



WISCONSIN LEGISLATIVE COUNCIL

REVIEW OF EMERGENCY DETENTION AND ADMISSION OF MINORS UNDER CHAPTER 51

Room 412 East
State Capitol

August 31, 2010
10:00 a.m. - 4:15 p.m.

[The following is a summary of the August 31, 2010 meeting of the Special Committee on Review of Emergency Detention and Admission of Minors Under Chapter 51. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

Call to Order and Roll Call

Chair Pasch called the committee to order. The roll was called and it was determined that a quorum was present.

COMMITTEE MEMBERS PRESENT: Rep. Sandy Pasch, Chair; Sen. Dave Hansen, Vice-Chair; Reps. Ann Hraychuck and Joe Parisi; and Public Members Michael Bachhuber, Dr. Jon Berlin, Kristin Kerschensteiner, George Kerwin, Michael Kiefer, Dr. Gina Koeppel, Tally Moses, Brian Shoup, Galen Strebe, Brenda Wesley, and Carianne Yerkes.

COUNCIL STAFF PRESENT: Laura Rose, Deputy Director, and Richard Sweet, Senior Staff Attorney.

APPEARANCES: Sen. Fred A. Risser, Senate Co-Chair, Joint Legislative Council; Laura Rose, Deputy Director, Legislative Council; Neal Blackburn and Sarah Diedrick-Kasdorf, Wisconsin Counties Association; Police Chief Doug Pettit, Oregon; International Association of Chiefs of Police, Legislative Co-Chair; Wisconsin Chiefs of Police Association, Legislative Chair; Police Chief Susan Riseling, Chief of Police, University of Wisconsin-Madison Police Department; Dr. Kevin Kallas and Dr. Mike Hagen, Wisconsin Department of Corrections; John Easterday, Division of Mental Health and Substance Abuse Services, Department of Health Services; Lyn Malofsky, Warmline, Inc.; Molly Cisco, Grassroots Empowerment; and Hugh Davis, Wisconsin Family Ties.

Opening Remarks

Senator Fred A. Risser, Senate Co-Chair of the Joint Legislative Council, welcomed members of the Special Committee. He cited the number of requests for creation of special committees and the number of individuals who had been nominated to serve. He thanked the committee for agreeing to serve.

Laura Rose, Deputy Director of the Wisconsin Legislative Council, discussed administrative procedures related to committee membership.

Introduction of Committee Members

Representative Sandy Pasch, Chair of the Special Committee, welcomed all of the members. Committee members introduced themselves and briefly described their background.

Discussion of Staff Brief 10-01

Richard Sweet and Ms. Rose briefly described Legislative Council Staff Brief 10-01, *Emergency Detention and the Treatment of Minors Under Wisconsin's Mental Health Statutes*. Mr. Sweet described Part I of the Staff Brief, which deals with the statutes relating to emergency detention and which cover both adults and children. Ms. Rose described Part II which discusses mental health treatment of minors and the rights of minors and their parents under the statutes. The appendices to the Staff Brief include ss. 51.13, 51.14, and 51.15, Stats. In addition, Mr. Sweet noted that committee members had received a copy of ch. 51, Stats., and ch. DHS 34 of the Wisconsin Administrative Code.

Presentations by Invited Speakers

Neal Blackburn and Sarah Diedrick-Kasdorf, Wisconsin Counties Association

Ms. Diedrick-Kasdorf described a number of initiatives in the mental health area in Wisconsin. She also described the decrease in state aids to counties and the over-match provided by counties. One proposal she suggested is to suspend Medical Assistance (MA) benefits to persons who are in correctional facilities, rather than taking those persons off of the program entirely. Then, when the persons leave the correctional facility, they will not need to reapply for MA benefits. She also suggested that the committee consider alternatives for minors in crisis situations, such as use of crisis stabilization facilities, rather than either returning the child to his or her home or admitting the child to a psychiatric facility.

Mr. Blackburn noted that a change made in the emergency detention statutes in last year's Biennial Budget Act requires approval of a county agency before a person is detained on an emergency basis. He stated that this has resulted in more diversion and that emergency detentions are down 66% in his area. He noted the shortage of inpatient facilities and suggested that a change is needed in the law to allow a child to be placed in a residential setting for a few days. He stated that the Department of Health Services (DHS) and the Department of Children and Families (DCF) are working on a proposal in this area.

Police Chief Doug Pettit, Oregon; International Association of Chiefs of Police, Legislative Co-Chair; Wisconsin Chiefs of Police Association, Legislative Chair

Police Chief Susan Riseling, Chief of Police, University of Wisconsin-Madison Police Department

Chief Pettit noted that it is frustrating for an officer to have to sit in an emergency room for several hours while waiting to see the emergency room staff for somebody who is to be detained on an emergency basis. He suggested that training for law enforcement officers in this area should start early and added that more beds are needed. He stated that funding is critical.

Chief Riseling stated that the use of crisis intervention teams has resulted in a reduction in emergency detentions. She noted that this has been used successfully in Memphis. In addition, she suggested that state legislators work with Wisconsin's Congressional delegation to change federal privacy regulations so that persons involved in treating a patient can more easily share information with each other.

Chief Riseling added that since the adolescent unit at Mendota Mental Health Institute has closed, it is traumatic to transport a minor to Winnebago Mental Health Institute from Madison, since the minor is a great distance from his or her family and usual treatment providers. She added that school personnel need to be trained to identify minors with mental health issues early and also suggested the use of local advisory groups to tailor mental health services to meet the needs in their area. She added that law enforcement are sometimes called to an emergency room so that they can detain a person who is already in a facility.

Dr. Kevin Kallas and Dr. Mike Hagen, Wisconsin Department of Corrections

Dr. Kallas noted that the Department of Corrections (DOC) currently has over 7,000 inmates who are on the mental health caseload, representing about 30% of the incarcerated population. He said that of these, over 2,000, or about 10%, are classified as seriously mentally ill. He noted DOC uses 344 beds at the Wisconsin Resource Center, operated by DHS, for inmates with more intensive treatment needs, and that the Center is adding 45 beds for female offenders. He added that DOC rarely uses the emergency detention procedure, instead relying on corporation counsel in a county where a prison is located to petition for involuntary commitment. The primary purpose of doing so is to secure an involuntary psychotropic medication order for inmates. He noted that in addition, prisons or the Wisconsin Resource Center may petition a court for commitments under s. 51.20 (1) (ar), Stats., which does not require an overt showing of dangerousness for inmates.

Dr. Kallas noted that there is a problem with s. 51.20 (13) (g) 2m., Stats., which does not allow a commitment order to extend beyond an inmate's date of release on parole or extended supervision. This means that a commitment order for a prisoner or county jail inmate automatically expires when the inmate is released from the correctional facility, which limits the provision of appropriate mental health follow-up and release planning for inmates.

Dr. Hagen stated that the process for emergency detention in juvenile corrections is set forth in s. 51.35 (3) (e), Stats., which allows a minor to be transferred to a mental health institute under an emergency detention order. However, instead of transferring a minor with a severe mental health crisis to a psychiatric hospital, DOC typically transfers the person to the Mendota Juvenile Treatment Center (MJTC).

John Easterday, Division of Mental Health and Substance Abuse Services, Department of Health Services

Mr. Easterday summarized for the committee the role of DHS in operating state mental health institutes and in promoting local crisis programs. He noted that under ch. DHS 34, Wis. Adm. Code, there are two levels of certification for crisis programs and that 54 counties have opted to be certified at the higher level. He also noted that legislation passed last session requires county agency approval for all emergency detentions.

Mr. Easterday added that training for counties, crisis workers, hospital emergency departments, law enforcement, families, consumers, and advocates is essential because of the complexity of the law. He also stated that DHS encourages the further development and support of crisis programs and emergency stabilization.

Lyn Malofsky, Warmline, Inc.

Ms. Malofsky mentioned that she is a consumer of mental health services. She has worked as a peer support person and stressed the need for more peer support services. She added that more funding is needed and suggested that peer support personnel accompany a crisis intervention team.

Molly Cisco, Grassroots Empowerment

Ms. Cisco stated that all of the board members and staff of Grassroots Empowerment are mental health consumers. She added that 90% of people with mental illness are trauma survivors and that the most traumatic experience for them is hospitalization. She stated that peer support works and that there are 12 such programs in Wisconsin funded by mental health block grant funds. She added the Mendota Mental Health Institute is using a sanctuary model, utilizing peer specialists, with decreasing use of restraints and increased patient satisfaction. A peer specialist receives 40 to 80 hours of training and state certification.

Hugh Davis, Wisconsin Family Ties

Mr. Davis noted that Wisconsin Family Ties is a parent-run group, in which all employees are parents of children with mental illness. The personnel are parent peer specialists and provide benefits that do not come from other sources. Mr. Davis also noted that hospitals are often making decisions based on the law that existed prior to 2005 Wisconsin Act 444, which gave parents more treatment options with respect to their own children. He suggested that a separate child and adolescent mental health code should be included in the statutes. He is currently looking to see what other states do to separate adult and child mental health codes and will share the information he obtains with the committee. He added that there is a need for transparency and that if seclusion or restraint is used on a child, parents need to be informed.

Plans for Future Meetings

Chair Pasch mentioned that the next meeting of the committee will be a public hearing on Monday, October 4, 2010, at 10:00 a.m., at the Medical College of Wisconsin, Milwaukee.

Adjournment

The meeting was adjourned at 4:15 p.m.