

**Report 17-21  
December 2017**

# **Emergency Detention Pilot Program**

STATE OF WISCONSIN



Legislative Audit Bureau ■



**Report 17-21  
December 2017**

# **Emergency Detention Pilot Program**

## **Joint Legislative Audit Committee Members**

### Senate Members:

Robert Cowles, Co-chairperson  
Chris Kapenga  
Alberta Darling  
Kathleen Vinehout  
Mark Miller

### Assembly Members:

Samantha Kerkman, Co-chairperson  
John Macco  
John Nygren  
Melissa Sargent  
Terese Berceau

## LEGISLATIVE AUDIT BUREAU

---

**State Auditor**  
Joe Chrisman

**Special Assistant to  
the State Auditor**  
Anne Sappenfield

**Deputy State Auditor  
for Performance  
Evaluation**  
Paul Stuiber

**Team Leader**  
Laura Brauer

**Evaluators**  
Karole Dachelet  
Sara Sanders

**Publications and  
Design Coordinator**  
Susan Skowronski

The Bureau is a nonpartisan legislative service agency responsible for conducting financial audits and performance evaluations of state agencies. The Bureau's purpose is to provide assurance to the Legislature that financial transactions and management decisions are made effectively, efficiently, and in compliance with state law and that state agencies carry out the policies of the Legislature and the Governor. Bureau reports typically contain reviews of financial transactions, analyses of agency performance or public policy issues, conclusions regarding the causes of problems found, and recommendations for improvement.

Reports are submitted to the Joint Legislative Audit Committee and made available to other committees of the Legislature and to the public. The Audit Committee may arrange public hearings on the issues identified in a report and may introduce legislation in response to the audit recommendations. However, the findings, conclusions, and recommendations in the report are those of the Legislative Audit Bureau.

---

The Bureau accepts confidential tips about fraud, waste, and mismanagement in any Wisconsin state agency or program through its hotline at 1-877-FRAUD-17.

For more information, visit [www.legis.wisconsin.gov/lab](http://www.legis.wisconsin.gov/lab)



Contact the Bureau at 22 East Mifflin Street, Suite 500, Madison, Wisconsin 53703; [AskLAB@legis.wisconsin.gov](mailto:AskLAB@legis.wisconsin.gov); or (608) 266-2818.

# CONTENTS

---

<b>Letter of Transmittal</b>	<b>1</b>
<hr/>	
<b>Introduction</b>	<b>3</b>
The Emergency Detention Process	4
Assessments in Milwaukee County	8
<hr/>	
<b>Establishing the Pilot Program</b>	<b>9</b>
Requirements of the Pilot Program	9
Selecting and Training Treatment Director Designees	11
Outcomes of the Pilot Program	13
<hr/>	
<b>Emergency Detentions in Other Selected Counties</b>	<b>19</b>
Emergency Detentions in Brown County	19
Emergency Detentions in Jefferson County	23
<hr/>	
<b>Response</b>	
From the Behavioral Health Division of Milwaukee County Department of Health and Human Services	





# STATE OF WISCONSIN | Legislative Audit Bureau

22 East Mifflin St., Suite 500 ■ Madison, WI 53703 ■ (608) 266-2818 ■ Hotline: 1-877-FRAUD-17 ■ [www.legis.wisconsin.gov/lab](http://www.legis.wisconsin.gov/lab)

Joe Chrisman  
State Auditor

December 12, 2017

Senator Robert Cowles and  
Representative Samantha Kerkman, Co-chairpersons  
Joint Legislative Audit Committee  
State Capitol  
Madison, Wisconsin 53702

Dear Senator Cowles and Representative Kerkman:


We have completed our evaluation of the Emergency Detention Pilot Program in Milwaukee County, as required by 2013 Wisconsin Act 235. We also reviewed the emergency detention procedures used in other selected counties. Under the emergency detention process, individuals may be involuntarily detained if they are believed to be a danger to themselves or others because of suspected mental illness, drug dependence, or developmental disability. The first step of the emergency detention process generally occurs when a law enforcement officer decides to take an individual into custody for emergency detention. The individual in custody must then be assessed by a mental health professional who determines whether to hold the individual in a treatment facility.

The Emergency Detention Pilot Program created by Act 235 granted certain mental health professionals in Milwaukee County the authority to take individuals into custody for emergency detention. The pilot program was administered by the Behavioral Health Division (BHD) of the Milwaukee County Department of Health and Human Services and was in operation from November 10, 2014, through June 30, 2017. Under Act 235, BHD employees assessed 66 individuals for a potential emergency detention and initiated seven emergency detentions, or 0.1 percent of all emergency detentions in Milwaukee County.

Too few individuals were assessed and too few emergency detentions were conducted through the pilot program in Milwaukee County to allow for meaningful comparison with those conducted before the pilot program or to allow for review of other matters specified in Act 235. We found that extending the pilot program in Milwaukee County or making it permanent is unlikely to result in a significant decrease in the number of emergency detentions initiated by law enforcement officers. In addition, the utility of expanding the pilot program to other counties is likely limited. Since July 2016, statutes require that mental health professionals conduct assessments and agree that emergency detention is appropriate before individuals may be held in treatment facilities in counties other than Milwaukee County, which has separately prescribed statutory procedures for emergency detention.

We appreciate the courtesy and cooperation extended to us by BHD and the other state and local agencies and organizations we contacted to complete this evaluation. BHD's response follows the report.

Respectfully submitted,



Joe Chrisman  
State Auditor

JC/PS/ss





## Introduction ■

---

***The first step of the emergency detention process generally occurs when a law enforcement officer decides to take an individual into custody.***

Under the emergency detention process, individuals may be involuntarily detained if they are believed to be a danger to themselves or others because of suspected mental illness, drug dependence, or developmental disability. The first step of the emergency detention process generally occurs when a law enforcement officer decides to take an individual into custody for emergency detention. The individual in custody must then be assessed by a mental health professional who determines whether to hold the individual in a treatment facility. 2013 Wisconsin Act 235 created the Emergency Detention Pilot Program, under which certain mental health professionals in Milwaukee County were granted the authority to take individuals into custody for emergency detention. The pilot program was administered by the Behavioral Health Division (BHD) of the Milwaukee County Department of Health and Human Services and was in operation from November 10, 2014, through June 30, 2017.

Act 235 directed the Legislative Audit Bureau to conduct a performance evaluation audit of the pilot program that includes a review of:

- emergency detention procedures and outcomes of emergency detentions in Milwaukee County under the pilot program compared with procedures and outcomes before the pilot program;
- the effectiveness of emergency detention procedures under the pilot program; and

***Under the authority granted by Act 235, BHD assessed 66 individuals for a potential emergency detention.***

- the feasibility and likely outcomes of continuing the pilot program in Milwaukee County, making the program permanent in Milwaukee County, or expanding the program to counties other than Milwaukee County or statewide.

Under the authority granted by Act 235, BHD assessed 66 individuals for a potential emergency detention. Of these 66, BHD employees took 7 individuals into custody for emergency detention. Too few individuals were assessed and too few emergency detentions were conducted through the pilot program to allow for a meaningful comparison with those conducted before the pilot program or to allow for a review of other matters specified in Act 235. Therefore, we:

- analyzed available information for the seven instances in which mental health professionals took individuals into custody for emergency detention in Milwaukee County;
- identified reasons why BHD took only seven individuals into custody for emergency detention;
- analyzed data for all of the emergency detentions in Milwaukee County during the operation of the pilot program; and
- reviewed the emergency detention processes in Brown County and Jefferson County.

## **The Emergency Detention Process**

The process of emergency detention involves three main steps:

- initiation, which is the decision by a law enforcement officer or other authorized person to take an individual into custody for emergency detention;
- assessment of the individual by a mental health professional to determine whether the individual meets the criteria for emergency detention; and
- holding the individual in a treatment facility for up to 72 hours, provided there is reason to believe that the individual will not voluntarily consent to evaluation, diagnosis, and treatment.

***Section 51.15 (1), Wis. Stats., establishes the requirements for an emergency detention.***

Section 51.15 (1), Wis. Stats., establishes the requirements for an emergency detention. When emergency detention is determined to be the least restrictive alternative available, it may be used for individuals who:

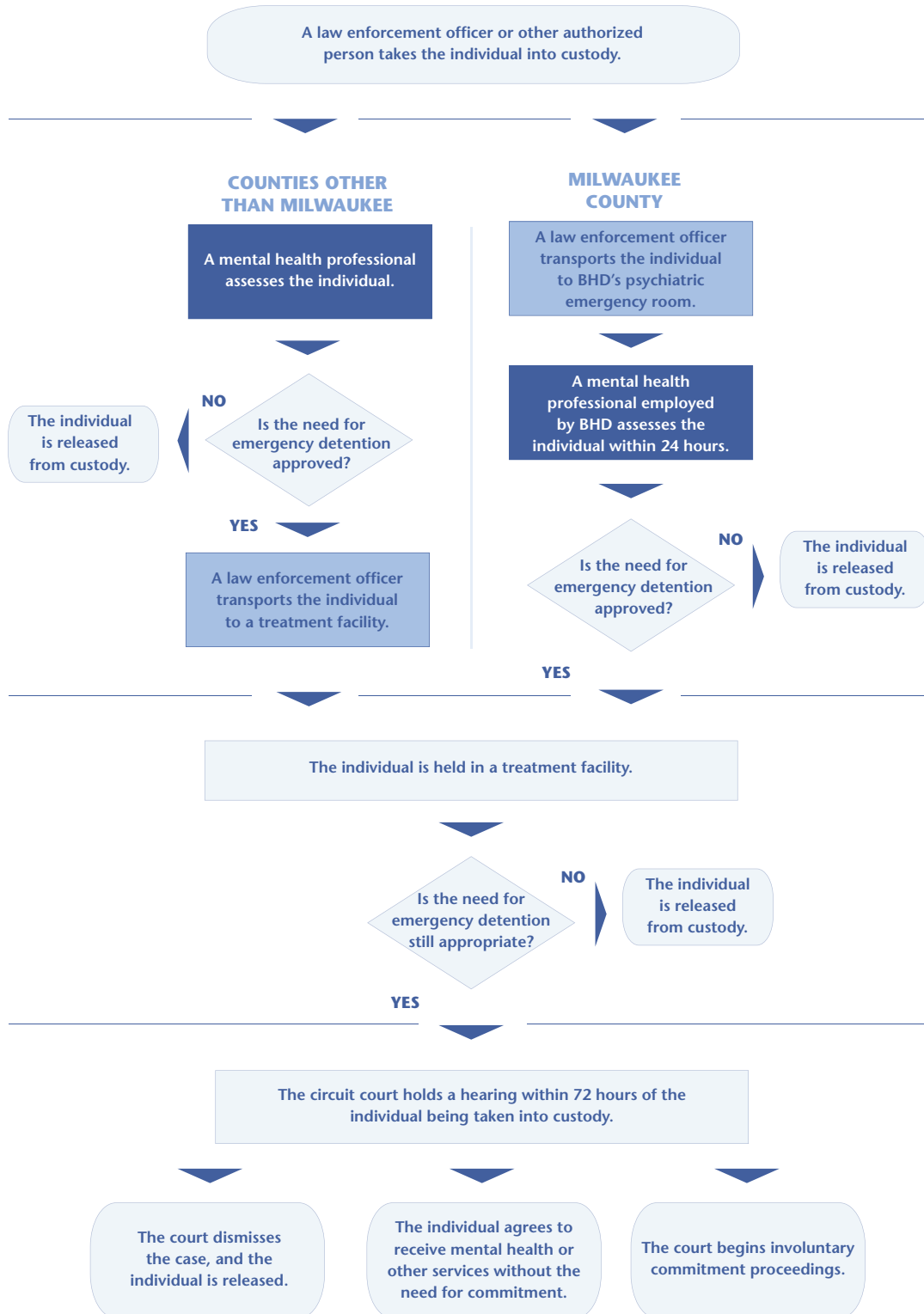
- are believed to be mentally ill, drug dependent, or developmentally disabled;
- have a substantial probability of harming themselves or others, including harming themselves by being unable to satisfy basic needs for nourishment, medical care, shelter, or safety without prompt and adequate treatment; and
- are unable or unwilling to cooperate with voluntary treatment.

The statutory process established for emergency detention is somewhat different in Milwaukee County than it is in other counties, as shown in Figure 1. Section 51.15 (1) (ar), Wis. Stats., specifies that those permitted to take individuals into custody for emergency detention include law enforcement officers and intake workers authorized to take children into custody under Wisconsin’s Children’s Code (ch. 48, Wis. Stats.) or under Wisconsin’s Juvenile Justice Code (ch. 938, Wis. Stats.). Intake workers must receive at least 30 hours of intake training provided or approved by the Department of Children and Families during their first six months of employment.

In general, the first step of the emergency detention process occurs when law enforcement officers or intake workers take individuals into custody for emergency detention. BHD indicated that 26 law enforcement agencies may take individuals into custody in Milwaukee County, and that the Milwaukee Police Department and the West Allis Police Department were the two that most frequently did so. Since 2014, BHD has dedicated several of its clinicians to work with the Milwaukee Police Department in responding to mental health crises. BHD indicated that it also plans to dedicate clinicians to work with the West Allis Police Department in order to provide similar clinical expertise.

Figure 1

Statutory Process for Conducting an Emergency Detention<sup>1</sup>



<sup>1</sup> Excludes the process for conducting an emergency detention under the pilot program created by 2013 Wisconsin Act 235.

Under current statutes, after an individual is taken into custody, the decision to hold an individual in a treatment facility must be approved by the county department responsible for mental health programs. A department may approve holding the individual if it believes that the individual will not voluntarily consent to evaluation, diagnosis, and treatment. Beginning in July 2016, 2015 Wisconsin Act 55 requires that a mental health professional perform a crisis assessment and agree that the individual needs to be held in a treatment facility. These assessments may be conducted in person, via telephone, or via video conference. The Department of Health Services and the Milwaukee County Office of Corporation Counsel have interpreted the Act 55 requirement as inapplicable to Milwaukee County, because s. 51.15 (4), Wis. Stats., establishes separate emergency detention procedures for counties with populations of 750,000 or more, which currently is only Milwaukee County.

In order for an individual to be held in a treatment facility, a law enforcement officer or intake worker who took the individual into custody must sign a statement of emergency detention that describes the behavior of the individual, as well as the names of the person or persons who observed or reported the behavior. In all counties, individuals must be held in state- or county-approved treatment facilities, such as hospitals or state mental health institutes. The statement of emergency detention is required to be filed with the treatment facility at the time of admission and subsequently with the circuit court.

***Within 24 hours of an individual being taken into custody, BHD must determine whether the individual meets the statutory criteria for emergency detention.***

In Milwaukee County, s. 51.15 (4) (b), Wis. Stats., provides that BHD's treatment director, or a designee of the treatment director, must determine within 24 hours of an individual being taken into custody whether the individual meets the statutory requirements to be held involuntarily. Those who do not meet the requirements must be released. However, the 24-hour time limit is suspended during the time when an individual requires immediate medical treatment in order to stabilize a non-psychiatric medical need. In all other counties a crisis assessment by a mental health professional is required before an individual may be held in a treatment facility.

While an individual is held in a treatment facility, the treatment needs of the individual are assessed, including determining whether involuntary treatment may be needed. However, an individual may be involuntarily held for no more than 72 hours, excluding weekends and holidays. Within 72 hours, an individual must either:

- be discharged from the treatment facility;
- have voluntarily agreed to treatment, such as inpatient hospitalization; or
- have a court hearing to determine whether probable cause exists to involuntarily commit the individual.

## Assessments in Milwaukee County

***The assessment procedures are generally the same for individuals brought to BHD's facility involuntarily and for individuals who come voluntarily.***

BHD operates a psychiatric hospital with an emergency room that is open 24 hours each day during every day of the year. The emergency room provides psychiatric services, such as face-to-face assessments, crisis intervention, medication, and referrals to community-based treatment and other services to those in crisis who are brought to the facility involuntarily, as well as to those who arrive at the emergency room voluntarily seeking treatment. The assessment procedures are generally the same for both.

For emergency detention, a law enforcement officer typically escorts the individual to the emergency room. In the emergency room, security staff screen the individual for dangerous items and, if admission to the emergency room is determined to be appropriate, the individual is registered and is provided information about his or her rights. BHD policies provide that those with the greatest needs are assigned the highest priority and evaluated by a psychiatrist immediately. Those with the lowest level of need are seen by a psychiatrist within three hours. In addition, BHD's policies provide that restraints may only be used when an individual's behavior cannot be controlled by any other means. A psychiatrist is required to conduct a full psychiatric assessment of the individual within 24 hours of the individual being taken into custody.

If at any time a BHD staff member determines that an overtly threatening medical crisis exists that requires immediate intervention, the individual is transported to an appropriate emergency department for treatment. Once the individual's medical condition is stabilized, the individual is generally transported back to BHD's psychiatric emergency room by law enforcement. At any point in the process, an individual who no longer meets the statutory requirements for emergency detention must be released.

■ ■ ■ ■

## Establishing the Pilot Program

---

The Emergency Detention Pilot Program had little effect reducing the number of individuals taken into custody by law enforcement officers for emergency detention or diverting individuals to voluntary treatment. This is because few individuals were assessed by BHD employees under the authority granted by the program. Several factors limit the potential usefulness of continuing the program in Milwaukee County or expanding it to other counties, including that most emergency detentions are initiated by law enforcement officers responding to calls to the 911 emergency dispatch system.

### **Requirements of the Pilot Program**

BHD indicated the goals of the pilot program included:

- helping to decriminalize and destigmatize the emergency detention process by allowing mental health professionals to conduct each step of the emergency detention process;
- incorporating clinical knowledge and expertise earlier in the emergency detention process to help avoid the need for emergency detention by increasing the number of instances in which individuals agree to voluntary treatment; and
- helping to ensure sufficient legal documentation is provided to the circuit court.

**2013 Wisconsin Act 235 established a program to provide certain BHD employees the authority to initiate emergency detentions.**

Act 235 established the pilot program to provide certain BHD employees with the authority to take individuals into custody for emergency detention after conducting assessments. Statutes stipulate that the pilot program is not in effect after July 1, 2017. As noted, BHD operated the pilot program from November 10, 2014, through June 30, 2017.

Act 235 allowed the treatment director, as well as the treatment director's designees, to take individuals into custody for emergency detention after conducting assessments. Statutes require the treatment director to be a licensed physician or licensed psychologist who actively assumes clinical responsibility for the provision of emergency care. The treatment director's designees include licensed mental health professionals, such as licensed clinical social workers, advanced practice social workers, licensed professional counselors, licensed marriage and family therapists, and psychiatric nurses.

**The extent to which states place restrictions on the types of individuals who may initiate emergency detentions varies.**

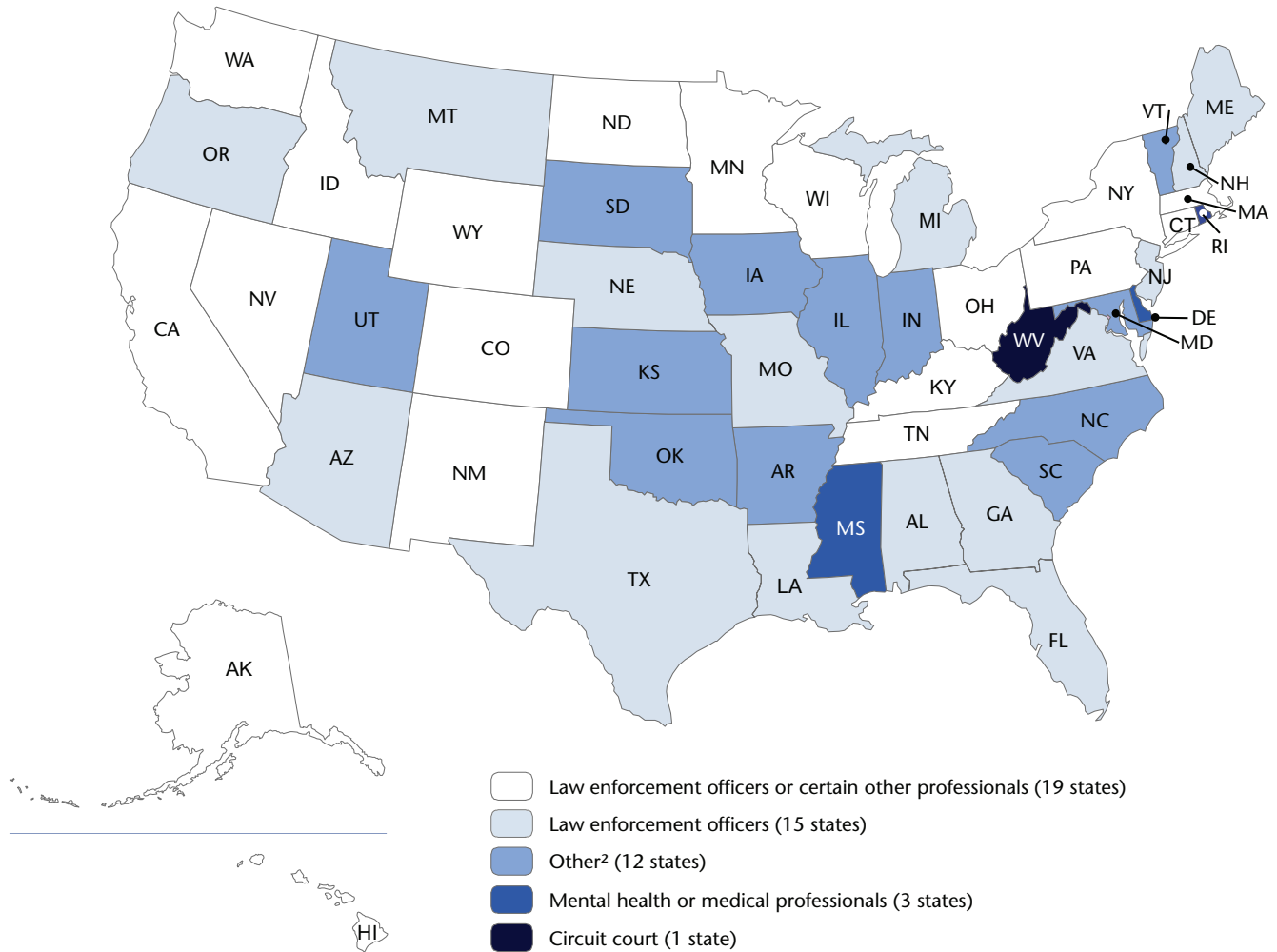
BHD indicated that law enforcement is more involved in the emergency detention process in Wisconsin than in most other states. Therefore, we reviewed the types of individuals authorized to initiate emergency detentions in other states. Based on information from an October 2014 report by the Treatment Advocacy Center, a national nonprofit organization that advocates for individuals with severe mental illness, the approaches vary. As shown in Figure 2:

- 19 states, including Wisconsin, allow emergency detentions to be initiated by either law enforcement officers or certain other professionals;
- 15 states require emergency detentions to be initiated exclusively by law enforcement officers;
- 12 states place few limitations on who may initiate emergency detentions;
- 3 states require emergency detentions to be initiated exclusively by mental health or medical professionals; and
- 1 state requires emergency detentions to be initiated by the circuit court.



Figure 2

**Individuals Authorized to Initiate Emergency Detentions<sup>1</sup>  
2014**



<sup>1</sup> Based on information from an October 2014 report by the Treatment Advocacy Center, a national nonprofit organization that advocates for individuals with severe mental illness.

<sup>2</sup> These states generally place few limitations on who may initiate an emergency detention.

## Selecting and Training Treatment Director Designees

At the time the pilot program began in November 2014, BHD had designated and trained six treatment director designees to take individuals into custody and conduct assessments. By November 2015, the number of trained designees had increased to 14 employees.

During the operation of the pilot program, there were approximately 24 BHD employees whose professional qualifications and job duties allowed them to become treatment director designees. Of these, 16 BHD employees were trained and served as treatment director designees during the operation of the pilot program. BHD indicated that it chose to limit the overall number of treatment director designees because it wanted to ensure the designees had adequate oversight.

***Only 8 of the 16 treatment director designees conducted assessments under the pilot program.***

Only 8 of the 16 treatment director designees conducted assessments of individuals under the pilot program. This is partly because 6 of the 16 treatment director designees were involved in administering BHD's programs for children and adolescents, and BHD attempts to avoid detaining children and adolescents, especially those under 14 years of age. As a result, BHD indicated these six employees did not conduct assessments under the pilot program. We also found that two of the eight treatment director designees conducted 48 (72.7 percent) of the 66 assessments of individuals. BHD indicated this is because these two employees worked during periods of the day when more individuals were assessed and because these employees had fewer duties than the other employees authorized to initiate emergency detentions.

Treatment director designees participated in two training sessions totaling approximately two hours. The first was conducted by the treatment director and covered the clinical aspects of emergency detention, including evaluating the medical stability of individuals, identifying the types of cases that BHD is able to address, and discussing the types of cases that present medical complications beyond BHD's capability of providing care.

The second training session was presented by an attorney from the Milwaukee County Office of Corporation Counsel. This training covered the legal procedures for an emergency detention, including the criteria to use in determining whether an emergency detention is appropriate, the procedures for completing required emergency detention paperwork, and suggestions for ensuring that critical aspects of the emergency detention form are properly completed to help ensure it meets legal standards.

## Outcomes of the Pilot Program

***BHD employees initiated only 7 (0.1 percent) of the 11,841 emergency detentions in Milwaukee County that involved assessments conducted in BHD's psychiatric emergency room.***

During the operation of the pilot program from November 10, 2014, through June 30, 2017, only 7 (0.1 percent) of the 11,841 emergency detentions in Milwaukee County that involved assessments conducted in BHD's psychiatric emergency room were initiated by a BHD employee taking the individual into custody, as shown in Table 1. Complete documentation of individuals who were assessed by BHD at private hospitals was not readily available, but BHD believes these individuals represent less than two percent of the total number of individuals who were detained.

Table 1

**Number of Emergency Detentions in Milwaukee County**  
November 10, 2014, through June 30, 2017

Initiated by	Number	Percentage
Law Enforcement Officer	11,834 <sup>1</sup>	99.9%
BHD Employee	7	0.1
<b>Total</b>	<b>11,841</b>	<b>100.0%</b>

<sup>1</sup> Excludes those not held in BHD's treatment facility.

***A female adolescent with several psychological disorders was detained 51 times.***

Table 2 provides demographic information on individuals in Milwaukee County who were held in BHD's treatment facility from November 10, 2014, through June 30, 2017. The number of individuals who were held in the facility is smaller than the total number of emergency detentions because 1,825 individuals (23.9 percent) were detained more than once. We found that 50 (0.7 percent) of the 7,638 individuals were detained 10 or more times. Although the majority of the most frequently detained individuals were male, the individual with the most emergency detentions was a female adolescent with several psychological disorders who was detained 51 times.

Table 2

**Individuals Held for Emergency Detention in BHD’s Treatment Facility**  
November 10, 2014, through June 30, 2017

Number of Individuals Held in BHD’s Treatment Facility	7,638
Ratio of Individuals Held in Treatment Facility to County Population <sup>1</sup>	1:125

	Number	Percentage
<b>Gender</b>		
Male	4,025	52.7%
Female	3,611	47.3
Unknown	2	<0.1
<b>Total</b>	<b>7,638</b>	<b>100.0%</b>
<b>Age</b>		
Under 18	2,223	29.1
18 through 25	1,548	20.2
26 through 44	2,297	30.1
45 through 65	1,419	18.6
Over 65	151	2.0
<b>Total</b>	<b>7,638</b>	<b>100.0%</b>
<b>Ethnicity</b>		
African-American	3,719	48.7
Caucasian	3,153	41.3
Other	568	7.4
Unknown	198	2.6
<b>Total</b>	<b>7,638</b>	<b>100.0%</b>
<b>Number of Detentions</b>		
1	5,813	76.1
2 to 3	1,352	17.7
4 to 5	257	3.4
More than 5	216	2.8
<b>Total</b>	<b>7,638</b>	<b>100.0%</b>

<sup>1</sup> As of July 1, 2016, the United States Census Bureau reported Milwaukee County’s population as 951,448.

We also reviewed the primary diagnoses of the individuals. As shown in Table 3, 34.1 percent of the individuals had diagnoses involving depressive and bipolar disorders.

Table 3

**Primary Diagnoses of Individuals Held in  
BHD's Treatment Facility for Emergency Detention<sup>1</sup>**  
November 10, 2014, through June 30, 2017

Diagnosis Category	Number	Percentage of Total
Depressive and Bipolar Disorders	2,605	34.1%
Trauma-Related Disorders <sup>2</sup>	1,429	18.7
Substance-Related Disorders	1,381	18.1
Schizophrenia and Other Psychotic Disorders	1,107	14.5
Other <sup>3</sup>	335	4.4
Impulse-Control and Conduct Disorders <sup>4</sup>	269	3.5
Neurodevelopmental Disorders <sup>5</sup>	232	3.0
Personality Disorders	162	2.1
Unknown	74	1.0
Anxiety Disorders <sup>6</sup>	44	0.6
<b>Total</b>	<b>7,638</b>	<b>100.0%</b>

<sup>1</sup> Represents individuals' most recent diagnosis if they were held more than once with different diagnoses.

<sup>2</sup> Includes disorders such as post-traumatic stress disorder and disorders involving problems adjusting to or coping with stressful life events.

<sup>3</sup> Primarily includes unspecified mental health disorders.

<sup>4</sup> Includes disorders involving difficulty in controlling one's emotions and behaviors.

<sup>5</sup> Includes disorders that produce impairments of personal, social, academic, or occupational functioning, such as autism and attention deficit disorder.

<sup>6</sup> Includes disorders such as generalized anxiety disorder and phobias.

As noted, BHD treatment director designees assessed 66 individuals in crisis for a potential emergency detention during the pilot program. Of these 66 individuals:

- 38 were released with referrals to community-based mental health treatment or other services;
- 7 were subject to emergency detentions initiated by BHD employees;
- 6 were taken to hospitals for voluntary psychiatric treatment;
- 6 were taken into custody by law enforcement for a purpose other than emergency detention;

- 4 were released without referral to community-based mental health treatment or other services;
- 3 were subject to emergency detentions initiated by law enforcement officers, because they first required treatment for a non-psychiatric medical need; and
- 2 had unknown dispositions.

***The pilot program had some success in diverting some individuals to less restrictive options.***

The pilot program had some success in diverting individuals to less restrictive options, because 38 individuals (57.6 percent) were assessed but not taken into custody and instead released with referrals to community-based mental health treatment or other services, and 6 individuals (9.1 percent) agreed to voluntary treatment.

A number of factors likely account for the small number of assessments or emergency detentions initiated by BHD employees. First, most emergency detentions are initiated in response to requests for emergency assistance through telephone calls to the 911 emergency dispatch system. Because law enforcement is required to respond to all 911 calls, law enforcement officers almost always initiate emergency detentions in these instances. In general, BHD employees assessed individuals for emergency detention only in those instances when someone contacted BHD's Crisis Line directly. Although BHD indicated it has made law enforcement agencies aware of the option of contacting BHD for assistance in responding to potential emergency detention situations, the law enforcement agencies we spoke with indicated that the additional time it takes BHD to respond makes some law enforcement officers hesitant to request assistance from BHD rather than immediately driving the individual to BHD's psychiatric emergency room.

***BHD attempts to avoid detaining children and adolescents, especially those under 14 years of age.***

Second, BHD attempts to avoid detaining children and adolescents, especially those under 14 years of age, as noted. During the period of the pilot program, 29.1 percent of the individuals who were assessed at BHD's psychiatric emergency room were under 18 years of age, and emergency detentions for all of them were initiated by law enforcement officers.

Third, BHD limited the number of employees it designated and trained to assess individuals for emergency detention. BHD also indicated that three of its clinicians involved in the pilot program had limited involvement with it because two left BHD for other employment and a third transitioned from full- to part-time employment. In addition, six BHD employees who were to assess those under 18 years of age discontinued their participation in the

program because BHD attempts to avoid detaining children and adolescents, especially those under 14 years of age.

***Extending the pilot program is not likely to significantly decrease the number of individuals taken into custody by law enforcement.***

Therefore, it is unlikely that extending the Emergency Detention Pilot Program in Milwaukee County or making it permanent would result in a significant decrease in the number of individuals being taken into custody by law enforcement for emergency detention. However, continuation of the program on either an extended or permanent basis would not appear to be detrimental and may assist some individuals in avoiding detention and facilitate their receipt of community-based mental health treatment or other services.

***The utility of expanding the pilot program to other counties is likely limited.***

In addition, the utility of expanding the pilot program to other counties is likely limited. Beginning in July 2016, statutes require that mental health professionals conduct crisis assessments on individuals outside of Milwaukee County and agree that detention is appropriate before the individuals are held in treatment facilities. This requirement was instituted after the creation of the pilot program and limits the usefulness of expanding the pilot program to other counties.

■ ■ ■ ■





## Emergency Detentions in Other Selected Counties

---

To provide additional information about the manner in which emergency detentions are conducted in the state, we reviewed the procedures used in Brown County and Jefferson County. Brown County contracts with a vendor to provide crisis and emergency mental health services, while Jefferson County employs staff to perform these functions directly. All emergency detentions in Jefferson County are initiated by intake workers under Wisconsin's Juvenile Justice Code, rather than by law enforcement officers. We also found that 2015 Wisconsin Act 55 did not affect either county's procedures for conducting emergency detentions, because since at least 2012 both counties have required that mental health professionals conduct assessments of individuals before they may be held for emergency detention.

### **Emergency Detentions in Brown County**

***Brown County contracts with a private vendor to provide crisis and emergency mental health services.***

Brown County contracts with a private, nonprofit vendor to provide crisis and emergency mental health services, including conducting the mental health assessments required by 2015 Wisconsin Act 55 in order to determine whether emergency detention is appropriate. However, representatives of the vendor indicated that the statutory change did not affect the process for emergency detentions because mental health assessments in Brown County have been conducted before allowing individuals to be held under the emergency detention process since at least 2012.

As in Milwaukee County, the emergency detention process in Brown County most commonly begins when a law enforcement officer is dispatched through the 911 emergency dispatch system to address an individual thought to be experiencing a mental health crisis. Ten law enforcement agencies may initiate emergency detentions in Brown County. In instances in which the responding officer suspects an individual is experiencing a mental health crisis but does not have an urgent non-psychiatric medical care need, the officer may transport the individual to the vendor’s facility for assessment or may contact the vendor to dispatch a mobile crisis team in order to conduct an on-site assessment. If the individual requires treatment in order to stabilize a non-psychiatric medical need, the individual is transported to a hospital emergency room for treatment and the vendor conducts the assessment at the hospital.

***Brown County’s policies include establishing a consensus between the mental health professional and the law enforcement officer on the need to hold an individual.***

Brown County’s policy is to establish a consensus on the need to hold an individual in a treatment facility between the mental health professional making the assessment and the law enforcement officer present. However, in instances in which agreement between the parties is not achieved after their respective supervisors have been consulted, the county’s policies recommend that the individual be held in a treatment facility.

When a determination to hold an individual in a treatment facility has been made, the law enforcement officer completes a statement of emergency detention. The vendor provides an addendum that is attached to the statement describing the behavior of the individual that established a need for an emergency detention.

***The vendor is responsible for selecting a treatment facility to hold the individual.***

The vendor is responsible for selecting a treatment facility to hold the individual. As shown in Table 4, individuals are usually held at the Brown County Community Treatment Center, the Bellin Health Psychiatric Center, or the Willow Creek Behavioral Health Hospital, which are all located in Green Bay, or at the Winnebago Mental Health Institute located in Winnebago. The vendor indicated that an individual’s insurance coverage is one of the factors it considers when selecting a treatment facility. Uninsured individuals are held at the Brown County Community Treatment Center unless no space is available. The vendor indicated that it generally limits its use of the Winnebago Mental Health Institute to individuals with the most intensive needs. The law enforcement officer is responsible for transporting the individual to the treatment facility and for distributing copies of the statement of emergency detention to the individual, the treatment facility, and the circuit court.

Table 4

**Emergency Detentions for Brown County, by Treatment Facility**  
November 10, 2014, through June 30, 2017<sup>1</sup>

Treatment Facility	Location	Number	Percentage of Total
Brown County Community Treatment Center	Green Bay	1,372	61.1%
Bellin Health Psychiatric Center	Green Bay	742	33.0
Winnebago Mental Health Institute	Winnebago	104	4.6
Willow Creek Behavioral Health Hospital	Green Bay	27	1.2
ThedaCare Regional Medical Center	Neenah	1	<0.1
<b>Total</b>		<b>2,246</b>	<b>100.0%</b>

<sup>1</sup> This is the time period the Emergency Detention Pilot Program was in operation in Milwaukee County.

From November 10, 2014, through June 30, 2017, which is the period when the Milwaukee County pilot program was in operation, 9,200 assessments were conducted of individuals in Brown County. A total of 2,246 (24.4 percent) of the assessments resulted in individuals being held in treatment facilities.

Table 5 provides demographic information on the 1,797 individuals from Brown County who were held in treatment facilities from November 10, 2014, through June 30, 2017. The number of individuals who were held is smaller than the total number of emergency detentions because 279 individuals (15.5 percent) were detained more than once. We found that 3 (0.2 percent) of the 1,797 individuals were detained 10 or more times, including one adult male who was detained 17 times during this period. Information on the diagnoses of individuals who were detained was not available.

Table 5

**Individuals Held in Treatment Facilities for  
Emergency Detention by Brown County**  
November 10, 2014, through June 30, 2017<sup>1</sup>

Number of Individuals Held in Treatment Facilities	1,797
Ratio of Individuals Held in Treatment Facilities to County Population <sup>2</sup>	1:145

	Number	Percentage
<b>Gender</b>		
Male	879	48.9%
Female	912	50.8
Transgender	6	0.3
<b>Total</b>	<b>1,797</b>	<b>100.0%</b>
<b>Age</b>		
Under 18	385	21.4
18 through 25	370	20.6
26 through 44	576	32.1
45 through 65	405	22.5
Over 65	61	3.4
<b>Total</b>	<b>1,797</b>	<b>100.0%</b>
<b>Ethnicity</b>		
African-American	144	8.0
Caucasian	1,085	60.4
Other	331	18.4
Unknown	237	13.2
<b>Total</b>	<b>1,797</b>	<b>100.0%</b>
<b>Number of Detentions</b>		
1	1,518	84.5
2 to 3	241	13.4
4 to 5	30	1.7
More than 5	8	0.4
<b>Total</b>	<b>1,797</b>	<b>100.0%</b>

<sup>1</sup> This is the time period the Emergency Detention Pilot Program was in operation in Milwaukee County.

<sup>2</sup> As of July 1, 2016, the United States Census Bureau reported Brown County's population as 260,401.

## Emergency Detentions in Jefferson County

Jefferson County employees directly provide crisis and emergency mental health services, including conducting the mental health assessments required by 2015 Wisconsin Act 55 in order to determine whether emergency detention is appropriate. However, county officials indicated that the law change did not affect their process for emergency detentions, because mental health assessments in Jefferson County have been conducted before allowing individuals to be held under the emergency detention process since at least 2012.

***Emergency detentions in Jefferson County are initiated by employees of the Jefferson County Human Services Department rather than law enforcement officers.***

Unlike the processes used in Milwaukee County and Brown County, emergency detentions in Jefferson County are initiated by employees of the Jefferson County Human Services Department who are trained to provide crisis and emergency mental health services. County officials indicated that all six of its crisis workers are authorized to initiate emergency detentions and take individuals into custody because they are intake workers under Wisconsin's Juvenile Justice Code, ch. 938, Wis. Stats. To become certified, these employees participate in two days of online coursework and three days of in-person coursework provided by the Department of Children and Families, which also administers the certification examination after completion of the coursework.

The Jefferson County Human Services Department has entered into an agreement with the 13 law enforcement agencies that may initiate emergency detentions in Jefferson County. This agreement describes the policies and procedures used to address several emergency mental health service issues, including emergency detentions.

As in other counties, the emergency detention process typically begins with a call to the 911 emergency dispatch system and a response by a law enforcement officer. At the request of a law enforcement officer, county crisis workers are sent to conduct an on-site assessment of the individual in crisis. However, if the individual requires treatment in order to stabilize a non-psychiatric medical need, the individual is transported to a hospital emergency room for treatment, and the crisis workers conduct the assessment at the hospital. In conducting the assessment, crisis workers generally consult with a psychiatrist employed by the Jefferson County Human Services Department via telephone.

When a determination to hold an individual in a treatment facility has been made by a crisis worker, the worker completes a statement of emergency detention. The crisis worker provides copies of the statement to the individual, the circuit court, and the law enforcement officer who subsequently transfers this copy of the statement to the treatment facility.

**No treatment facilities are located in Jefferson County.**

The crisis workers are responsible for selecting a treatment facility to hold the individual. No treatment facilities are located in Jefferson County. Therefore, it relies on facilities located in other counties. From November 10, 2014, through June 30, 2017, which is the period when the Milwaukee County pilot program was in operation, 1,218 assessments were conducted of individuals in Jefferson County. A total of 372 (30.5 percent) of the assessments resulted in individuals being held in treatment facilities. As shown in Table 6, 31.5 percent of these individuals were held at the Winnebago Mental Health Institute.

Table 6  
**Emergency Detentions for Jefferson County, by Treatment Facility**  
 November 10, 2014, through June 30, 2017<sup>1</sup>

Treatment Facility	Location	Number	Percentage of Total
Winnebago Mental Health Institute	Winnebago	117	31.5%
St. Agnes Hospital	Fond du Lac	67	18.0
Fond du Lac County Health Care Center	Fond du Lac	50	13.4
St. Mary’s Hospital	Madison	34	9.1
University of Wisconsin Hospital	Madison	26	7.0
Rogers Memorial Hospital	Oconomowoc	19	5.1
Other	–	42	11.3
Unknown	–	17	4.6
<b>Total</b>		<b>372</b>	<b>100.0%</b>

<sup>1</sup> This is the time period the Emergency Detention Pilot Program was in operation in Milwaukee County.

Table 7 provides demographic information on the 295 individuals from Jefferson County who were held in treatment facilities from November 10, 2014, through June 30, 2017. The number of individuals who were held is smaller than the total number of detentions because 56 individuals (19.0 percent) were detained more than once. The individual detained most frequently was an adult male who was detained six times during this period. Information on the diagnoses of individuals who were detained was not available.

Table 7

**Individuals Held in Treatment Facilities for  
Emergency Detention by Jefferson County  
November 10, 2014, through June 30, 2017<sup>1</sup>**

Number of Individuals Held in Treatment Facilities	295
Ratio of Individuals Held in Treatment Facilities to County Population <sup>2</sup>	1:287

	Number	Percentage
<b>Gender</b>		
Male	157	53.2%
Female	138	46.8
<b>Total</b>	<b>295</b>	<b>100.0%</b>
<b>Age</b>		
Under 18	51	17.3
18 through 25	54	18.3
26 through 44	105	35.6
45 through 65	61	20.7
Over 65	24	8.1
<b>Total</b>	<b>295</b>	<b>100.0%</b>
<b>Ethnicity</b>		
African-American	8	2.7
Caucasian	279	94.6
Other	8	2.7
<b>Total</b>	<b>295</b>	<b>100.0%</b>
<b>Number of Detentions</b>		
1	239	81.0
2 to 3	50	17.0
4 to 5	5	1.7
More than 5	1	0.3
<b>Total</b>	<b>295</b>	<b>100.0%</b>

<sup>1</sup> This is the time period the Emergency Detention Pilot Program was in operation in Milwaukee County.

<sup>2</sup> As of July 1, 2016, the United States Census Bureau reported Jefferson County's population as 84,625.





---

## **Response ■**

---





**MICHAEL LAPPEN • Administrator**

December 8, 2017

Mr. Joe Chrisman, State Auditor  
Wisconsin Legislative Audit Bureau  
22 East Mifflin Street, Suite 500  
Madison, WI 53703

Dear Mr. Chrisman,

First and foremost, I want to extend my appreciation to your team for their professionalism throughout the audit process of the Milwaukee County Behavioral Health Division (BHD). The quality of their work and attention to detail was well-received by our review committee. We reviewed the audit report and have the below response regarding the impact of the Act 235 Pilot.

The Act 235 Pilot facilitated the exploration of a novel model of emergency detention in Milwaukee County - one that did not require law enforcement officers, so individuals experiencing a mental health or substance use related crisis could access treatment without criminalization. Unfortunately, the pilot did not fund additional staff resources for BHD, nor did it make participation mandatory for law enforcement. With 26 police districts and hundreds of sworn officers in Milwaukee County, and just a handful of BHD staff available for the pilot, there was little incentive for law enforcement to take an additional step and be forced to accept the travel time required for BHD staff to meet them in the field. Given the extraordinary demands already placed on law enforcement in Milwaukee County, it was a lot to ask of them to deviate from their standard protocol for emergency detention, which is typically quite efficient utilizing the BHD Psychiatric Emergency Room (PCS). Law enforcement remained the gatekeepers for the great majority of cases because under Wisconsin law, most emergency detentions start with a 911 call to law enforcement.

This year, BHD continued to expand its Community Crisis Services with a focus on reducing involuntary treatment and improving access to quality care through its Crisis Assessment and Response Team (CART). This program pairs a BHD clinician with a Milwaukee Police Department (MPD) officer to respond to police calls involving mental health or substance use. This program served 500 individuals in 2017. Eighty-eight percent of individuals served by CART avoided emergency detention with a facilitated voluntary outcome. Because of these successes, CART expanded to three MPD teams in 2017 and recently added a fourth multi-jurisdictional team as part of the Safety and Justice Challenge, funded by the MacArthur Grant. Plans are underway to continue our expansion into West Allis in early 2018.



**MICHAEL LAPPEN • Administrator**

Response to LAB Act 235  
December 7, 2017  
Page 2

Related efforts that also took place during the Act 235 Pilot period include:

- The expansion of our mobile crisis services
- The establishment of Crisis Resource Centers (CRC)
- The utilization of Crisis Respite/Crisis Stabilization Houses (CSH)
- Expanded Crisis Intervention Training (CIT) for MPD

These efforts, combined with our CART initiative, reduced the number of Emergency Detentions from 5,718 in 2014 to a projected 3,780 in 2017.

In addition, BHD has continued to expand our breadth of Crisis Services following the Act 235 Pilot by launching Team Connect, a cutting-edge program comprised of clinicians and Certified Peer Specialists providing post discharge follow-up to individuals who received services from BHD's Acute Care Units and facility-based emergency room services, often within 24 hours of discharge.

At BHD, we believe that recovery starts with a connection to high quality care. We continue to explore ways to reduce barriers to treatment, to embrace preventative and integrated models, and to do our best to avoid involuntary treatment and incarceration for individuals experiencing mental health or substance use disorders. As we strive to be a nationally recognized best practice leader in Behavioral Health, we will continue to learn from efforts like the Act 235 Pilot. While this pilot may not have impacted as many individuals as intended, it certainly has informed future initiatives as BHD continues to develop effective alternatives to Emergency Detention.

Sincerely,

Michael Lappen, MS, LPC  
Administrator, Milwaukee County Behavioral Health Division