

State of Wisconsin



1995 Senate Bill 241

Date of enactment: **March 22, 1996**

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1995 WISCONSIN ACT 175

AN ACT *to amend* 51.15 (2) (intro.), 51.15 (4) (b), 51.15 (8), 51.15 (10) and 51.15 (11); and *to create* 51.15 (11g) of the statutes; **relating to:** immunity for certain mental health evaluations, diagnoses and determinations.

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

SECTION 1. 51.15 (2) (intro.) of the statutes is amended to read:

51.15 (2) FACILITIES FOR DETENTION. (intro.) The law enforcement officer shall transport the individual, or cause him or her to be transported for detention and for evaluation, diagnosis and treatment if permitted under sub. (8) to any of the following facilities:

SECTION 2. 51.15 (4) (b) of the statutes is amended to read:

51.15 (4) (b) Upon delivery of the individual, the treatment director of the facility, or his or her designee, shall determine within 24 hours whether the individual shall be detained, or shall be detained, evaluated, diagnosed and treated, if evaluation, diagnosis and treatment is are permitted under sub. (8), and shall either release the individual or detain him or her for a period not to exceed 72 hours after delivery of the individual, exclusive of Saturdays, Sundays and legal holidays. If the treatment director, or his or her designee, determines that the individual is not eligible for commitment under s. 51.20 (1) (a), the treatment director shall release the individual immediately, unless otherwise authorized by law. If the individual is detained, the treatment director or his or her designee may supplement in writing the statement filed by the law enforcement officer, and shall designate

whether the subject individual is believed to be mentally ill, developmentally disabled or drug dependent, if no designation was made by the law enforcement officer. The director or designee may also include other specific information concerning his or her belief that the individual meets the standard for commitment. The treatment director or designee shall then promptly file the original statement together with any supplemental statement and notification of detention with the court having probate jurisdiction in the county in which the individual was taken into custody. The filing of the statement and notification has the same effect as a petition for commitment under s. 51.20.

SECTION 3. 51.15 (8) of the statutes is amended to read:

51.15 (8) (title) TREATMENT EVALUATION, DIAGNOSIS AND TREATMENT. When an individual is detained under this section, the director and staff of the treatment facility may evaluate, diagnose and treat the individual during detention, if the individual consents. The individual has a right to refuse medication and treatment as provided in s. 51.61 (1) (g) and (h). The individual shall be advised of that right by the director of the facility or his or her designee, and a report of any evaluation and diagnosis and of all treatment provided shall be filed by that person with the court.

SECTION 4. 51.15 (10) of the statutes is amended to read:

* Section 991.11, WISCONSIN STATUTES 1993-94: 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 as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

51.15 (10) VOLUNTARY PATIENTS. If an individual has been admitted to an approved treatment facility under s. 51.10 or 51.13, or has been otherwise admitted to such facility, the treatment director or his or her designee, if conditions exist for taking the individual into custody under sub. (1), may sign a statement of emergency detention and may detain, or detain, evaluate, diagnose and treat, ~~such~~ the individual as provided in this section. In such case, the treatment director shall undertake all responsibilities ~~which~~ that are required of a law enforcement officer under this section. The treatment director shall promptly file the statement with the court having probate jurisdiction in the county of detention as provided in this section.

SECTION 5. 51.15 (11) of the statutes is amended to read:

51.15 (11) LIABILITY. Any individual ~~acting~~ who acts in accordance with this section, including making a de-

termination that an individual has or does not have mental illness or evidences or does not evidence a substantial probability of harm under sub. (1) (a) 1., 2., 3. or 4., is not liable for any actions taken in good faith. The good faith of the ~~individual~~ actor shall be presumed in any civil action. ~~Any person who~~ Whoever asserts that the individual ~~acting~~ who acts in accordance with this section has not acted in good faith has the burden of proving that assertion by evidence that is clear, satisfactory and convincing.

SECTION 6. 51.15 (11g) of the statutes is created to read:

51.15 (11g) OTHER LIABILITY. Subsection (11) applies to a director of a facility, as specified in sub. (2), or his or her designee, who under a court order evaluates, diagnoses or treats an individual who is confined in a jail, if the individual consents to the evaluation, diagnosis or treatment.