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**Assembly Committee on
Criminal Justice and Public Safety
Assembly Bill 716
January 23, 2019**

First of all, I would like to thank you, Chairman Spiros and committee members, for allowing me to testify before you concerning Assembly Bill 716 relating to emergency detention.

Under current law, law enforcement may be called to an incident in which a person is exhibiting behaviors that could be a threat to that individual or to others. In those instances, law enforcement has the authority to place the person in custody for 72 hours for purposes of emergency detention.

In some cases, the 72-hour period is not sufficient for medical personnel to evaluate and treat the individual. For example, there may be hours during that period when an individual's behavior is not observable, because the individual requires evaluation or stabilizing treatment of a nonpsychiatric medical condition. As a result, the 72-hour period may expire before the individual receives the proper assessment and necessary treatment.

The bill addresses this situation by clarifying that the 72-hour period does not include any period during which the individual behavior is not observable that is directly attributable to evaluation or stabilizing treatment of a nonpsychiatric medical condition.

Here's an example that may help to clarify the importance of this change. Suppose someone phones law enforcement and expresses concern that a relative has not phoned for a week, even though they normally have daily phone contact. When law enforcement arrives at the scene, the person is unresponsive and appears to have attempted suicide.

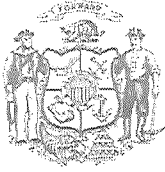
Law enforcement takes the person to a local hospital. At that point, the medical personnel immediately work to stabilize the person from the suicide attempt. It may be several hours before they are able to communicate with the person, and the 72 hours may expire before they are able to evaluate the individual's mental health.

That result is not good for the patient, and the simple change in this bill is an important step in the right direction.

Thank you for the opportunity to testify before you today. I would be happy to answer any questions.

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*Testimony before the Assembly Committee on Criminal Justice and Public Safety
State Senator André Jacque
January 23, 2020*

Chairman Spiros and Committee Members,

Thank you for holding this hearing on Assembly Bill 716, relating to excluding time for evaluation and treatment of certain medical conditions from the time limit for emergency detention without a hearing.

One of the effects of Wisconsin's shortage of mental health providers is that there is often not quick access for a psychiatric evaluation when individuals are detained by law enforcement during an episode where they present a threat to themselves or others. The main goal throughout the emergency detention process is for the patient to get proper care to address their mental health issues.

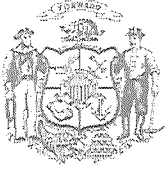
Unfortunately, there is presently no clear understanding when the allowed 72 hour maximum emergency detention period starts. This is causing an issue for local law enforcement because sometimes placement and medical clearance takes a long time, and law enforcement officials do not have the same training when it comes to mental health care as the mental health professionals at the receiving facility.

When these delays occur, the at-risk individual is not at the treating location long enough to do an assessment and get the treatment in place. It is important to do a proper assessment of the person to figure out the treatment pattern before they are released back into society, or it is likely that the issues will remain unresolved and recur, sometimes with tragic consequences and physical damage or loss of life.

Assembly Bill 716 was drafted at the request and with the assistance of local law enforcement and the Brown County Crisis Center to exclude from the 72-hour time limit that an individual may be detained without a hearing for the purposes of emergency detention any period during which the individual's behavior is not observable that is directly attributable to evaluation or stabilizing treatment of a nonpsychiatric medical condition.

Assembly Bill 716 is supported by the Badger State Sheriff's Association, the Wisconsin Sheriffs and Deputy Sheriffs Association and the Wisconsin Chiefs of Police Association.

Currently, in Milwaukee County, the treatment director of a facility has 24 hours from the time the individual is delivered to the facility to determine whether or not the individual must be detained for purposes of emergency detention. Once the treatment director makes a determination that an individual is being detained, the individual may not be detained for longer than 72 hours. Under current law, the 24-hour period in which the treatment director must make the determination may be extended by any period that the determination is delayed that is directly attributable to evaluation or stabilizing treatment or nonpsychiatric medical conditions, just as Assembly Bill 716 would apply the 72 hour period for the entire state.



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Currently, in counties other than Milwaukee County, there is no 24-hour period for determination by a treatment director, and the 72-hour period begins when the individual is taken into custody by law enforcement or another authorized person and continues upon transfer of the individual to the treatment facility. Assembly Bill 716 retains the provision of current law requiring that when, upon the advice of the treatment staff, the director of the treatment facility determines that the grounds for detention no longer exist, they shall discharge the individual that was detained.

Please join us in ensuring that patients are given the thorough evaluation they deserve to get the proper care needed.

Thank you for your consideration of Assembly Bill 716.

I'd like to start by thanking the Committee on Criminal Justice and Public Safety for ^{Allowing me speak} ~~having me here~~ today to provide my perspective on the proposed amendment to Chapter 51.

I currently serve as the Crisis Coordinator for Brown County Health and Human Services and am licensed in the State of Wisconsin as a Licensed Clinical Social Worker. I oversee the Brown County crisis system through a unique position that focuses on system-wide approaches to serving individuals in crisis. Within my role, I coordinate system stakeholders such as local law enforcement agencies, health care facilities, and contracted service providers to assure the best outcomes of our county's residents. One of the most prevalent issues within my job is addressing medical clearance issues related to emergency detentions that are completed under the purview of Chapter 51 for individuals in crisis.

The spirit of Chapter 51 is to ensure residents of Wisconsin with mental health and substance use challenges, and persons with disabilities are appropriately assessed and provided treatment in the least restrictive way. Chapter 51 currently outlines that an individual experiencing a mental health crisis can be detained for no longer than 72 hours before a hearing ^{excluding holidays + weekends} must be conducted. Within that 72 hour period, individuals frequently require medical clearance at the request of the receiving psychiatric hospital or due to concern related to the individual's physical presentation. Medical clearance may take an extended period of time to complete; therefore, it reduces the overall amount of time the individual has at the psychiatric hospital to receive adequate evaluation, observation, and treatment for their psychiatric condition prior to their hearing. In a presentation from the 2019 Wisconsin Attorney General's Summit on Emergency Detentions, law enforcement agencies surveyed statewide indicated that time spent in medical clearance averaged 2.91 hours or 2 hours and 55 minutes. In Brown County in 2019, 71% of emergency detentions required medical clearance prior to admission to one of the three in-county psychiatric facilities. When residents need placement at Winnebago Mental Health Institute, medical clearance is required for all admissions. Medical clearance procedures for

admission at Winnebago in the Brown County crisis system average three hours in length. Cases that require prolonged medical clearance and medical stabilization are typically cases where an individual has made a serious suicide attempt. Occasionally in these situations the individual is required to be admitted for medical stabilization. All of this is occurring while the 72 hour clock is running. When an individual is receiving medical treatment and stabilization at a medical hospital, the primary focus is on the individual's physical health conditions and they are not receiving the same level of treatment for their mental health that they would receive at a psychiatric hospital. By the time the individual has stabilized medically and is ready for discharge, a significant portion of or all of the 72 hours under the emergency detention have been used, thus reducing the amount of time for evaluation, observation, and treatment at the psychiatric hospital or potentially none at all.

The proposed amendment to Chapter 51 in Assembly Bill 716 attempts to address the issues previously raised, by excluding "...any period during which the individual's behavior is not observable that is directly attributable to evaluation or stabilizing treatment of a nonpsychiatric medical condition." By excluding the time for medical clearance from the 72 hours under an emergency detention, individuals in need of psychiatric care benefit by having the maximum amount of time under the initial 72 hours prior to a hearing to be evaluated, observed, and to begin receiving treatment for their presenting mental health or substance use condition. If transportation, medical clearance, and challenges related to evaluation are factored in, the 72 hours begins to be insufficient. Psychiatric hospitals feel pressed for time when prolonged medical clearance occurs. If medical clearance is removed from the 72 hour calculations for individuals under an emergency detention, psychiatric hospitals can focus on comprehensive and client-centered evaluation, observation, and treatment rather than a race against the clock. Including the medical clearance within the 72 hour period may infringe on our residents' civil liberties. Through my professional experiences with the crisis system, I have

noted that a person is at a higher risk of having their rights further suspended if psychiatric hospitals are not provided with adequate time to evaluate, observe, and treat these individuals for their presenting mental health and substance use concerns.

In my experience in coordinating a crisis system, I believe that the aim of the proposed change to Chapter 51 benefits the residents of Brown County, but also will benefit all Wisconsinites that require a response to their mental health concerns outlined under Chapter 51.15. The current language in Chapter 51 does not provide any exclusions for non-psychiatric related treatment for counties, with a population of less than 750,000. If medical clearance time continues to be included in the initial 72 hour period for emergency detention, psychiatric hospitals have limited time to evaluate, observe, and treat. Often, cases that require prolonged medical clearance are the highest risk individuals that have made a serious suicide attempt and are in most need of psychiatric treatment. Assembly Bill 716 attempts to maximize the amount of time under the initial 72 hours of an emergency detention for a person to receive care for a psychiatric concern by excluding the time for medical clearance from the overall calculation of time. It can be anticipated that by passing this proposed amendment to Chapter 51, residents of Wisconsin will be sufficiently evaluated, adequately observed, and begin to receive stabilizing psychiatric treatment that ensures their safety, their rights, and the safety of the many communities in Wisconsin. Thank you for your time and consideration and the opportunity to share my perspective on this important issue regarding how we serve some of our most vulnerable members of our communities.