

SHEBOYGAN COUNTY RESOLUTION NO. 28 (2019/20)

Re: **Authorizing Filing of Declaratory Judgment Against the State of Wisconsin for Financial Contribution**

WHEREAS, pursuant to Wis. Stat. § 55.001, Sheboygan County is required to take care of its residents who have "serious and persistent mental illness, degenerative brain disorder, developmental disabilities, or other like incapacities" who need protective services or protective placement, and

WHEREAS, the duties and responsibilities of Sheboygan County to provide these services are limited to those resources that Sheboygan County is "reasonably able to provide within the limits of available state and federal funds and of county funds required to be appropriated to match state funds. . ." (Wis. Stat. §§ 55.001 and 55.045), and

WHEREAS, pursuant to Wis. Stat. § 55.12(5), Sheboygan County "may not be required to provide funding in addition to its funds that are required to match state funds" in order to provide services to its residents, and

WHEREAS, a Sheboygan County resident (T.L.), upon petition by Sheboygan County, was found to be the proper subject for guardianship and protective placement under Chapter 55, and

WHEREAS, in April 2019 the court ordered placement of T.L. at Trempealeau County Health Care Facility, and the County assumed its Chapter 55 obligation to provide care, and

WHEREAS, the estimated cost of care for T.L. is \$150,000.00 per year at Trempealeau County Health Care Facility, with such placement subject to periodic review for appropriateness under Chapter 55, and

WHEREAS, despite repeated requests to the State (through both the Department of Health Services and the Governor's general counsel) to share in the cost of care for T.L., the State has declined to provide any funds, and

WHEREAS, T.L. is not a U.S. citizen or legal permanent resident and, therefore, is not eligible for federal public assistance, and

WHEREAS, based on T.L.'s age and condition, it is expected that the Chapter 55 Order for Protective Placement will be indefinite and has the potential to be in effect for the next fifty or more years, and

WHEREAS, as a result of the State's failure to provide matching funds, Sheboygan County is not receiving uniform state funding to support the exceptional needs of T.L. under Wis. Stat. § 51.123(1), and

WHEREAS, based on the statutory scheme of Wis. Stat. §§ 46.03, 46.031, 51.423(1), 55.001, 55.045, 55.12(4), 55.12(5), and 55.423, the County and State are to share in the cost of T.L.'s care and treatment, and

WHEREAS, the County desires to work cooperatively with the State in providing care to incapacitated residents and remains willing to continue discussions to achieve a mutually beneficial resolution;

NOW, THEREFORE, BE IT RESOLVED that the Sheboygan County Corporation Counsel is authorized and directed to commence a declaratory action in a court against the State of Wisconsin seeking an order from the court that the State assume financial responsibility for the cost and care of T.L.

BE IT FURTHER RESOLVED that the Executive Committee has, in its sole discretion, authority to control, manage, and direct any and all aspects of the litigation including alternative dispute resolution, settlement, and proposed compromise.

Respectfully submitted this 17th day of March, 2020.

HEALTH & HUMAN SERVICES COMMITTEE*

Brian C. Hoffmann, Chairperson

Roger R. Otten

Roger R. Otten, Vice-Chairperson

Curt A. Brauer, Secretary

James Baumgart

James Baumgart

Dawn Brulla

Dawn Brulla

Thomas V. Epping

Thomas V. Epping

Opposed to Introduction:

*County Board members signing only

Adopted 03/17/2020