



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1995 ASSEMBLY BILL 418**

August 28, 1995 – Offered by Representative VRAKAS.

1 **AN ACT** *to renumber* 51.62 (1) (a); *to renumber and amend* 51.30 (4) (b) 18. and
2 146.82 (2) (a) 9.; and *to create* 51.30 (4) (b) 18. a., 51.30 (4) (b) 18. e., 51.62 (1)
3 (ag), 51.62 (1) (br), 146.82 (2) (a) 9. a. and 146.82 (2) (a) 9. e. of the statutes;
4 **relating to:** permitting parents of certain minors to limit access by a protection
5 and advocacy agency to the minor's treatment and patient health care records
6 and making limitations on access by a protection and advocacy agency to
7 treatment and patient health care records inapplicable in certain situations.

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

8 **SECTION 1.** 51.30 (4) (b) 18. of the statutes is renumbered 51.30 (4) (b) 18. b. and
9 amended to read:

10 51.30 (4) (b) 18. b. ~~To~~ Except as provided in subd. 18. c. and d., to staff members
11 of the protection and advocacy agency designated under s. 51.62 (2) or to staff
12 members of the private, nonprofit corporation with which the agency has contracted
13 under s. 51.62 (3) (a) 3., if any, for the purpose of protecting and advocating the rights

1 of persons with developmental disabilities, as defined under s. 51.62 (1) ~~(a)~~ (am), or
2 mental illness, as defined under s. 51.62 (1) (bm), ~~except that, if,~~

3 c. If the patient, regardless of age, has a guardian appointed under s. 880.33,
4 or if the patient is a minor with developmental disability who has a parent or has a
5 guardian appointed under s. 48.831 and does not have a guardian appointed under
6 s. 880.33, information concerning the patient that is obtainable by staff members of
7 the agency or nonprofit corporation with which the agency has contracted is limited,
8 except as provided in subd. 18. e., to the nature of an alleged rights violation, if any,;
9 the name, birth date and county of residence of the patient,; information regarding
10 whether the patient was voluntarily admitted, involuntarily committed or
11 protectively placed and the date and place of admission, placement or commitment,;
12 and the name, address and telephone number of ~~any~~ the guardian of the patient and
13 the date and place of the guardian's appointment. ~~Any~~ or, if the patient is a minor
14 with developmental disability who has a parent or has a guardian appointed under
15 s. 48.831 and does not have a guardian appointed under s. 880.33, the name, address
16 and telephone number of the parent or guardian appointed under s. 48.831 of the
17 patient.

18 d. Except as provided in subd. 18. e., any staff member who wishes to obtain
19 additional information about a patient described in subd. 18. c. shall notify the
20 patient's guardian or, if applicable, parent in writing of the request and of the
21 guardian's or parent's right to object. The staff member shall send the notice by mail
22 to the guardian's or, if applicable, parent's address. If the guardian or parent does
23 not object in writing within 15 days after the notice is mailed, the staff member may
24 obtain the additional information. If the guardian or parent objects in writing within

1 15 days after the notice is mailed, the staff member may not obtain the additional
2 information.

3 **SECTION 2.** 51.30 (4) (b) 18. a. of the statutes is created to read:

4 51.30 (4) (b) 18. a. In this subdivision, “abuse” has the meaning given in s. 51.62
5 (1) (ag); “neglect” has the meaning given in s. 51.62 (1) (br); and “parent” has the
6 meaning given in s. 48.02 (13), except that “parent” does not include the parent of a
7 minor whose custody is transferred to a legal custodian, as defined in s. 48.02 (11),
8 or for whom a guardian is appointed under s. 880.33.

9 **SECTION 3.** 51.30 (4) (b) 18. e. of the statutes is created to read:

10 51.30 (4) (b) 18. e. The restrictions on information that is obtainable by staff
11 members of the protection and advocacy agency or private, nonprofit corporation
12 that are specified in subd. 18. c. and d. do not apply if the custodian of the record fails
13 to promptly provide the name and address of the parent or guardian; if a complaint
14 is received by the agency or nonprofit corporation about a patient, or if the agency
15 or nonprofit corporation determines that there is probable cause to believe that the
16 health or safety of the patient is in serious and immediate jeopardy, the agency or
17 nonprofit corporation has made a good-faith effort to contact the parent or guardian
18 upon receiving the name and address of the parent or guardian, the agency or
19 nonprofit corporation has either been unable to contact the parent or guardian or has
20 offered assistance to the parent or guardian to resolve the situation and the parent
21 or guardian has failed or refused to act on behalf of the patient; if a complaint is
22 received by the agency or nonprofit corporation about a patient or there is otherwise
23 probable cause to believe that the patient has been subject to abuse or neglect by a
24 parent or guardian; or if the patient is a minor whose custody has been transferred

1 to a legal custodian, as defined in s. 48.02 (11) or for whom a guardian that is an
2 agency of the state or a county has been appointed.

3 **SECTION 4.** 51.62 (1) (a) of the statutes is renumbered 51.30 (1) (am).

4 **SECTION 5.** 51.62 (1) (ag) of the statutes is created to read:

5 51.62 (1) (ag) "Abuse" means any of the following:

6 (a) An act, omission or course of conduct by another that is inflicted
7 intentionally or recklessly on an individual with developmental disability or mental
8 illness and that does at least one of the following:

9 1. Results in bodily harm or great bodily harm to the individual.

10 2. Intimidates, humiliates, threatens, frightens or otherwise harasses the
11 individual.

12 (b) The forcible administration of medication to an individual with
13 developmental disability or mental illness, with the knowledge that no lawful
14 authority exists for the forcible administration.

15 (c) An act to an individual with developmental disability or mental illness that
16 constitutes first degree, 2nd degree, 3rd degree or 4th degree sexual assault as
17 specified under s. 940.225.

18 **SECTION 6.** 51.62 (1) (br) of the statutes is created to read:

19 51.62 (1) (br) "Neglect" means an act, omission or course of conduct that,
20 because of the failure to provide adequate food, shelter, clothing, medical care or
21 dental care, creates a significant danger to the physical or mental health of an
22 individual with developmental disability or mental illness.

23 **SECTION 7.** 146.82 (2) (a) 9. of the statutes is renumbered 146.82 (2) (a) 9. b. and
24 amended to read:

1 146.82 (2) (a) 9. b. ~~To~~ Except as provided in subd. 9. c. and d., to staff members
2 of the protection and advocacy agency designated under s. 51.62 (2) or to staff
3 members of the private, nonprofit corporation with which the agency has contracted
4 under s. 51.62 (3) (a) 3., if any, for the purpose of protecting and advocating the rights
5 of a person with development disabilities, as defined under s. 51.62 (1) ~~(a)~~ (am), who
6 resides in or who is receiving services from an inpatient health care facility, as
7 defined under s. 51.62 (1) (b), or a person with mental illness, as defined under s.
8 51.62 (1) (bm), ~~except that, if,~~

9 c. If the patient, regardless of age, has a guardian appointed under s. 880.33,
10 or if the patient is a minor with developmental disability, as defined in s. 51.01 (5)
11 (a), who has a parent or has a guardian appointed under s. 48.831 and does not have
12 a guardian appointed under s. 880.33, information concerning the patient that is
13 obtainable by staff members of the agency or nonprofit corporation with which the
14 agency has contracted is limited, except as provided in subd. 9. e., to the nature of
15 an alleged rights violation, if any; the name, birth date and county of residence of
16 the patient; information regarding whether the patient was voluntarily admitted,
17 involuntarily committed or protectively placed and the date and place of admission,
18 placement or commitment; and the name, address and telephone number of any the
19 guardian of the patient and the date and place of the guardian's appointment. ~~Any~~
20 or, if the patient is a minor with developmental disability who has a parent or has
21 a guardian appointed under s. 48.831 and does not have a guardian appointed under
22 s. 880.33, the name, address and telephone number of the parent or guardian
23 appointed under s. 48.831 of the patient.

24 d. Except as provided in subd. 9. e., any staff member who wishes to obtain
25 additional information about a patient described in subd. 9. c. shall notify the

1 patient's guardian or, if applicable, parent in writing of the request and of the
2 guardian's or parent's right to object. The staff member shall send the notice by mail
3 to the guardian's or, if applicable, parent's address. If the guardian or parent does
4 not object in writing within 15 days after the notice is mailed, the staff member may
5 obtain the additional information. If the guardian or parent objects in writing within
6 15 days after the notice is mailed, the staff member may not obtain the additional
7 information.

8 **SECTION 8.** 146.82 (2) (a) 9. a. of the statutes is created to read:

9 146.82 (2) (a) 9. a. In this subdivision, "abuse" has the meaning given in s. 51.62
10 (1) (ag); "neglect" has the meaning given in s. 51.62 (1) (br); and "parent" has the
11 meaning given in s. 48.02 (13), except that "parent" does not include the parent of a
12 minor whose custody is transferred to a legal custodian, as defined in s. 48.02 (11),
13 or for whom a guardian is appointed under s. 880.33.

14 **SECTION 9.** 146.82 (2) (a) 9. e. of the statutes is created to read:

15 146.82 (2) (a) 9. e. The restrictions on information that is obtainable by staff
16 members of the protection and advocacy agency or private, nonprofit corporation
17 that are specified in subd. 9. c. and d. do not apply if the custodian of the record fails
18 to promptly provide the name and address of the parent or guardian; if a complaint
19 is received by the agency or nonprofit corporation about a patient, or if the agency
20 or nonprofit corporation determines that there is probable cause to believe that the
21 health or safety of the patient is in serious and immediate jeopardy, the agency or
22 nonprofit corporation has made a good-faith effort to contact the parent or guardian
23 upon receiving the name and address of the parent or guardian, the agency or
24 nonprofit corporation has either been unable to contact the parent or guardian or has
25 offered assistance to the parent or guardian to resolve the situation and the parent

1 or guardian has failed or refused to act on behalf of the patient; if a complaint is
2 received by the agency or nonprofit corporation about a patient or there is otherwise
3 probable cause to believe that the patient has been subject to abuse or neglect by a
4 parent or guardian; or if the patient is a minor whose custody has been transferred
5 to a legal custodian, as defined in s. 48.02 (11) or for whom a guardian that is an
6 agency of the state or a county has been appointed.

7

(END)