the committees today, but that we hope will receive serious consideration by this body in the near future. WAFCA endorses SB 110/AB 115 as a proposal to compliment the development of PRTF in the state by simultaneously advancing a statewide youth behavioral health initiative under the Medical Assistance program to provide more comprehensive, community-based, consistent assessment and services to youth with complex needs. We know that there are stakeholder questions about SB 110/AB 115 and we hope that the Legislature will authorize DHS to begin a convening a conversation toward a comprehensive Medicaid waiver for our youth with complex needs. One of the fundamental charges of the Study Committee was to find better solutions for families who are not well supported or served by our current systems, and we believe that the proposal represented in SB 110/AB 115 is a critical building block for the future system we need.

Finally, as the Legislature continues to make progress on the biennial budget, we ask for the Committees' ongoing support for the array of services within our continuum of care to better serve youth with complex needs. Specifically, we call attention to budget proposals to increase Medicaid reimbursement for mental health treatment, adolescent day treatment, school-based mental health and stable funding for specialized residential treatment services. All of these supports help prevent the use of out-of-state treatment facilities and keep Wisconsin children here in our communities for care.

WAFCA would again like to express appreciation to the legislators, legislative staff and community members who devoted their time and expertise through the Study Committee to formulating improvements to our mental health systems of care for Wisconsin children and youth. We look forward to continuing to contribute to the advancement and refinement of all of these important proposals and welcome the questions and insights of the of this body as you continue to deliberate and move these proposals forward.

COMMENTS TO THE PUBLIC HEARING OF THE ASSEMBLY COMMITTEE ON MENTAL HEALTH AND SUBSTANCE ABUSE PREVENTION AND THE SENATE COMMITTEE ON MENTAL HEALTH, SUBSTANCE ABUSE PREVENTION, CHILDREN AND FAMILIES

MAY 27, 2025.

GOOD MORNING MEMBERS OF THE ASSEMBLY COMMITTEE ON MENTAL HEALTH AND SUBSTANCE ABUSE PREVENTION AND THE SENATE COMMITTEE ON MENTAL HEALTH, SUBSTANCE ABUSE, CHILDREN AND FAMILIES. THANK YOU FOR ALLOWING ME TO SHARE MY COMMENTS REGARDING THE BILLS YOU ARE CONSIDERING THIS MORNING.

MY NAME IS SHARON McILQUHAM. I AM THE CORPORATION COUNSEL FOR EAU CLAIRE COUNTY AND I HAVE WORKED IN THE CORPORATION COUNSEL'S OFFICE FOR 24 YEARS. FOR THOSE OF YOU WHO DON'T KNOW EXACTLY WHAT THE CORPORATION COUNSEL'S OFFICE DOES, AMONG OTHER THINGS OUR OFFICE IS RESPONSIBLE FOR CHAPTER 51 MENTAL HEALTH COMMITMENTS, CHAPTER 54 AND 55 CASES – WHICH ARE GUARDIANSHIPS AND PROTECTIVE PLACEMENTS, CHAPTER 48 AND 938 CASES – WHICH ARE CHIPS (explained), JIPS (explained), AND TPR'S (explained).

I WAS A MEMBER OF THE JOINT LEGISLATIVE COUNCIL STUDY COMMITTEE ON EMERGENCY DETENTION AND CIVIL COMMITMENT OF MINORS, WHICH MET MONTHLY FROM AUGUST THROUGH DECEMBER OF 2024. OUR COMMITTEE WAS MADE UP A DIVERSE GROUP OF PEOPLE, INCLUDING MEDICAL PROFESSIONALS, SOCIAL WORKERS, LAW ENFORCEMENT, PUBLIC DEFENDER, AND JUDGE. THROUGH OUR WORK WE HAVE RECOMMENDED THE BILLS YOU ARE CONSIDERING TODAY.

IF I MAY, I WOULD LIKE TO COMMENT ON EACH OF THEM. I'LL TRY TO KEEP MY COMMENTS BRIEF, BUT GIVEN I'M AN ATTORNEY, THAT MAY BE MORE DIFFICULT FOR ME THAN OTHERS YOU'LL HEAR FROM TODAY.

SPECIFICALLY REGARDING ASSEMBLY BILL 111/SENATE BILL 106, I WOULD STRONGLY ENCOURAGE YOU TO SUPPORT THIS BILL. **THIS BILL PRIMARILY DEALS WITH THE CREATION OF PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES (PRTF'S) TO PROVIDE INPATIENT PSYCHIATRIC SERVICES FOR INDIVIDUALS UNDER AGE 21.** I CAN'T EMPHASIZE ENOUGH HOW IMPORTANT THIS BILL IS TO NOT ONLY EAU CLAIRE COUNTY, BUT ALL 72 COUNTIES IN WISCONSIN.

WHEN A MINOR IS EXPERIENCING A MENTAL HEALTH CRISIS AND IS DEEMED TO BE A DANGER TO THEMSELVES OR OTHERS, AN EMERGENCY DETENTION CAN BE PURSUED BY LAW ENFORCEMENT OFFICERS IF AUTHORIZED BY THE COUNTY OR THEIR DESIGNEE. IN

EAU CLAIRE COUNTY, FOR AFTER HOURS COVERAGE, WE CONTRACT WITH NORTHWEST CONNECTIONS TO PROVIDE CRISIS SUPPORT AND THE ABILITY TO AUTHORIZE AN EMERGENCY DETENTION. AN EMERGENCY DETENTION IS A 72 HOUR HOLD WHERE THE PERSON IS PLACED IN A LOCKED INPATIENT BEHAVIORAL HEALTH FACILITY FOR THEIR OWN SAFETY, TREATMENT, AND OBSERVATION. THERE ARE FEW HOSPITALS THAT HAVE AN INPATIENT BEHAVIORAL HEALTH UNIT, AND EVEN FEWER THAT ACCEPT JUVENILE OR MINOR PATIENTS. AS AN EXAMPLE, EAU CLAIRE COUNTY HAD TWO HOSPITALS WITH INPATIENT BEHAVIORAL HEALTH UNITS. HOWEVER, ONLY ONE OF THOSE HOSPITALS (HSHS, SACRED HEART) HAD THE CAPABILITY TO ACCEPT JUVENILE/MINOR PATIENTS. SINCE HSHS CLOSED IN MARCH 2024, ANY JUVENILE DETAINED IN EAU CLAIRE COUNTY HAS NEEDED TO BE TRANSPORTED ACROSS THE STATE TO WINNEBAGO MENTAL HEALTH INSTITUTE. THE PLACEMENT AT WWMI MEANS THAT AT LEAST FOR EAU CLAIRE COUNTY RESIDENTS, THESE MINOR ARE PLACED 3 HOURS AWAY FROM THEIR FAMILY MAKING IT DIFFICULT FOR MOST FAMILIES TO MAINTAIN IN PERSON CONTACT DURING THE MINOR'S PLACEMENT AT THE FACILITY. NOT ONLY IS THE TRANSPORTATION OF THE MINOR TO THE FACILITY TIME CONSUMING, BUT IT ALSO COMES AT A SIGNIFICANT COST. TRANSPORTATION FROM A CONTRACTED PROVIDER FROM EAU CLAIRE COUNTY TO WWMI IS APPROXIMATELY $1600 ONE WAY.

IT IS CRUCIALLY IMPORTANT WHEN PRTF'S ARE FORMED, THE REQUIREMENT FOR AT LEAST ONE FACILITY TO BE LOCATED IN THE NORTHERN OR NORTH-CENTRAL REGION OF WISCONSIN BE MAINTAINED IN THIS BILL. I ALSO SUPPORT THE REQUIREMENT FOR AT LEAST ONE FACILITY TO BE LOCATED IN THE SOUTHERN PART OF THE STATE. IT'S CRUCIAL THAT MINOR THROUGHOUT THE STATE HAVE ACCESS TO THESE FACILITIES WHICH SHOULD BE LOCATED CLOSER TO THEIR HOMES. IT IS IMPREATIVE THAT THE REQUIREMENT THE PRTF SERVICES BE REIMBURSABLE THROUGH MEDICAL ASSISTANCE (SUBJECT TO FEDERAL APPROVAL) SO AS TO NOT PUT AN UNDUE BURDEN ON THE FAMILIES AND THE PATIENT'S COUNTY OF RESIDENCE.

THIS BILL ALLOWS FOR VIDEO MONITORING FOR THE SAFETY OF THE PATIENTS AND STAFF IN THE COMMON AREAS, ENTRANCES, AND EXITS OF THE FACILITIES. THIS VIDEO MONITORING CAN HELP ENSURE THE PATIENTS ARE EVEN MORE CLOSELY MONITORED. ALLOWING THE VIDEO MONITORING IN THE COMMON AREAS WILL ALSO GREATLY DECREASE THE POSSIBILITY OF ELOPEMENT. I COMPLETELY SUPPORT THAT THESE VIDEO RECORDINGS REMAIN CONFIDENTIAL AND NOT OPEN TO PUBLIC INSPECTION TO PROTECT PATIENT PRIVACY CONCERNS.

THE PRTF'S CAN ALSO BE AN INCREDIBLE ASSET TO MINORS SUBJECT TO NOT ONLY A CHAPTER 51 ORDER, BUT ALSO THOSE SUBJECT TO A CHIPS ORDER. THERE ARE

UNFORTUNATELY MINORS WHO HAVE HIGH AQUITY PSYCHIATRIC NEEDS CAN BE AND ARE PLACED OUTSIDE THE STATE OF WISCONSIN DUE TO A VARIETY OF REASONS. THERE ARE SOME REASONS FOR THESE OUT OF STATE PLACEMENTS. THERE IS A DEFINITE SHORTAGE OF PSYCHIATRIC RESIDENTIAL FACILITIES IN WISCONSIN THAT ACCEPT PLACEMENTS OF MINORS. THE BEHAVIORAL AND PSYCHIATRIC NEEDS OF THE MINORS ARE SUCH THAT MANY OF THE FACILITIES IN THE STATE ARE UNABLE TO ADDRESS THE MINORS' HIGH NEEDS. IN ADDITION, MANY FACILITIES ARE UNWILLING TO ACCEPT THESE PATIENTS REGARDLESS OF THE RATES THE COUNTIES ARE WILLING TO PAY. MANY JUST DON'T WANT THE LIABILITY THAT COMES ALONG WITH MINORS WITH SUCH HIGH NEEDS.

BEFORE AN OUT OF STATE PLACEMENT IS EVEN CONSIDERED, COUNTIES HAVE SENT REQUESTS FOR PLACEMENT TO UP TO 100 FACILITIES IN WISCONSIN. MANY FACILITIES JUST REFUSE TO ACCEPT PLACEMENT OF THE MINOR DUE TO THEIR HIGH NEEDS, REGARDLESS OF THE DAILY RATE THE COUNTY IS WILLNIG TO PAY. IT WOULD BE MY RECOMMENDATION, OR SHOULD I SAY REQUEST, THAT IN ORDER TO REDUCE OR ELIMINATE THESE OUT OF STATE PLACEMENTS THAT PRTF'S BE REQUIRED TO ACCEPT THESE PLACEMENT OR BE OFFERED SOME TYPE OF INCENTIVES TO ACCEPT WISCONSIN'S MINOR RESIDENTS INTO THEIR FACILITIES, AND/OR BE REQUIRED TO "SAVE" A CERTAIN NUMBER OF BEDS FOR WISCONSIN MINORS.

THE NEED FOR WISCONSIN TO HAVE FACILITIES TO TREAT THESE HIGH AQUITY MINORS IS SIGNIFICANT. MINORS WHO ARE PLACED OUT OF STATE ARE UNABLE TO SEE THEIR FAMILY AS OFTEN AS WHEN THE MINOR IS PLACED IN WISCONSIN. WE ARE DOING A DISSERVICE TO BOTH THESE MINORS AND THEIR FAMILIES WHEN PLACEMENTS CANNOT BE LOCATED IN WISCONSIN.

MOVING ON THE ASSEMBLY BILL 112/SENATE BILL 107, THIS BILL REVISES REQUIREMENTS TO OBTAIN A MINOR'S CONSENT FOR MENTAL HEALTH SERVICES. THE BILL ALLOWS EITHER A MINOR AGE 14 OR OLDER, OR THE MINOR'S PARENT OR GUARDIAN, TO CONSENT TO BEGIN OUTPATIENT OR INPATIENT MENTAL HEALTH TREATMENT FOR THE MINOR. IF A PARENT CONSENTED TO TREATMENT WITHOUT THE MINOR'S AGREEMENT, A PETITION MUST BE FILED FOR REVIEW OF THE APPROPRIATENESS OF THE TREATMENT.

UNDER CURRENT LAW, IF A MINOR IS AGE 14 OR OLDER, BOTH THE MINOR'S AND THE PARENT'S MUTUAL CONSENT ARE REQUIRED FOR OUTPATIENT OR INPATIENT MENTAL HEALTH TREATMENT. VERY GENERALLY, IF A MINOR OR PARENT REFUSES TO PROVIDE

CONSENT FOR TREATMENT, THE OTHER PARTY MAY PETITION FOR REVIEW AND APPROVAL TO BEGIN OUTPATIENT OR INPATIENT TREATMENT. IF THE MINOR IS UNDER AGE 14, THE PARENTS/GUARDIANS HAVE THE AUTHORITY TO CONSENT TO THEIR MINOR CHILD TO RECEIVE INPATIENT MENTAL HEALTH TREATMENT.

THIS CHANGE GIVES MORE ABILITY, SUBJECT TO REVIEW, FOR EITHER THE PARENT/GUARDIAN OR THE MINOR TO CONSENT TO TREATMENT. WHILE I'VE HEARD QUESTIONS OR STATEMENTS REGARDING THIS PROPOSED CHANGE MAY ERODE THE PARENTAL AUTHORITY, I DO NOT VIEW IT THAT WAY. WHILE I WOULD IMAGINE MOST OF YOU WHO ARE PARENTS OR GUARDIANS WOULD LIKELY CONSENT TO YOUR MINOR CHILD RECEIVING NECESSARY MENTAL HEALTH SERVICES, THERE ARE MANY SITUATIONS I'M FAMILIAR WITH WHERE THE PARENTS/GUARDIANS ARE REFUSING TO ALLOW THEIR MINOR CHILD TO RECEIVE THE NECESSARY SERVICES, DESPITE THE FACT THAT THE MINOR WANTS THEM. DURING MY TIME AT THE CORPORATION COUNSEL'S OFFICE, FOR APPROXIMATELY 14 YEARS I WAS RESPONSIBLE FOR THE JUVENILE CASES, IN CASES WHERE THE MINORS WERE VICTIMS OF CHILD ABUSE OR NEGLECT. SOME OF THE PARENTS/GUARDIANS OF THOSE CHILDREN WHO WERE UNDER A CHIPS ORDER DID NOT WANT THEIR MINOR CHILD TO RECEIVE ANY TYPE OF MENTAL HEALTH SERVICES, EVEN IF THE MINOR CHILD WANTED TO RECEIVE SUCH SERVICES. I'VE SPECULATED THE POSSIBLE REASON FOR THIS COULD BE THEIR DISTRUST OF MENTAL HEALTH PROFESSIONALS OR THE GOVERNMENT, OR EVEN THE POSSIBLITY THEY ARE CONCERNED WHAT THE MINOR MAY DISCLOSE DURING THEIR TREATMENT.

REGARDLESS OF THE REASONS, THIS BILL ALLOWS FOR EITHER THE PARENT/GUARDIAN OR THE MINOR AGE 14 OR OLDER TO CONSENT TO MENTAL HEALTH SERVICES, SUBJECT TO A REVIEW THAT CAN BE REQUESTED BY EITHER PARTY. I SUPPORT THIS CHANGE TO THE CURRENT STATUTE AND ENCOURAGE YOU TO SUPPORT IT AS WELL.

ASSEMBLY BILL 113/SENATE BILL 108 ALLOWS FOR ADDITIONAL CONSENTUAL EXCHANGE OF IMPORTANT MENTAL HEALTH INFORMATION. THE PLAN IS FOR A SAFETY PLAN SHARING PORTAL TO BE DEVELOPED THAT WOULD BE AVAILABLE THROUGHOUT THE STATE. THESE SAFETLY PLANS WOULD BE SHARED WITH THE WRITTEN CONSENT OR A RELEASE OF INFORMATION SIGNED BY THE MINOR. THIS SAFETY PLAN CAN BE ACCESSED BY LAW ENFORCEMENT DURING A MENTAL HEALTH CRISIS IN ORDER TO OBTAIN VALUABLE INFORMATION TO PROVIDE SUPPORTS AND ASSISTANCE TO THE MINOR. AT PRESENT, A PROGRAM LIKE THIS, CALLED THE "CATCH" PROGRAM IS BEING UTILIZED IN ASHLAND AND BAYFIELD COUNTIES. HAVING A STATEWIDE PORTAL THAT ALLOWS FOR ACCESS TO THIS ESSENTIAL INFORMATION CAN BE VERY BENEFICIAL TO

THE MINOR WHO HAS AGREED TO THE RELEASE OF INFORMATION. DUE TO MENTAL HEALTH INFORMATION, ESPECIALLY THAT OF A MINOR, BEING CONFIDENTIAL AND PROTECTED, WHEN A LAW ENFORCEMENT OFFICER RESPONDS TO A CRISIS SITUATION, THEY HAVE LITTLE TO NO KNOWLEDGE OF WHAT ISSUES OR CHALLENGES THE MINOR FACES. IF THERE IS ACCESS TO INFORMATION THAT CAN ASSIST WITH DE-ESCALATION OR FINDING SUPPORTS FOR THE MINOR, IT MAY BE POSSIBLE TO AVOID ANY FURTHER TYPE OF COURT INTERVENTION, YET STILL PROVIDE THE NECESSARY ASSISTANCE TO THE MINOR. THIS SYSTEM WOULD BE BENEFICIAL TO LAW ENFORCEMENT, EMERGENCY SERVICE PERSONNEL, HUMAN SERVICES AND MENTAL HEALTH PROVIDERS, AS WELL AS SCHOOL DISTRICTS, WHO WITH THIS INFORMATION WILL BE BETTER ABLE TO PROVIDE ASSISTANCE TO THE MINOR. AND GIVEN THAT THE MINOR CONSENTS TO THE SAFETY PLAN BEING SHARED, THE MINOR MAY BE MORE WILLING TO COOPERATE IN THE SERVICES BEING OFFERED. I BELIEVE THIS IS A GOOD START AT PROVIDING THE NECESSARY INFORMATION TO ASSIST MINORS EXPERIENCING MENTAL HEALTH CRISES.

ASSEMBLY BILL 114/SENATE BILL 109 - THIS BILL ALLOWS A COUNTY, OTHER THAN MILWAUKEE COUNTY, TO ELECT TO AUTHORIZE CERTAIN MEDICAL AND BEHAVIORAL HEALTH CLINICIANS TO INITIATE EMERGENCY DETENTIONS OF MINORS AND CREATES A PROCESS FOR CLINICIAN-INITIATED DETENTIONS IN COUNTIES THAT ELECT TO ALLOW CLINICIANS TO INITIATE EMERGENCY DETENTIONS. CURRENTLY, EMERGENCY DETENTIONS ARE PRIMARILY INITIATED BY LAW ENFORCEMENT OFFICERS, OR POSSIBLY BY COUNTY CRISIS SOCIAL WORKERS.

THIS BILL EXPANDS THE ABILITY TO DETAIN TO AUTHORIZED MEDICAL AND BEHAVIORAL HEALTH CLINICIANS TO INITIATE AN EMERGENCY DETENTION OF MINORS. AN IMPORTANT PART OF THIS LEGISLATION REQUIRES THESE PROVIDERS OBTAIN THE NECESSARY TRAINING PRIOR TO THEIR AUTHORITY TO DETAIN AND STILL REQUIRES COUNTY APPROVAL FOR THE DETENTION TO OCCUR. THE PROVISIONS OF HOW THE EMERGENCY DETENTION PROCEEDS THROUGH THE LEGAL PROCESS REMAINS THE SAME, WITH THE REQUIREMENT FOR THE CLINICIAN TO PROVIDE THE NECESSARY PAPERWORK TO THE COUNTY CORPORATION COUNSEL THE NEXT BUSINESS DAY.

THE BILL GIVES EACH COUNTY THE ABILITY TO CHOOSE WHETHER THEY ELECT TO ALLOW CLINICIANS TO INITIATE EMERGENCY DETENTIONS, A PROVISION I SUPPORT AS I BELIEVE EACH COUNTY IS IN THE BEST POSITION TO ASCERTAIN WHETHER OR NOT THIS TYPE OF EXPANSION OF THE CURRENT LAW IS SOMETHING THEY WANT TO OR ARE WILLING TO EXPLORE.

IN CLOSING I WANT TO EXPRESS MY GRATITUDE FOR THE OPPORTUNITY TO PARTICIPATE IN THE JOINT LEGISLATIVE COUNCIL STUDY COMMITTEE ON EMERGENCY DETENTION AND CIVIL COMMITMENT OF MINORS. I MET SEVERAL COLLEAGUES WHO ALL SHARED THE SAME COMMITMENT AS I DO, WHICH IS TO DO WHAT WE COULD TO IMPROVE OUR CURRENT SYSTEM OF HANDLING MENTAL HEALTH COMMITMENTS FOR MINORS. THE MEMBERS EXPRESSED SIGNIFICANT SUPPORT FOR CREATING PRTF'S TO ALLOW FOR ADEQUATE AND MORE LOCAL MENTAL HEALTH TREATMENT FOR THE MINORS WHO ARE IN NEED OF SUCH SERVICES. I SUPPORT ALL THE LEGISLATION FORWARDED BY THE STUDY COMMITTEE AND HOPE MY COMMENTS TODAY WILL HELP YOU TO UNDERSTAND THE IMPORTANCE OF SUPPORTING THIS LEGISLATION AS WELL.

THANK YOU FOR YOUR TIME AND ATTENTION TODAY AND I WOULD WELCOME ANY QUESTIONS YOU MAY HAVE.

State of Wisconsin
Department of Health Services
Tony Evers, Governor
Kirsten L. Johnson, Secretary

TO: Members of the Senate Committee on Mental Health, Substance Abuse Prevention, Children and Families and of the Assembly Committee on Mental Health and Substance Abuse Prevention

FROM: Arielle Exner, Legislative Director

DATE: May 27, 2025

RE: Senate Bill 106/Assembly Bill 111, Senate Bill 107/Assembly Bill 112, Senate Bill 108/Assembly Bill 113

The Department of Health Services appreciates the opportunity to submit written testimony for information only on three of the six bills brought forward by the Legislative Council Study Committee on Emergency Detention and Civil Commitment of Minors. The Department appreciated its collaboration with the Study Committee over the latter half of last year on potential solutions to addressing the behavioral health needs of our state's children. While DHS has additional context to provide regarding SB 107/AB 112, the Department recommends that SB 106/AB 111 and SB 108/AB 113 be amended to include the grant funding and necessary resources for DHS to carry out the tasks enumerated.

DHS came before the Study Committee twice throughout its deliberations. During the Department's presentation at the August Study Committee meeting, the Department provided an overview of the emergency detention and involuntary commitment procedures as well as the Department's crisis services and facilities. At the December Study Committee meeting, the Department raised specific concerns and recommendations on the prior iterations of these three pieces of legislation. Additionally, the Department expressed support for the cross-agency proposal, now SB 110/AB 115 as introduced by the Study Committee, which authorizes DHS to create a new behavioral health Medicaid program for children and youth with the most complex needs by allowing the Department to submit a Medicaid waiver to the U.S. Department of Health and Human Services to provide reimbursement for these services.

SB 106/AB 111

Under this proposal, DHS may certify psychiatric residential treatment facilities (PRTFs) to provide inpatient psychiatric services for individuals under age 21, under the direction of a physician, with services provided by a facility that meets PRTF standards under federal regulations. PRTF services would be reimbursable as a Medical Assistance (MA) benefit and DHS would be allowed to seek any necessary federal approvals for the creation of PRTFs.

DHS appreciated the Study Committee's ongoing discussion about the need to establish PRTFs in Wisconsin in order to serve some of the state's most vulnerable children by addressing a gap in the state's mental health continuum of care with the goal of diminishing the number of out-of-state placements. DHS thanks the Study Committee for incorporating many of the recommendations the Department provided.

However, DHS would like to reiterate that this proposal would allow PRTFs to deny admission, therefore, the Department anticipates that out-of-state placements would continue, most likely for children with the most complex needs. For example, since the establishment of PRTFs upon passage of legislation in 2015, the Minnesota Department of Health Services have shared ongoing concerns about these facilities denying admission, especially given none of these facilities serve children with co-occurring disorders.

This legislation gives the Department the authority to distribute grants for development of PRTFs without providing funding. In his 2023-25 and 2025-27 biennial budget proposals, Governor Evers included $1.8 million for the Department to support PRTFs. This grant funding could help support start-up costs for a facility, fund costs for uninsured youth, and supplement operations cost, particularly when a facility is under utilized. Notably, contract agreements would allow DHS to ensure the state's objectives are being met, such as curtailing the denial of high acuity admissions.

Lastly, this legislation provides the position authority for four new FTE positions, as the Department requested at the December meeting, to develop the administrative rules, manage the certification process, establish Medicaid rates, and monitor and evaluate the program. However, the legislation does not include the funding for those positions. It would not be feasible to pursue opening a PRTF in Wisconsin if these staffing needs are not met.

SB 107/AB 112

This legislation modifies the consent process for minors aged 14 and older seeking mental health treatment, shifting from the current system where both the parent or guardian and the youth must consent to treatment. Under the current law, if both parties do not consent to treatment, there is a mechanism for the consenting party to petition for review and approval of treatment. Under this proposed bill, either the minor or the parent may consent independently, and if one party disagrees, a petition for review can be filed under Chapter 51.14. The Department acknowledges the sensitivity of altering the consent process, and the lack of agreement amongst professionals about the appropriate age for consenting to services.

As the Department discussed with the Study Committee, the Department remains interested in future discussions with the State Legislature about how to ensure youth and families know their rights and that providers are knowledgeable and can participate in the petition process.

SB 108/AB 113

SB 108/AB 113 directs DHS to develop and maintain a statewide portal to facilitate the sharing of safety plans for minors among safety plan partners. DHS recognizes that a shared portal may help facilitate and inform responses to a behavioral health crisis for those minors. The legislation does not include resources nor funding for the one FTE position included. The cost for the Department itself to develop and maintain the platform as the bill requires would be high and cannot be determined at this time. Per the legislation, the Department could also make payments to the state's electronic health information exchange to develop and maintain a portal. If the Department were to contract for a system, DHS expects to need $546,200 GPR in the first year and $455,200 GPR annually thereafter with costs rising annually along with inflation. Without the necessary resources, the Department will not be able to successfully implement this statewide information sharing system.

DHS thanks both Committees for the opportunity to provide testimony.

Children's Wisconsin

TO: **Senate Committee on Mental Health, Substance Abuse Prevention, Children & Families and Assembly Committee on Mental Health & Substance Abuse Prevention**
FROM: **David Whelan, Vice President, Child Well-Being, Children's Wisconsin**
DATE: **Tuesday, May 27, 2025**
RE: **Support for AB 111/SB 106 – Psychiatric residential treatment facilities**

Chair James, Chair Tittl and members of both committees, thank you for the opportunity to share testimony with you today. My name is David Whelan and I lead Children's Wisconsin's Child Well-Being team who works across our state to support kids and strengthen families. I'm here today to share Children's support for this bipartisan legislation. We want to thank the members of the Legislative Council Study Committee, including Senator James, Senator Johnson and Representative Snyder, for their leadership in addressing the important topic of how to better support youth in crisis.

As many of you know, Children's Wisconsin is the region's only independent health care system dedicated solely to the health and well-being of kids. As such, we offer a wide array of programs and services inside our hospitals and clinic walls and out in the communities we serve. Between our hospitals in Milwaukee and Neenah, primary, specialty and urgent care clinics and community services offices across the state – we provide kids and their families with care and services they need to promote health, safety and well-being. At Children's, we believe caring for a child's mental and behavioral health is just as important as caring for their physical health. Our expertise across mental health and child well-being runs deep, with our teams caring for thousands of kids with mental and behavioral health challenges every year at our hospital, mental health walk-in clinics, primary care clinics, through our parent support programs and foster care and adoption services, and in schools and communities throughout the state. Importantly, partnership with a wide array of stakeholders and keeping what is best for the patient at the center are key to being able to successfully care for kids' needs across the mental and behavioral health care continuum.

There is an *urgent* need to address the nation's youth mental health crisis. According to the Wisconsin Office of Children's Mental Health 2024 annual report, 52% of Wisconsin high schoolers reported anxiety and 35% felt sad and hopeless. There has been a concerning increase in the number of teens seriously considering suicide, especially among girls, kids of color, and kids who identify as LGBTQ+.

Over the last five years, Children's Wisconsin, along with our philanthropic partners, committed to investing $150 million in a number of initiatives to improve kids' access to mental and behavioral health care. This includes putting in place systems to detect needs sooner and help kids before they are in crisis; reducing stigma by supporting a system of care that ensures mental health is part of every outpatient visit; meeting kids and families where they are by bringing mental and behavioral care closer to home by providing more services in schools and clinics; and advancing research, education and innovation, including opening walk-in clinics for kids' urgent mental health care. We are also doing what we can to address the shortage of mental and behavioral health professionals by hiring and paying qualified therapist trainees (QTTs) and providing them the clinical supervision needed to obtain therapist licenses. With our partners at the Medical College of Wisconsin, we have recently started a child and adolescent psychology residency training program and pediatric psychology fellowship program to help grow this important workforce.

While we work to prevent mental and behavioral health issues from becoming a crisis, we know that a relatively small but significant group of Wisconsin kids are already in need of a higher level of care to address their mental and behavioral health needs. Children's Hospital Emergency Department and Trauma Center (EDTC) cares for many children with suicide attempts, suicidal ideation and self-injury each year and unfortunately that number has more than quadrupled over the last 10+ years going from 722 children in 2013 to 3,065 children in 2024 – and that is just patients seen by Children's EDTC. Because of the increase in volumes of children we see with mental health conditions, four rooms in Children's Hospital new EDTC were specifically designed to be safer for kids with mental and behavioral health issues who may be at risk of harming themselves or others, including our clinicians. These safer rooms are located in a calmer area and equipment in the room can be locked for safety reasons.

And yet, we recognize that an emergency room is not an ideal care setting for those experiencing a mental and behavioral health crisis. For children who require a higher level of care, they may be admitted to our hospital while they await a bed to open up at an inpatient psychiatric hospital or a residential treatment facility. While our staff do what they can to care for and support these children safely, children experiencing a mental health crisis need the care and resources available in a setting that can plan for and provide appropriate treatment.

On average each day, 23 Wisconsin children require even higher levels of care to meet their mental and behavioral health needs and are in an out-of-state placement. These children have severe mental, emotional, intellectual and/or behavioral issues and pose a significant risk to themselves or others. They need 24-hour, intensive and comprehensive mental health treatment in a safe and secure therapeutic environment. Currently, the only appropriate treatment option that is available for children who need this level of care is to be placed in out-of-state psychiatric residential treatment facilities (PRTFs). PRTFs are equipped with the specialized staff and facilities to provide the care that the children need. They have comprehensive services including evaluations, therapies and treatments to best support youth on a path towards safety, health and well-being.

Having PRTFs in Wisconsin will support children in being closer to home, closer to their supportive resources and will ease the transition back to their home, school and community. Most importantly, it will support the mental and behavioral health continuum of care for kids creating an environment where Wisconsin kids who have a more acute psychiatric needs can receive care right here in our state. Wisconsin kids should be able to have access to all levels of care they need, including children who face the most significant mental and behavioral health challenges.

Due to the lack of suitable placement options available, Children's Hospital is in the precarious situation of accommodating youth who can't be safely discharged to home and for whom no other safe and appropriate placement option is available. These are often youth with intellectual and developmental disabilities and conduct disorders. Due to lack of placement options in Wisconsin, last year, mental and behavioral health patients at Children's Hospital experienced nearly 500 avoidable hospital days. This includes more than 150 avoidable hospital days for approximately 10 patients with autism or developmental disabilities.

While we are grateful when we can, at times, find care for kids at places like Chileda, Genesee Lake or Central Wisconsin Center, much more frequently we are unable to utilize these placement resources due to capacity limitations and due to the acuity of the patient. We must then assist in the transfer of Wisconsin children to facilities out of state, many of which are PRTFs, in places like Ohio and Tennessee. The safe transfer of these children out of state is often traumatic for them and requires a large clinical and behavioral health care team to help manage. It requires a comprehensive care plan to transport the child, most often via a van service which often extends 12-14 hours. This process requires additional work for our staff outside of normal operations and is extremely stressful. These transports can be highly distressing to the child, and the van service, while exceptional in their care, may need to utilize restraints to ensure safety on the highways.

While the number of kids with high acuity mental and behavioral health needs is small, their experiences are profound. I'd like to share one story of a youth we've cared for. This child has severe autism with significant behavioral health issues; developmentally, they present with functions similar to those of a toddler. They were admitted to Children's Wisconsin with behavioral aggression issues which required a staff member to regularly sit in their room to help keep

them safe and additional staff to perform regular care safely and appropriately. While the child's medical needs were stabilized, their family didn't have the capacity to manage their aggressive behaviors at home – home care plans could not reliably sustain their safety. Children's case management team worked diligently to find an appropriate placement that could maintain safety and treat their behavioral health needs. Our team exhausted the limited list of the highest-level in-state facilities and contacted more than 30 mental health facilities across the country hoping to find a provider able to meet their care needs. All of those facilities declined placement. During these efforts, the youth spent months in a hospital room at Children's Wisconsin. Children's was eventually able to support their placement at a residential facility out-of-state. This facility had an open bed and thankfully was willing, for the first time, to take a placement from Wisconsin – an exception that demonstrates the challenges we have accessing the right level of care for youth when we do not have an in-state PRTF. Children's covered the significant costs for safe transport out-of-state as well as the expenses for them to return home as they were able to eventually transition to an adult care facility here in Wisconsin closer to family.

The Legislative Council Study Committee brought additional attention to the need for PRTFs in Wisconsin – a solution that those caring for youth with significant mental and behavioral health needs in our state believe will help us better care for this small population of kids. **Importantly, PRTFs are one piece of addressing kids' mental and behavioral health needs**. To strengthen Wisconsin's continuum of care we should also prioritize funding family supportive services like family respite, crisis triage and stabilization homes and upstream services like early childhood mental health, behavioral therapies and early communication skills programs, like sign language. Supporting investments in Level 5 foster care homes for youth who are aging out of care and increased funding for the residential care center pilot currently operating at Chileda will help better support the care and stability of these youth.

As I mentioned earlier, we need many partners in this work. Children's does not have inpatient psychiatric beds and while there are providers around the state that do, the complex needs of some of these children require a higher level of care and a higher ratio of caregivers to child, along with a specialized physical environment that only PRTFs can provide. PRTFs are part of the continuum of care that is needed in the state for a small population of kids who need very intensive care. This bill helps create the framework for these facilities to be able to consider a future opening in Wisconsin, however financial support for standing these up, and a sustainable payment source, will also be critical components.

On behalf of Children's Wisconsin, and the children who desperately need this level of care, I strongly encourage your support of this legislation. Thank you for your consideration and I am happy to answer questions now or in the future.

David Whelan
Vice President, Child Well-Being
Children's Wisconsin

Jodi Bloch
Director, State & Local Government Relations
Children's Wisconsin
608-217-9508
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Children's Wisconsin (Children's) serves children and families in every county across the state. We have inpatient hospitals in Milwaukee and the Fox Valley. We care for every part of a child's health, from critical care at one of our hospitals, to routine checkups in our primary care clinics. Children's also provides specialty care, urgent care, emergency care, dental care, school health nurses, foster care and adoption services, family resource centers, child health advocacy, health education, family preservation and support, mental health services, pediatric medical research and the statewide poison hotline.

NAMI Wisconsin
National Alliance on Mental Illness

Date: May 27, 2025

From: NAMI Wisconsin, the National Alliance on Mental Illness,

Mary Kay Battaglia, Executive Director

Sita Diehl, Public Policy and Advocacy Director

To:

Senate Committee on Mental Health, Substance Abuse Prevention, Children and Families

Assembly Committee on Mental Health and Substance Abuse

NAMI Wisconsin applauds the Wisconsin Legislature for the intent to improve statutes concerning the emergency detention of minors in psychiatric crises. The Legislative Committee on the Emergency Detention of Minors process has been thorough and has produced helpful recommendations. NAMI Wisconsin is the state organization of the National Alliance on Mental Illness. We represent Wisconsin residents with serious mental illness, their families and supporters. NAMI 22 local affiliates offer support, education, and advocacy to improve quality of life for people with mental illness and promote recovery.

NAMI Wisconsin recognizes and supports system improvements which improve early identification of mental health needs and early, community-based intervention which address serious mental illness as it emerges. Positive and supportive response to these crises enable the person to pursue a meaningful, productive life and avoid long term disability and dependence on public resources. We also recognize that, even when these safeguards are in place, there will continue to be children and youth who require involuntary commitment to psychiatric care. NAMI generally supports the following legislation to address this need, although we have concerns and suggest further analysis for the proposal for consent to treatment for minors who are age 14 and older which we note in comments below.

Clinician initiation of emergency detention of a minor: SB109/ AB114.

NAMI Wisconsin supports this legislation to authorize certain medical and behavioral health clinicians to initiate the emergency detention of a minor and would create a process for clinician-initiated detentions in counties that elect to allow clinicians to initiate emergency detentions. It is our view that current Wisconsin statute relies too heavily on law enforcement in the emergency detention process. Requiring law enforcement to place the commitment order creates the impression that emergency detention is a criminal process, rather than a civil and medical process, adding stress and confusion for the youth in crisis and the family or guardian. This bill would bring Wisconsin into alignment with practice in most states by allowing either a designated clinician *or* law enforcement officer to place an emergency hold on an individual for the purpose of determining eligibility for involuntary commitment.

Psychiatric residential treatment facilities, providing an exemption from emergency rule procedures, and granting rule-making authority: SB106/ AB111

NAMI Wisconsin supports this bill to authorize the Department of Health Services (DHS) to establish a certification process for and certify psychiatric residential treatment facilities (PRTFs) to provide inpatient psychiatric services for individuals under age 21, with PRTF services being a reimbursable Medical Assistance (MA) benefit. On any given day, as many as twenty Wisconsin children receive mental health services in psychiatric residential treatment facilities (PRTF) outside of Wisconsin because we do not have the right level of care to support them here. Supporting high needs children in-state will provide for better transition from inpatient to community care and improve opportunities for family and school engagement.

Consent to mental health treatment by minors who are age 14 or older: SB107/ AB112

The bill revises requirements to obtain a minor's consent for mental health services. The bill allows either a minor age 14 or older, or the minor's parent or guardian, to consent to begin outpatient or inpatient mental health or substance use treatment for the minor. If a parent consented to treatment without the minor's agreement, a petition must be filed for review of the appropriateness of the treatment. NAMI Wisconsin views this as an improvement on current law which prevents treatment from proceeding if either the minor or the parent/guardian refuses. However, we have the following concerns:

- NAMI recommends insertion of a requirement that the minor **and parent/guardian** must receive information on the consent provisions of this bill at the earliest opportunity in the process of applying for inpatient or outpatient treatment. This should include written information and verbal instruction on the minor's rights and the parent/guardian rights

and responsibilities. Too often, such information is provided too late in the process to enable the parent/guardian or minor to make informed decisions or take action.

- The language in the bill moves from mental illness, developmental disability, and minors with treatment for alcoholism or drug abuse inconsistently. Is the intent to differentiate the services and who can request treatment?
- We are concerned about who has liability and who pays for treatment when the child consents, but the parent or guardian refuses care. If a component of the parent's refusal is based on concern for the financial obligation, what alternative provisions would be available to pay for care?
- If there is disagreement between the minor and their parent/guardian about outpatient treatment, we would like the minor to receive initial treatment while a decision to refuse care is under consideration by the court.
- Would a facility take the liability if the child elects to participate in inpatient care and the parent or guardian refuses? Who is liable if the minor is harmed or harms another person while in the facility? We understand that a facility is currently liable to maintain safety for individuals in their care, but we are concerned that treatment proceeding despite parental refusal may increase the likelihood of legal action.
- For inpatient care, we concur with the recommendation of the Wisconsin Psychological Association that the minor should receive treatment for 5 working days or until the court makes a dispensation on the case, whichever is soonest.
- We highly recommend inclusion of a requirement that this legislation would apply to only recognized standard mental health practice and/or evidence-based therapies.

Sharing minors' safety plans: SB108/ AB113

NAMI Wisconsin supports this legislation with one recommendation regarding the WISHIN health information system. We promote the use of crisis plans and safety plans as an effective practice to enable the person and their supporters to prevent mental health crises, to share necessary information and to describe and state preferences for action should a crisis occur. We applaud the CAtCH Safety Plan process on which this legislation is based, allowing information not protected under confidentiality statute to be shared as specified by the person and with parties specified by the person. We fully support the inclusion of these plans in the WISHIN health information system, although we encourage the legislature to consult with WISHIN personnel prior to this bill moving forward to ensure that provisions will allow for information to be collected and shared as intended in the legislation.

A pilot school-centered mental health program: AB260/ SB245

NAMI Wisconsin supports this pilot of school-centered mental health services to serve at-risk students and families at school, at home, and in the community and serve students and families year-round. The pilot will include classroom observations and pupil-specific behavior intervention, including evidence-based individual or family therapy, and provide family coaching that is aligned with therapeutic goals. We prefer the model identified in this bill because it brings specialty mental health expertise into the school. This facilitates continuity of evidence-based care and allows services to be provided on site without requiring parents to take time from work to transport their children to appointments. This model enables children and families to continue care and coaching when school is not in session or when the child is unable to attend school. Finally, embedding mental health experts on site at the school allows for faculty consultation on in-class supports, and general education of faculty and the student body regarding healthy school culture.

NAMI Wisconsin is encouraged by these proposed bills that will promote early intervention, effective crisis response and access to mental health care for children and youth. Should you require further information, please contact NAMI Wisconsin's Executive Director, Mary Kay Battaglia at marykay@namiwisconsin.org.

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MEMORANDUM

TO: Honorable Members of the Senate Committee on Mental Health, Substance Abuse Prevention, Children and Families
Honorable Members of the Assembly Committee on Mental Health and Substance Abuse Prevention

FROM: Chelsea Shanks, Government Affairs Associate

DATE: Tuesday, May 27, 2025

SUBJECT: Position of Wisconsin's Counties on Bills Related to Mental Health for Youth

Assembly Bill 111/Senate Bill 106: Psychiatric Residential Treatment Facilities (PRTF)

Currently in Wisconsin, there is a gap in our child welfare system as it relates to youth with disabilities, substance use, and behavioral needs. Due to a reduction of in-state residential capacity, Wisconsin has been sending children out of state for years to receive care for intensive mental health needs.

Current providers licensed by the Department of Children and Families only care for children who have been removed from their homes through the child welfare system, or those in need of services through the youth justice system. As a result, there is an inherent gap in our children's system of care.

The benefits of PRTF services include: mental health services covered by health insurance, high security and safety, longer periods of care to stabilize and treat conditions, and Medicaid reimbursement.

Creating a PRTF in Wisconsin is a key component in ensuring that we are keeping the children in our state safe and as close to home as possible. A 2022 study by the Wisconsin Association of Family & Children's Agencies found that all the children at risk of being placed out of state had a mental health, disability, and/or medical need that could not be matched with available in-state services. They were placed wherever there was space, not necessarily because it was what they needed. Without these facilities, children in our state are suffering.

For these reasons the Wisconsin Counties Association and the Wisconsin County Human Services Association respectfully request your support for AB 111/SB 106. Thank you for your consideration.

Assembly Bill 114/Senate Bill 109: Clinician Initiation of Emergency Detention of a Minor

This legislation essentially creates two processes for the emergency detention (ED) of a minor: 1) the current law enforcement initiation and 2) a new option for county approved/contracted clinicians.

After many discussions and collaborative conversations during the study committee meetings, county human services professionals have some recommendations for amendments that we believe will help keep the process efficient and effective.

1. **Approved clinicians:** The bill specifies that county human service departments may approve behavioral health clinicians to initiate EDs . To ensure the expanded authority to initiate is tightly controlled, the eligible clinicians should be employees or contractors of county human service departments. Without this, other community clinicians might seek county approval to initiate EDs , which could create conflicts between human service departments and their community partners.

   Amendment: Page 5 lines 9-10
   …county may elect to authorize clinicians who ~~have been approved by~~ are employees or contractors of the county to initiate emergency detentions.

2. **Law Enforcement Assistance:** There will be situations where county clinicians may initiate an ED of a child, but the situation could become dangerous and require assistance from law enforcement. It would provide assurance for county human service departments if there was specific language stating that county departments may request assistance from law enforcement for EDs initiated by clinicians if there are safety issues taking children into custody or transporting children.

   Amendment: On page 8, add a new paragraph specifying that the county department initiating the emergency detention may request assistance from law enforcement to take the child into custody or transport the child if the county department has concerns about the safety of the child or county staff.

3. **Training:** Require the Department of Health Services (DHS) to develop a statewide training program on the ED process for clinicians authorized to initiate detentions. Counties must ensure their clinicians complete the training. The program could also be offered to law enforcement and attorneys to improve consistency and understanding.

Since the legal process is the same for children and adults, the training could be made available to all professionals involved.

Amendments:

- Add a provision modifying 51.15(11m) to specify that DHS develop a training on the 51.15 emergency detention process.
- On page 5, line 22 of the bill add a reference to the new statewide training under 51.15(11m) for the training clinicians will be required to take.
- Modify the existing 51.15(m) so the current training requirement for law enforcement officers references the new statewide training. The current language about training for law enforcement being provided through in-service training at the county department of community programs could be eliminated to provide more flexibility about how the training can be provided to law enforcement.

DHS will need additional resources to develop the ED training. It is recommended that at least $200,000 of one-time funding be provided to allow DHS to develop a training curriculum that can be delivered through multiple modalities and to different audiences.

4. **Responsibility to testify:** The bill requires clinicians who initiate EDs for children to submit a statement to county corporation counsel to begin the legal process. Counties recommend clarifying that these clinicians must testify at the 72-hour probable cause hearing to support the detention.

   Amendment: On page 8, line 9 add a sentence that the clinician who initiates the emergency detention must provide testimony for why the detention was necessary at the probable cause hearing under 51.20(7).

5. **Placement in residential care:** The ED process is sometimes viewed as a way to get children admitted to residential care. County human service departments are responsible for placements of children in residential care under Chapters 48 or 938. It would be helpful to clarify that if a county clinician takes a child into custody for emergency detention, any subsequent placements of the child following the ED hospital stay must be done under the Chapters 48 or 938 placement procedures.

   Amendment: On page 8, add a new paragraph specifying that if a county takes a child into custody for emergency detention, once the child is released from detention the county may pursue placement of the child in out-of-home care using the Chapters 48 and 938 placement procedures.

6. **Evaluation:** Expanding the scope of professionals that can initiate ED of children is a major change in emergency mental health practice. To assess the impact of the change,

counties recommend that a formal evaluation be done. The evaluation of the expanded authority to initiate EDs should review the impact on the number of detentions; availability of transportation services; workload and financial impacts on county human service departments; and outcomes for children detained.

Amendment: A non-statutory provision could be added to the bill directing that an evaluation be done by the Legislative Audit Bureau or other independent evaluation resource.

The Wisconsin Counties Association believes that recommendations 1 and 2 are critical amendments necessary for county human services professionals to be supportive of AB 114/SB 109. These amendments are essential items to human services departments and their ability to ensure that staff and youth are safe.

Thank you for your time and consideration of our recommendations and please do not hesitate to contact WCA with any questions.

Contact: Chelsea Shanks, Government Affairs Associate
608.663.7188
shanks@wicounties.org