



2003 SENATE BILL 106

April 9, 2003 - Introduced by Senators HARSDDORF, M. MEYER, A. LASEE, KANAVAS, LEIBHAM and DARLING, cosponsored by Representatives JOHNSRUD, KRAWCZYK, AINSWORTH, GUNDRUM, HUNDERTMARK, OTT, LASSA, J. FITZGERALD, JESKEWITZ, HINES, MCCORMICK and J. WOOD. Referred to Committee on Judiciary, Corrections and Privacy.

1 **AN ACT** *to renumber* 302.11 (4m), 302.116 (1) (a) and 971.17 (1); *to renumber*
2 *and amend* 980.08 (4) and 980.08 (5); *to amend* 46.10 (2), 51.42 (3) (aw) 1. d.,
3 302.11 (1), 971.17 (1g), 971.17 (1h), 971.17 (1j) (b), 971.17 (1m) (a), 971.17 (1m)
4 (b) 1m., 971.17 (1m) (b) 2m., 971.17 (3) (a), 971.17 (3) (e), 971.17 (4) (d), 971.17
5 (6) (a) (intro.), 971.17 (6) (b), 980.08 (3) and 980.08 (6m); and *to create* 302.11
6 (1g) (b) 3., 302.11 (4m) (b), 302.116 (1) (ad), 302.116 (1) (af), 302.116 (3), 304.02
7 (4t), 304.06 (2m) (af), 971.17 (1b), 971.17 (4f), 973.09 (8), 975.10 (1m), 980.08 (4)
8 (a) 1. b., 980.08 (5) (a) 2. and 980.08 (5) (b) of the statutes; **relating to:** the
9 residence of child sex offenders.

Analysis by the Legislative Reference Bureau

Current law restricts where certain persons who have been convicted of first or second degree sexual assault, first or second degree sexual assault of a child, repeated sexual assault of a child, incest with a child, or child enticement (a “serious sex offense”) may reside if they are living in the community. First, no person who has been convicted of a serious sex offense (a “sex offender”) may be paroled to any county where there is a correctional institution that has a specialized sex offender treatment program, unless that county was the person’s county of residence at the time of the

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person's offense. Second, any sex offender who is released to extended supervision must agree, as a condition of extended supervision, to live in a residence that the Department of Corrections (DOC) has approved. Current law also imposes certain obligations on DOC with respect to where sex offenders reside. DOC must work to minimize, to the greatest extent possible, the residential population density of sex offenders who are on probation, parole, or extended supervision or who are placed on supervised release after having been committed for treatment as sexually violent persons.

This bill places additional restrictions on where a child sex offender — defined as a person who has been convicted of child enticement; using a computer to facilitate having sex with a child; attempting to commit either of these crimes; or, if the victim or the intended victim was under 18, any other serious sex offense -- may reside. Under the bill, a child sex offender who is being placed in the community under the supervision of DOC (through parole, extended supervision, or probation) may not reside within 1,000 feet of any of the following places: 1) a state, county, city, village, or town park; 2) a multiunit public housing project; 3) a public swimming pool; 4) a child care facility; 5) a youth center; 6) a community center; or 7) any private or public school premises. The bill imposes the same restriction on: 1) any person being placed in the community on conditional release after having been found not guilty by reason of mental disease or defect of child enticement; using a computer to facilitate having sex with a child; attempting to commit either of these crimes; or, if the victim or the intended victim was under 18, any other serious sex offense; and 2) any person placed on supervised release after having been committed for treatment as a sexually violent person, regardless of the offense or offenses that provided a basis for his or her commitment.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 46.10 (2) of the statutes is amended to read:
2 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
3 including but not limited to a person admitted, committed, or placed under s. 975.01,
4 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 51.10, 51.13,
5 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12), and (13), 55.05, 55.06, 971.14
6 (2) and (5), 971.17 ~~(1)~~ (1d), 975.06, and 980.06, receiving care, maintenance, services,
7 and supplies provided by any institution in this state including University of

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1 Wisconsin Hospitals and Clinics, in which the state is chargeable with all or part of
2 the person's care, maintenance, services, and supplies, any person receiving care and
3 services from a county department established under s. 51.42 or 51.437 or from a
4 facility established under s. 49.73, and any person receiving treatment and services
5 from a public or private agency under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d)
6 or (4) (e) or 980.08 (5) (c) and the person's property and estate, including the
7 homestead, and the spouse of the person, and the spouse's property and estate,
8 including the homestead, and, in the case of a minor child, the parents of the person,
9 and their property and estates, including their homestead, and, in the case of a
10 foreign child described in s. 48.839 (1) who became dependent on public funds for his
11 or her primary support before an order granting his or her adoption, the resident of
12 this state appointed guardian of the child by a foreign court who brought the child
13 into this state for the purpose of adoption, and his or her property and estate,
14 including his or her homestead, shall be liable for the cost of the care, maintenance,
15 services, and supplies in accordance with the fee schedule established by the
16 department under s. 46.03 (18). If a spouse, widow, or minor, or an incapacitated
17 person may be lawfully dependent upon the property for their support, the court
18 shall release all or such part of the property and estate from the charges that may
19 be necessary to provide for those persons. The department shall make every
20 reasonable effort to notify the liable persons as soon as possible after the beginning
21 of the maintenance, but the notice or the receipt thereof is not a condition of liability.

22 **SECTION 2.** 51.42 (3) (aw) 1. d. of the statutes is amended to read:

23 51.42 (3) (aw) 1. d. Provide treatment and services that are specified in a
24 conditional release plan approved by a court for a person who is a county resident and
25 is conditionally released under s. 971.17 (3) or (4) or that are specified in a supervised

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1 release plan approved by a court under s. 980.06 (2) (c), 1997 stats., or s. 980.08 (5)
2 (d). If the county department provides treatment and services under this
3 subdivision, the department of health and family services shall, from the
4 appropriation under s. 20.435 (2) (bj), pay the county department for the costs of the
5 treatment and services.

6 **SECTION 3.** 302.11 (1) of the statutes is amended to read:

7 302.11 (1) The warden or superintendent shall keep a record of the conduct of
8 each inmate, specifying each infraction of the rules. Except as provided in subs. (1g),
9 (1m), (1q), (1z), (4m) (b), (7), and (10), each inmate is entitled to mandatory release
10 on parole by the department. The mandatory release date is established at
11 two-thirds of the sentence. Any calculations under this subsection or sub. (1q) (b)
12 or (2) (b) resulting in fractions of a day shall be rounded in the inmate's favor to a
13 whole day.

14 **SECTION 4.** 302.11 (1g) (b) 3. of the statutes is created to read:

15 302.11 (1g) (b) 3. Refusal by the inmate, if the inmate is a child sex offender,
16 as defined in s. 302.116 (1) (af), to reside, as a condition of parole, in a residence that
17 is not within 1,000 feet of any state, county, city, village, or town park, a multiunit
18 public housing project, a swimming pool open to members of the public, a child care
19 facility, as defined in s. 302.116 (1) (ad), a youth center, a community center, or any
20 private or public school premises.

21 **SECTION 5.** 302.11 (4m) of the statutes is renumbered 302.11 (4m) (a).

22 **SECTION 6.** 302.11 (4m) (b) of the statutes is created to read:

23 302.11 (4m) (b) A child sex offender, as defined in s. 302.116 (1) (af), is not
24 entitled to mandatory release on parole under this section unless he or she agrees,
25 as a condition of parole, not to reside within 1,000 feet of any state, county, city,

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1 village, or town park, a multiunit public housing project, a swimming pool open to
2 members of the public, a child care facility, as defined in s. 302.116 (1) (ad), a youth
3 center, a community center, or any private or public school premises.

4 **SECTION 7.** 302.116 (1) (a) of the statutes is renumbered 302.116 (1) (at).

5 **SECTION 8.** 302.116 (1) (ad) of the statutes is created to read:

6 302.116 (1) (ad) "Child care facility" means a child care facility that is operated
7 by a person licensed under s. 48.65 or 48.69 or certified under s. 48.651 or that is
8 established or contracted for under s. 120.13 (14).

9 **SECTION 9.** 302.116 (1) (af) of the statutes is created to read:

10 302.116 (1) (af) "Child sex offender" means a person serving a sentence for any
11 of the following:

12 1. A violation of s. 948.07 or 948.075 or a solicitation or conspiracy to commit
13 a violation of s. 948.07 or 948.075.

14 2. Any other serious sex offense, if the victim or the intended victim of the
15 serious sex offense was a person who had not attained the age of 18 years at the time
16 of the offense.

17 **SECTION 10.** 302.116 (3) of the statutes is created to read:

18 302.116 (3) As a condition of extended supervision, a child sex offender shall
19 live in a residence that is not within 1,000 feet of any state, county, city, village, or
20 town park, a multiunit public housing project, a swimming pool open to members of
21 the public, a child care facility, a youth center, a community center, or any private or
22 public school premises.

23 **SECTION 11.** 304.02 (4t) of the statutes is created to read:

24 304.02 (4t) Notwithstanding subs. (1) to (3), a child sex offender, as defined in
25 s. 302.116 (1) (af), may not be paroled under this section unless he or she agrees, as

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1 a condition of parole, not to reside within 1,000 feet of any state, county, city, village,
2 or town park, a multiunit public housing project, a swimming pool open to members
3 of the public, a child care facility, as defined in s. 302.116 (1) (ad), a youth center, a
4 community center, or any private or public school premises.

5 **SECTION 12.** 304.06 (2m) (af) of the statutes is created to read:

6 304.06 (2m) (af) Neither the parole commission nor the department may parole
7 a child sex offender, as defined in s. 302.116 (1) (af), unless he or she agrees, as a
8 condition of parole, not to reside within 1,000 feet of any state, county, city, village,
9 or town park, a multiunit public housing project, a swimming pool open to members
10 of the public, a child care facility, as defined in s. 302.116 (1) (ad), a youth center, a
11 community center, or any private or public school premises.

12 **SECTION 13.** 971.17 (1) of the statutes is renumbered 971.17 (1d).

13 **SECTION 14.** 971.17 (1b) of the statutes is created to read:

14 971.17 (1b) In this section, “child sex offender” means a person who has been
15 found not guilty by reason of mental disease or defect of any of the following:

16 (a) A violation of s. 948.07 or 948.075 or a solicitation or conspiracy to commit
17 a violation of s. 948.07 or 948.075.

18 (b) Any other serious sex offense, if the victim or the intended victim of the
19 serious sex offense was a person who had not attained the age of 18 years at the time
20 of the offense.

21 **SECTION 15.** 971.17 (1g) of the statutes is amended to read:

22 971.17 (1g) If the defendant under sub. (1) (1d) is found not guilty of a felony
23 by reason of mental disease or defect, the court shall inform the defendant of the
24 requirements and penalties under s. 941.29.

25 **SECTION 16.** 971.17 (1h) of the statutes is amended to read:

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1 971.17 **(1h)** NOTICE OF RESTRICTIONS ON POSSESSION OF BODY ARMOR. If the
2 defendant under sub. ~~(1)~~ **(1d)** is found not guilty of a violent felony, as defined in s.
3 941.291 (1) (b), by reason of mental disease or defect, the court shall inform the
4 defendant of the requirements and penalties under s. 941.291.

5 **SECTION 17.** 971.17 (1j) (b) of the statutes is amended to read:

6 971.17 **(1j)** (b) If a person is found not guilty by reason of mental disease or
7 defect of a serious sex offense, the court may, in addition to committing the person
8 to the department of health and family services under sub. ~~(1)~~ **(1d)**, place the person
9 on lifetime supervision under s. 939.615 if notice concerning lifetime supervision was
10 given to the person under s. 973.125 and if the court determines that lifetime
11 supervision of the person is necessary to protect the public.

12 **SECTION 18.** 971.17 (1m) (a) of the statutes is amended to read:

13 971.17 **(1m)** (a) If the defendant under sub. ~~(1)~~ **(1d)** is found not guilty by reason
14 of mental disease or defect for a violation of s. 940.225 (1) or (2), 948.02 (1) or (2), or
15 948.025, the court shall require the person to provide a biological specimen to the
16 state crime laboratories for deoxyribonucleic acid analysis.

17 **SECTION 19.** 971.17 (1m) (b) 1m. of the statutes is amended to read:

18 971.17 **(1m)** (b) 1m. Except as provided in subd.2m., if the defendant under sub.
19 ~~(1)~~ **(1d)** is found not guilty by reason of mental disease or defect for any violation, or
20 for the solicitation, conspiracy, or attempt to commit any violation, of ch. 940, 944,
21 or 948 or ss. 943.01 to 943.15, the court may require the defendant to comply with
22 the reporting requirements under s. 301.45 if the court determines that the
23 underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that it
24 would be in the interest of public protection to have the defendant report under s.
25 301.45.

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1 **SECTION 20.** 971.17 (1m) (b) 2m. of the statutes is amended to read:

2 971.17 **(1m)** (b) 2m. If the defendant under sub. ~~(1)~~ **(1d)** is found not guilty by
3 reason of mental disease or defect for a violation, or for the solicitation, conspiracy,
4 or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02
5 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.095, 948.11
6 (2) (a) or (am), 948.12, 948.13, or 948.30, or of s. 940.30 or 940.31 if the victim was
7 a minor and the defendant was not the victim's parent, the court shall require the
8 defendant to comply with the reporting requirements under s. 301.45 unless the
9 court determines, after a hearing on a motion made by the defendant, that the
10 defendant is not required to comply under s. 301.45 (1m).

11 **SECTION 21.** 971.17 (3) (a) of the statutes is amended to read:

12 971.17 **(3)** (a) An order for commitment under this section shall specify either
13 institutional care or conditional release. The court shall order institutional care if
14 it finds by clear and convincing evidence that conditional release of the person would
15 pose a significant risk of bodily harm to himself or herself or to others or of serious
16 property damage. ~~If or that the person is a child sex offender who refuses to comply~~
17 ~~with sub. (4f). Otherwise,~~ the court does not make this finding, it shall order
18 conditional release. In determining whether ~~commitment shall be for institutional~~
19 ~~care or conditional release~~ the person would pose a significant risk of bodily harm to
20 himself or herself or to others or of serious property damage, the court may consider,
21 without limitation because of enumeration, the nature and circumstances of the
22 crime, the person's mental history and present mental condition, where the person
23 will live, how the person will support himself or herself, what arrangements are
24 available to ensure that the person has access to and will take necessary medication,
25 and what arrangements are possible for treatment beyond medication.

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1 **SECTION 22.** 971.17 (3) (e) of the statutes is amended to read:

2 971.17 (3) (e) An order for conditional release places the person in the custody
3 and control of the department of health and family services. A conditionally released
4 person is subject to the conditions set by the court ~~and,~~ to the rules of the department
5 of health and family services, ~~and, if applicable, to sub. (4f).~~ Before a person is
6 conditionally released by the court under this subsection, the court shall so notify the
7 municipal police department and county sheriff for the area where the person will
8 be residing. The notification requirement under this paragraph does not apply if a
9 municipal department or county sheriff submits to the court a written statement
10 waiving the right to be notified. If the department of health and family services
11 alleges that a released person has violated any condition or rule, or that the safety
12 of the person or others requires that conditional release be revoked, he or she may
13 be taken into custody under the rules of the department. The department of health
14 and family services shall submit a statement showing probable cause of the
15 detention and a petition to revoke the order for conditional release to the committing
16 court and the regional office of the state public defender responsible for handling
17 cases in the county where the committing court is located within 48 hours after the
18 detention. The court shall hear the petition within 30 days, unless the hearing or
19 time deadline is waived by the detained person. Pending the revocation hearing, the
20 department of health and family services may detain the person in a jail or in a
21 hospital, center or facility specified by s. 51.15 (2). The state has the burden of
22 proving by clear and convincing evidence that any rule or condition of release has
23 been violated, or that the safety of the person or others requires that conditional
24 release be revoked. If the court determines after hearing that any rule or condition
25 of release has been violated, or that the safety of the person or others requires that

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1 conditional release be revoked, it may revoke the order for conditional release and
2 order that the released person be placed in an appropriate institution under s. 51.37
3 (3) until the expiration of the commitment or until again conditionally released
4 under this section.

5 **SECTION 23.** 971.17 (4) (d) of the statutes is amended to read:

6 971.17 (4) (d) The court, without a jury, shall hear the petition within 30 days
7 after the report of the court-appointed examiner is filed with the court, unless the
8 petitioner waives this time limit. Expenses of proceedings under this subsection
9 shall be paid as provided under s. 51.20 (18). The court shall grant the petition unless
10 it finds by clear and convincing evidence that the person would pose a significant risk
11 of bodily harm to himself or herself or to others or of serious property damage if
12 conditionally released. ~~In making this determination or that the person is a child sex~~
13 offender who refuses to comply with sub. (4f). In determining whether the person
14 would pose a significant risk of bodily harm to himself or herself or to others or of
15 serious property damage, the court may consider, without limitation because of
16 enumeration, the nature and circumstances of the crime, the person's mental history
17 and present mental condition, where the person will live, how the person will support
18 himself or herself, what arrangements are available to ensure that the person has
19 access to and will take necessary medication, and what arrangements are possible
20 for treatment beyond medication.

21 **SECTION 24.** 971.17 (4f) of the statutes is created to read:

22 971.17 (4f) RESIDENCY OF CHILD SEX OFFENDERS ON CONDITIONAL RELEASE. A child
23 sex offender who is conditionally released under sub. (3) or (4) (e) may not, as a
24 condition of the person's release, reside within 1,000 feet of any state, county, city,
25 village, or town park, a multiunit public housing project, a swimming pool open to

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1 members of the public, a child care facility, as defined in s. 302.116 (1) (ad), a youth
2 center, a community center, or any private or public school premises.

3 **SECTION 25.** 971.17 (6) (a) (intro.) of the statutes is amended to read:

4 971.17 (6) (a) (intro.) At least 60 days prior to the expiration of a commitment
5 order under sub. (1) (1d), the department of health and family services shall notify
6 all of the following:

7 **SECTION 26.** 971.17 (6) (b) of the statutes is amended to read:

8 971.17 (6) (b) Upon the expiration of a commitment order under sub. (1) (1d),
9 the court shall discharge the person, subject to the right of the department of health
10 and family services or the appropriate county department under s. 51.42 or 51.437
11 to proceed against the person under ch. 51 or 55. If none of those departments
12 proceeds against the person under ch. 51 or 55, the court may order the proceeding.

13 **SECTION 27.** 973.09 (8) of the statutes is created to read:

14 973.09 (8) If the court places a child sex offender, as defined in s. 302.116 (1)
15 (af), on probation, the court shall prohibit the probationer, as a condition of
16 probation, from residing within 1,000 feet of any state, county, city, village, or town
17 park, a multiunit public housing project, a swimming pool open to members of the
18 public, a child care facility, as defined in s. 302.116 (1) (ad), a youth center, a
19 community center, or any private or public school premises.

20 **SECTION 28.** 975.10 (1m) of the statutes is created to read:

21 975.10 (1m) A person may not be released on parole under sub. (1) unless he
22 or she agrees, as a condition of parole, not to reside within 1,000 feet of any state,
23 county, city, village, or town park, a multiunit public housing project, a swimming
24 pool open to members of the public, a child care facility, as defined in s. 302.116 (1)
25 (ad), a youth center, a community center, or any private or public school premises.

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1 **SECTION 29.** 980.08 (3) of the statutes is amended to read:

2 980.08 (3) Within 20 days after receipt of the petition, the court shall appoint
3 one or more examiners having the specialized knowledge determined by the court to
4 be appropriate, who shall examine the person and furnish a written report of the
5 examination to the court within 30 days after appointment. The examiners shall
6 have reasonable access to the person for purposes of examination and to the person's
7 past and present treatment records, as defined in s. 51.30 (1) (b), and patient health
8 care records, as provided under s. 146.82 (2) (c). If any such examiner believes that
9 the person is appropriate for supervised release under the ~~criteria~~ criteria specified
10 in sub. (4) (a) 1., the examiner shall report on the type of treatment and services that
11 the person may need while in the community on supervised release. The county shall
12 pay the costs of an examiner appointed under this subsection as provided under s.
13 51.20 (18) (a).

14 **SECTION 30.** 980.08 (4) of the statutes is renumbered 980.08 (4) (a) 1. (intro.)
15 and amended to read:

16 980.08 (4) (a) 1. (intro.) The court, without a jury, shall hear the petition within
17 30 days after the report of the court-appointed examiner is filed with the court,
18 unless the petitioner waives this time limit. Expenses of proceedings under this
19 subsection shall be paid as provided under s. 51.20 (18) (b), (c) and (d). The court shall
20 grant the petition unless the state proves one of the following by clear and convincing
21 evidence ~~that~~:

22 a. That the person is still a sexually violent person and that it is still
23 substantially probable that the person will engage in acts of sexual violence if the
24 person is not continued in institutional care. ~~In making a decision under this~~
25 ~~subsection~~

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1 2. In deciding whether to make a finding under subd. 1. a., the court may
2 consider, without limitation because of enumeration, the nature and circumstances
3 of the behavior that was the basis of the allegation in the petition under s. 980.02 (2)
4 (a), the person's mental history and present mental condition, where the person will
5 live, how the person will support himself or herself and what arrangements are
6 available to ensure that the person has access to and will participate in necessary
7 treatment, including pharmacological treatment using an antiandrogen or the
8 chemical equivalent of an antiandrogen if the person is a serious child sex offender.
9 A decision under ~~this subsection~~ subd. 1. a. on a petition filed by a person who is a
10 serious child sex offender may not be made based on the fact that the person is a
11 proper subject for pharmacological treatment using an antiandrogen or the chemical
12 equivalent of an antiandrogen or on the fact that the person is willing to participate
13 in pharmacological treatment using an antiandrogen or the chemical equivalent of
14 an antiandrogen.

15 **SECTION 31.** 980.08 (4) (a) 1. b. of the statutes is created to read:

16 980.08 (4) (a) 1. b. That the person who is the subject of the petition refuses to
17 comply with sub. (5) (a) 2.

18 **SECTION 32.** 980.08 (5) of the statutes is renumbered 980.08 (5) (a) 1. and
19 amended to read:

20 980.08 (5) (a) 1. If the court finds that the person is appropriate for supervised
21 release, the court shall notify the department. The Subject to subd. 2., the
22 department shall make its best effort to arrange for placement of the person in a
23 residential facility or dwelling that is in the person's county of residence, as
24 determined by the department under s. 980.105. ~~The department and the county~~
25 ~~department under s. 51.42 in the county of residence of the person shall prepare a~~

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1 ~~plan that identifies the treatment and services, if any, that the person will receive~~
2 ~~in the community. The plan shall address the person's need, if any, for supervision,~~
3 ~~counseling, medication, community support services, residential services, vocational~~
4 ~~services, and alcohol or other drug abuse treatment. In developing a plan for where~~
5 ~~the person may reside while on supervised release, the department shall consider the~~
6 ~~proximity of any potential placement to the residence of other persons on supervised~~
7 ~~release and to the residence of persons who are in the custody of the department of~~
8 ~~corrections and regarding whom a sex offender notification bulletin has been issued~~
9 ~~to law enforcement agencies under s. 301.46 (2m) (a) or (am).~~

10 (c) The plan prepared under par. (b) shall address the person's need, if any, for
11 supervision, counseling, medication, community support services, residential
12 services, vocational services, and alcohol or other drug abuse treatment. If the
13 person is a serious child sex offender, the plan shall address the person's need for
14 pharmacological treatment using an antiandrogen or the chemical equivalent of an
15 antiandrogen. The department may contract with a county department, under s.
16 51.42 (3) (aw) 1. d., with another public agency or with a private agency to provide
17 the treatment and services identified in the plan. The plan shall specify who will be
18 responsible for providing the treatment and services identified in the plan.

19 (d) The plan prepared under par. (b) shall be presented to the court for its
20 approval within 60 days after the court finding that the person is appropriate for
21 supervised release, unless the department, county department, and person to be
22 released request additional time to develop the plan. If the county department of the
23 person's county of residence declines to prepare a plan, the department may arrange
24 for another county to prepare the plan if that county agrees to prepare the plan and
25 if the person will be living in that county. If the department is unable to arrange for

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1 ~~another county to prepare a plan, the court shall designate a county department to~~
2 ~~prepare the plan, order the county department to prepare the plan and place the~~
3 ~~person on supervised release in that county, except that the court may not so~~
4 ~~designate the county department in any county where there is a facility in which~~
5 ~~persons committed to institutional care under this chapter are placed unless that~~
6 ~~county is also the person's county of residence.~~

7 **SECTION 33.** 980.08 (5) (a) 2. of the statutes is created to read:

8 980.08 (5) (a) 2. A person committed under s. 980.06 may not, as a condition
9 of supervised release, reside within 1,000 feet of any state, county, city, village, or
10 town park, a multiunit public housing project, a swimming pool open to members of
11 the public, a child care facility, as defined in s. 302.116 (1) (ad), a youth center, a
12 community center, or any private or public school premises.

13 **SECTION 34.** 980.08 (5) (b) of the statutes is created to read:

14 980.08 (5) (b) If the person will be living in his or her county of residence, the
15 department and the county department under s. 51.42 in that county shall prepare
16 a plan that identifies the treatment and services, if any, that the person will receive
17 in the community. If the county department of the person's county of residence
18 declines to prepare a plan, the department may arrange for another county to
19 prepare the plan if that county agrees to prepare the plan and if the person will be
20 living in that county. If the department is unable to arrange for another county to
21 prepare a plan, the court shall designate a county department to prepare the plan,
22 order the county department to prepare the plan, and place the person on supervised
23 release in that county, except that the court may not so designate the county
24 department in any county where there is a facility in which persons committed to

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1 institutional care under this chapter are placed unless that county is also the
2 person's county of residence.

3 **SECTION 35.** 980.08 (6m) of the statutes is amended to read:

4 980.08 **(6m)** An order for supervised release places the person in the custody
5 and control of the department. The department shall arrange for control, care, and
6 treatment of the person in the least restrictive manner consistent with the
7 requirements of the person and in accordance with the plan for supervised release
8 approved by the court under sub. (5) (d). A person on supervised release is subject
9 to the conditions set by the court and to the rules of the department. Before a person
10 is placed on supervised release by the court under this section, the court shall so
11 notify the municipal police department and county sheriff for the municipality and
12 county in which the person will be residing. The notification requirement under this
13 subsection does not apply if a municipal police department or county sheriff submits
14 to the court a written statement waiving the right to be notified. If the department
15 alleges that a released person has violated any condition or rule, or that the safety
16 of others requires that supervised release be revoked, he or she may be taken into
17 custody under the rules of the department. The department shall submit a
18 statement showing probable cause of the detention and a petition to revoke the order
19 for supervised release to the committing court and the regional office of the state
20 public defender responsible for handling cases in the county where the committing
21 court is located within 72 hours after the detention, excluding Saturdays, Sundays,
22 and legal holidays. The court shall hear the petition within 30 days, unless the
23 hearing or time deadline is waived by the detained person. Pending the revocation
24 hearing, the department may detain the person in a jail or in a hospital, center, or
25 facility specified by s. 51.15 (2). The state has the burden of proving by clear and

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1 convincing evidence that any rule or condition of release has been violated, or that
2 the safety of others requires that supervised release be revoked. If the court
3 determines after hearing that any rule or condition of release has been violated, or
4 that the safety of others requires that supervised release be revoked, it may revoke
5 the order for supervised release and order that the released person be placed in an
6 appropriate institution until the person is discharged from the commitment under
7 s. 980.09 or until again placed on supervised release under this section.

SECTION 36. Initial applicability.

8
9 (1) The treatment of section 302.11 (1) and (4m) (b) of the statutes first applies
10 to persons reaching their mandatory release date on the effective date of this
11 subsection.

12 (2) The treatment of section 302.11 (1g) (b) 3. of the statutes first applies to
13 persons whose cases are considered by the parole commission under section 302.11
14 (1g) (b) (intro.) of the statutes on the effective date of this subsection.

15 (3) The treatment of sections 302.116 (3) of the statutes first applies to persons
16 released to extended supervision on the effective date of this subsection.

17 (4) The treatment of section 304.02 (4t) of the statutes first applies to persons
18 serving the confinement portion of any sentence on the effective date of this
19 subsection.

20 (5) The treatment of section 304.06 (2m) (af) of the statutes first applies to
21 persons in whose cases the department of corrections or the parole commission
22 conducts an interview or a hearing regarding whether to grant the person parole
23 under section 304.06 of the statutes on the effective date of this subsection.

