

2005 DRAFTING REQUEST

Bill

Received: 08/30/2004

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Judith Robson (608) 266-2253

By/Representing: Kelley

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Criminal Law - sex offenses
Correctional System - ext superv
Correctional System - parole
Correctional System - probation

Extra Copies:

Submit via email: YES

Requester's email: Sen.Robson@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Residence of sex offenders

Instructions:

See Attached

Drafting History:

Table with 8 columns: Vers., Drafted, Reviewed, Typed, Proofed, Submitted, Jacketed, Required. It contains three rows of drafting history data.

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

↳ At
Intro.

2005 DRAFTING REQUEST

Bill

Received: **08/30/2004**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Judith Robson (608) 266-2253**

By/Representing: **Kelley**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sex offenses
Correctional System - ext superv
Correctional System - parole
Correctional System - probation**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Robson@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Residence of sex offenders

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 08/30/2004	wjackson 08/30/2004		_____			S&L
/1			rschluet 08/31/2004	_____	lnorthro 08/31/2004		S&L
/2	mdsida 02/04/2005	wjackson 02/08/2005	rschluet 02/09/2005	_____	sbasford 02/09/2005		

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: **08/30/2004**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Judith Robson (608) 266-2253**

By/Representing: **Kelley**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sex offenses
Correctional System - ext superv
Correctional System - parole
Correctional System - probation**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Robson@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Residence of sex offenders

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 08/30/2004	wjackson 08/30/2004		_____			S&L
/1		1/2 Wljz/B	rschluet 08/31/2004		Inorthro 08/31/2004		

Handwritten signatures and initials are present over the Drafting History table. One signature appears to be 'rschluet' and another is 'Inorthro'. There are also some initials and numbers like '1/2 Wljz/B' and '5' written in the table.

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: **08/30/2004**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Judith Robson (608) 266-2253**

By/Representing: **Kelley**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sex offenses
Correctional System - ext superv
Correctional System - parole
Correctional System - probation**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Robson@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Residence of sex offenders

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida	1 Wlj 8/30					

FE Sent For:

8 21
4 pb
<END>

2005 BILL

~~2003 ASSEMBLY BILL 270~~

SOON

April 18, 2003 - Introduced by Representatives JOHNSRUD, HINES, GUNDRUM, McCORMICK, OTT, KRAWCZYK, LASSA, AINSWORTH, HUNDERTMARK, J. FITZGERALD, JESKEWITZ and J. WOOD, cosponsored by Senators HARSDORF, A. LASEE, KANAVAS, LEIBHAM and DARLING. Referred to Committee on Judiciary.

Regen

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

ASSEMBLY BILL 270

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) a 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) a 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.

with the prohibition

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), (10), 975.06, and 980.06, receiving care, maintenance, services,
- 7 and supplies provided by any institution in this state including University of

plain text

STET "of"

INS A

INS B

ASSEMBLY BILL 270

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~~ ^{his or her} 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~~ ^{that person}. 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

ASSEMBLY BILL 270

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~~^{child} sex offender,
16 as defined in s. 302.116 (1) (a)^b, 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~~^{child} sex offender, as defined in s. 302.116 (1) (a)^b, 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~~^{to reside within} 1,000 feet of any state, county, city,

NS
4/17

INS 4/25[✓]

ASSEMBLY BILL 270

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) (ad), may not be paroled under this section unless he or she agrees, as

NS ✓
5/18

✓
b

ASSEMBLY BILL 270

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:

NSV
6/4

INS 6/1 ✓

INS
6/7

INS 6/8 ✓

ASSEMBLY BILL 270

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

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

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

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

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

*as affected by
2003 Wisconsin
Act 50,*

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

971.17 (1m) (b) 1m. Except as provided in subd. 2m., if the defendant under sub. (1) (1d) is found not guilty by reason of mental disease or defect for any violation, or for the solicitation, conspiracy, or attempt to commit any violation, of ch. 940, 944, or 948 or ss. ^{942.08 or} 943.01 to 943.15, the court may require the defendant to comply with the reporting requirements under s. 301.45 if the court determines that the underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that it would be in the interest of public protection to have the defendant report under s. 301.45.

ASSEMBLY BILL 270

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).

NS ✓
8/10

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.

if applicable

ASSEMBLY BILL 270

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

ASSEMBLY BILL 270

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

↑ if applicable

INS ✓
10/23

INS 10/25 ✓

ASSEMBLY BILL 270

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 (a), ~~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~~ ^{to comply with this prohibition} 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.

INS
11/16

INS
4/22
4/21

Handwritten signature and date at the bottom left of the page.

ASSEMBLY BILL 270

SECTION 29

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~~

ASSEMBLY BILL 270

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.

INS
13/15

Use twice
(b) 30

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

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

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

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

ASSEMBLY BILL 270

SECTION 32

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

ASSEMBLY BILL 270

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

INS
15/19

ASSEMBLY BILL 270

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

ASSEMBLY BILL 270

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.~~

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.
and 304.06 (2's)

17 (4) The treatment of section 304.02 (4) 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.

ASSEMBLY BILL 270

1 (6) The treatment of section 971.17 (3) (a) and (e), (4) (d), and (4f) of the statutes
2 first applies to persons released on conditions under section 971.17 of the statutes
3 on the effective date of this subsection.

4 (7) The treatment of section 973.09 (8) of the statutes first applies to persons
5 placed ^s on probation on the effective date of this subsection. *whom a court*

6 (8) The treatment of section 975.10 (1m) of the statutes first applies to persons *whose*
7 released ^s on parole under section 975.10 of the statutes ^{begins} on the effective date of this
8 subsection.

9 (9) The treatment of section 980.08 (3) and (6m) of the statutes, the
10 renumbering and amendment of section 980.08 (4) and (5) of the statutes, and the
11 creation of section 980.08 (4) (a) 1. b and (5) (a) 2. and (b) of the statutes first apply
12 to persons placed on supervised release under section 980.08 of the statutes on the
13 effective date of this subsection.

14 (END)

1 **INSERT A**

2 (No #)

2 establish or reestablish a residence or, if the person is being placed on
3 probation, remain at his or her residence if it is within one mile of the residence of
4 a victim of a serious sex offense that the person has committed.

5 **INSERT B**

6 (No #)

6 (In the latter case, the restriction also applies in cases in which the sexually
7 violent person was committed based on an offense other than a serious sex offense,
8 such as kidnapping.) The bill also broadens the definition of "serious sex offense" so
9 that the residency restrictions described above (including those contained in current
10 law) apply to a person who has committed third^o or fourth^o degree sexual assault or
11 to a therapist who has committed sexual exploitation by a therapist.

12 **INSERT 4/17**

13 (No #)

13 comply with s. 304.06 (2s) ✓

14 **INSERT 4/25**

15 (No #)

15 comply with s. 304.06 (2s) ✓

16 **INSERT 5/8**

17 SECTION ~~4~~[#] 302.116 (1) (a) of the statutes is amended to read:

18 302.116 (1) (a) "Serious sex offense" means a violation of s. 940.22 (2), 940.225
19 ~~(1) or (2)~~, 948.02 (1) or (2), 948.025, 948.06, or 948.07 or a solicitation, conspiracy, or
20 attempt to commit a violation of s. 940.22 (2), 940.225 (1) or (2), 948.02 (1) or (2),
21 948.025, 948.06, or 948.07.

22 History: 2001 a. 16.

22 SECTION ~~2~~[#] 302.116 (2) of the statutes is amended to read:

1 302.116 (2) As a condition of extended supervision, a sex offender shall live in
 2 a residence that the department has approved. The department may not approve a
 3 residence that a sex offender is establishing or reestablishing if it is within one mile
 4 of the residence of a victim of a serious sex offense for which the sex offender is
 5 -serving a sentence.

History: 2001 a. 16.

6 **INSERT 6/1**

7 (No) comply with s. 304.06 (2s). ✓
 8 (9)

9 **INSERT 6/4**

10 SECTION ~~3~~[#] 304.06 (2m) (a) ✓ of the statutes is amended to read:

11 304.06 (2m) (a) In this subsection, "serious sex offense" means a violation of
 12 s. 940.22 (2), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.06² or 948.07 or a
 13 solicitation, conspiracy or attempt to commit a violation of s. 940.22 (2), 940.225 (1)
 or (2), 948.02 (1) or (2), 948.025, 948.06² or 948.07.

History: 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33.

14 **INSERT 6/7**

15 (Not) a prisoner serving a sentence for a serious sex offense
 16 (1)

17 **INSERT 6/8**

18 (Not) to comply with s. 304.06 (2s). ✓
 19 ^

20 **INSERT 8/10**

21 SECTION ~~4~~[#] 304.06 (2s) ✓ of the statutes is created to read:

22 304.06 (2s) As a condition of parole, a person serving a sentence for a serious
 sex offense may not establish or reestablish a residence that is within one mile of the
 residence of the victim of that offense.

23 **INSERT 10/23**

1 ^{No ff} person who has been found not guilty by reason of mental disease or defect of
2 a serious sex offense[✓], as defined in s. 302.116 (1) (a)[✓], and

3 **INSERT 10/25**

4 ^{No ff} establish or reestablish a residence that is within one mile of the residence of
5 the victim of that offense^o

6 **INSERT 11/14**

7 ^{No ff} ^{or} a person on probation for a serious sex offense[✓]

8 **INSERT 11/16**

9 ^{No ff} moving to a residence that is within one mile of the residence of the victim of
10 that offense. If, at the time he or she is placed on probation, the probationer resides
11 within one mile of the residence of the victim, the court shall require the probationer,
12 as a condition of probation, to move to a residence that is at least one mile from the
13 residence of the victim^o

14 **INSERT 11/22¹**

15 ^{No ff} A person who is released on parole under sub. (1)[✓] may not establish or
16 reestablish a residence that is within one mile of the residence of a victim of any crime
17 ^{that} ~~which~~ formed a basis for the person's commitment under this chapter[✓].

18 **INSERT 15/9**

19 ^{No ff} establish or reestablish a residence that is within one mile of the residence of
20 a victim of any sexually violent offense committed by the person

INSent 13/15

SECTION AM; 980.08(4)c)

AM *was affected by 2003 Wisconsin Act 137*

¶ 980.08(4)(c)

6 or 20

(c) In making a decision under par. (b), the court may consider, without limitation because of enumeration, the nature and circumstances of the behavior that was the basis of the allegation in the petition under s. 980.02 (2) (a), the person's mental history and present mental condition, where the person will live, how the person will support himself or herself, and what arrangements are available to ensure that the person has access to and will participate in necessary treatment, including pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen if the person is a serious child sex offender. A decision under par. (b) on a petition filed by a person who is a serious child sex offender may not be made based on the fact that the person is a proper subject for pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen or on the fact that the person is willing to participate in pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen.

1. or 2.

Malaise, Gordon

From: Flury, Kelley
Sent: Thursday, July 01, 2004 4:53 PM
To: Malaise, Gordon
Subject: Sen. Robson bill drafting request

Dear Gordon:

Sen. Robson would like to introduce a bill to prohibit sex offenders from living within one mile of the victim of the sex offense while on probation or parole.

Kelley Flury
Office of Sen. Robson

P/c to Kelley

~~Applies to relatives / family members~~

*Limit to cases in which there's sexual contact/
intercourse between ~~D/P~~ D + Victim*

+ to ch. 980 + 971

~~Malaise, Gordon~~

Dsida, Michael

From: Dsida, Michael
Sent: Thursday, February 03, 2005 9:26 AM
To: Flury, Kelley
Subject: RE: Question on LRB-0052/1

I will also change "a victim" to "the victim" on page 8, line 21 and on page 11, line 10. (It is probably not necessary in the latter case, but I'll make the change for the sake of consistency.) I don't think I need to add "committed by that person and" after "crime" on page 8, line 22, but if you think otherwise, I can add it.

-----Original Message-----

From: Flury, Kelley
Sent: Sunday, January 30, 2005 12:56 PM
To: Dsida, Michael
Subject: RE: Question on LRB-0052/1

That could do the trick. How about if we also add another "the" so it is clear that we are talking about a particular victim of a particular offense, committed by that particular offender. So the top of Page 5 would read:

of the residence of the victim of the serious sex offense for which the sex offender is serving a sentence.

-----Original Message-----

From: Dsida, Michael
Sent: Saturday, January 29, 2005 3:27 PM
To: Flury, Kelley
Subject: RE: Question on LRB-0052/1

If I understand your question, could it be addressed by replacing "a victim" with "the victim" -- and nothing more? I'm willing to add the rest of what you suggest, but I think changing "a" to "the" might alone do the trick.

-----Original Message-----

From: Flury, Kelley
Sent: Saturday, January 29, 2005 3:17 PM
To: Dsida, Michael
Subject: Question on LRB-0052/1

Hi, Mike

We are wondering if the language needs to be clarified to specify that the sex offender can't live within one mile of the victim of a serious sex offense which that specific offender committed against that specific victim. The language at the bottom of page 4 and the top of page 5 could be interpreted to mean that a sex offender can't live near any victim of an offense of the type that he committed, whether he committed it against that particular victim or someone else.

I know that you know the intent, and DOC should understand the intent, but do you think that would be a problem?

It could be corrected by adding the underlined portion on Page 5, line 1:

for which the sex offender committed against the victim and for which the sex offender is serving a sentence.

Does that sound reasonable?

Kelley Flury
Office of Sen. Robson



2005 BILL

SOON
please

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

Analysis by the Legislative Reference Bureau

Current law restricts where 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 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.

Under this bill, a sex offender who is being placed in the community under the supervision of DOC (through parole, extended supervision, or probation) may not

BILL

establish or reestablish a residence or, if the person is being placed on probation, remain at his or her residence if it is within one mile of the residence of ^{the} a victim of a serious sex offense that the person has committed. The bill imposes the same restriction on: 1) a person being placed in the community on conditional release after having been found not guilty by reason of mental disease or defect of a serious sex offense; and 2) a person placed on supervised release after having been committed for treatment as a sexually violent person. (In the latter case, the restriction also applies in cases in which the sexually violent person was committed based on an offense other than a serious sex offense, such as kidnapping.) The bill also broadens the definition of "serious sex offense" so that the residency restrictions described above, ^{the} (including those contained in current law), apply to a person who has committed third- or fourth-degree sexual assault or ^{by a} to a therapist who has committed sexual exploitation.

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), 975.06, and 980.06, receiving care, maintenance, services, and
7 supplies provided by any institution in this state including University of Wisconsin
8 Hospitals and Clinics, in which the state is chargeable with all or part of the person's
9 care, maintenance, services, and supplies, any person receiving care and services
10 from a county department established under s. 51.42 or 51.437 or from a facility
11 established under s. 49.73, and any person receiving treatment and services from a
12 public or private agency under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d) or (4)
13 (e) or 980.08 (5) (c) and the person's property and estate, including the homestead,
14 and the spouse of the person, and the spouse's property and estate, including the

BILL

1 homestead, and, in the case of a minor child, the parents of the person, and their
2 property and estates, including their homestead, and, in the case of a foreign child
3 described in s. 48.839 (1) who became dependent on public funds for his or her
4 primary support before an order granting his or her adoption, the resident of this
5 state appointed guardian of the child by a foreign court who brought the child into
6 this state for the purpose of adoption, and his or her property and estate, including
7 his or her homestead, shall be liable for the cost of the care, maintenance, services,
8 and supplies in accordance with the fee schedule established by the department
9 under s. 46.03 (18). If a spouse, widow, or minor, or an incapacitated person may be
10 lawfully dependent upon the property for ~~their~~ his or her support, the court shall
11 release all or such part of the property and estate from the charges that may be
12 necessary to provide for ~~those persons~~ that person. The department shall make every
13 reasonable effort to notify the liable persons as soon as possible after the beginning
14 of the maintenance, but the notice or the receipt thereof is not a condition of liability.

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

16 51.42 (3) (aw) 1. d. Provide treatment and services that are specified in a
17 conditional release plan approved by a court for a person who is a county resident and
18 is conditionally released under s. 971.17 (3) or (4) or that are specified in a supervised
19 release plan approved by a court under s. 980.06 (2) (c), 1997 stats., or s. 980.08 (5)
20 (d). If the county department provides treatment and services under this
21 subdivision, the department of health and family services shall, from the
22 appropriation under s. 20.435 (2) (bj), pay the county department for the costs of the
23 treatment and services.

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

BILL

1 302.11 (1) The warden or superintendent shall keep a record of the conduct of
2 each inmate, specifying each infraction of the rules. Except as provided in subs. (1g),
3 (1m), (1q), (1z), (4m) (b), (7), and (10), each inmate is entitled to mandatory release
4 on parole by the department. The mandatory release date is established at
5 two-thirds of the sentence. Any calculations under this subsection or sub. (1q) (b)
6 or (2) (b) resulting in fractions of a day shall be rounded in the inmate's favor to a
7 whole day.

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

9 302.11 (1g) (b) 3. Refusal by the inmate, if the inmate is a sex offender, as
10 defined in s. 302.116 (1) (b), to comply with s. 304.06 (2s).

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

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

13 302.11 (4m) (b) A sex offender, as defined in s. 302.116 (1) (b), is not entitled
14 to mandatory release on parole under this section unless he or she agrees, as a
15 condition of parole, to comply with s. 304.06 (2s).

16 **SECTION 7.** 302.116 (1) (a) of the statutes is amended to read:

17 302.116 (1) (a) "Serious sex offense" means a violation of s. 940.22 (2), 940.225
18 ~~(1) or (2)~~, 948.02 (1) or (2), 948.025, 948.06, or 948.07 or a solicitation, conspiracy, or
19 attempt to commit a violation of s. 940.22 (2), 940.225 ~~(1) or (2)~~, 948.02 (1) or (2),
20 948.025, 948.06, or 948.07.

21 **SECTION 8.** 302.116 (2) of the statutes is amended to read:

22 302.116 (2) As a condition of extended supervision, a sex offender shall live in
23 a residence that the department has approved. The department may not approve a
24 residence that a sex offender is establishing or reestablishing if it is within one mile

BILL

1 of the residence of a victim of a serious sex offense for which the sex offender is
2 servng a sentence.

3 **SECTION 9.** 304.02 (4t) of the statutes is created to read:

4 304.02 (4t) Notwithstanding subs. (1) to (3), a sex offender, as defined in s.
5 302.116 (1) (b), may not be paroled under this section unless he or she agrees, as a
6 condition of parole, to comply with s. 304.06 (2s).

7 **SECTION 10.** 304.06 (2m) (a) of the statutes is amended to read:

8 304.06 (2m) (a) In this subsection, "serious sex offense" means a violation of
9 s. 940.22 (2), 940.225 (1) ~~or (2)~~, 948.02 (1) or (2), 948.025, 948.06, or 948.07 or a
10 solicitation, conspiracy, or attempt to commit a violation of s. 940.22 (2), 940.225 (1)
11 ~~or (2)~~, 948.02 (1) or (2), 948.025, 948.06, or 948.07.

12 **SECTION 11.** 304.06 (2m) (af) of the statutes is created to read:

13 304.06 (2m) (af) Neither the parole commission nor the department may parole
14 a prisoner serving a sentence for a serious sex offense unless he or she agrees, as a
15 condition of parole, comply with s. 304.06 (2s).

16 **SECTION 12.** 304.06 (2s) of the statutes is created to read:

17 304.06 (2s) As a condition of parole, a person serving a sentence for a serious
18 sex offense may not establish or reestablish a residence that is within one mile of the
19 residence of the victim of that offense.

20 **SECTION 13.** 971.17 (3) (a) of the statutes is amended to read:

21 971.17 (3) (a) An order for commitment under this section shall specify either
22 institutional care or conditional release. The court shall order institutional care if
23 it finds by clear and convincing evidence that conditional release of the person would
24 pose a significant risk of bodily harm to himself or herself or to others or of serious
25 property damage. If or that the person refuses to comply with sub. (4f), if applicable.

BILL**SECTION 13**

1 ~~Otherwise, the court does not make this finding, it shall order conditional release.~~
2 In determining whether ~~commitment shall be for institutional care or conditional~~
3 ~~release~~ the person would pose a significant risk of bodily harm to himself or herself
4 or to others or of serious property damage, the court may consider, without limitation
5 because of enumeration, the nature and circumstances of the crime, the person's
6 mental history and present mental condition, where the person will live, how the
7 person will support himself or herself, what arrangements are available to ensure
8 that the person has access to and will take necessary medication, and what
9 arrangements are possible for treatment beyond medication.

10 **SECTION 14.** 971.17 (3) (e) of the statutes is amended to read:

11 971.17 (3) (e) An order for conditional release places the person in the custody
12 and control of the department of health and family services. A conditionally released
13 person is subject to the conditions set by the court ~~and~~, to the rules of the department
14 of health and family services, and, if applicable, to sub. (4f). Before a person is
15 conditionally released by the court under this subsection, the court shall so notify the
16 municipal police department and county sheriff for the area where the person will
17 be residing. The notification requirement under this paragraph does not apply if a
18 municipal department or county sheriff submits to the court a written statement
19 waiving the right to be notified. If the department of health and family services
20 alleges that a released person has violated any condition or rule, or that the safety
21 of the person or others requires that conditional release be revoked, he or she may
22 be taken into custody under the rules of the department. The department of health
23 and family services shall submit a statement showing probable cause of the
24 detention and a petition to revoke the order for conditional release to the committing
25 court and the regional office of the state public defender responsible for handling

BILL

1 cases in the county where the committing court is located within 48 hours after the
2 detention. The court shall hear the petition within 30 days, unless the hearing or
3 time deadline is waived by the detained person. Pending the revocation hearing, the
4 department of health and family services may detain the person in a jail or in a
5 hospital, center or facility specified by s. 51.15 (2). The state has the burden of
6 proving by clear and convincing evidence that any rule or condition of release has
7 been violated, or that the safety of the person or others requires that conditional
8 release be revoked. If the court determines after hearing that any rule or condition
9 of release has been violated, or that the safety of the person or others requires that
10 conditional release be revoked, it may revoke the order for conditional release and
11 order that the released person be placed in an appropriate institution under s. 51.37
12 (3) until the expiration of the commitment or until again conditionally released
13 under this section.

14 **SECTION 15.** 971.17 (4) (d) of the statutes is amended to read:

15 971.17 (4) (d) The court, without a jury, shall hear the petition within 30 days
16 after the report of the court-appointed examiner is filed with the court, unless the
17 petitioner waives this time limit. Expenses of proceedings under this subsection
18 shall be paid as provided under s. 51.20 (18). The court shall grant the petition unless
19 it finds by clear and convincing evidence that the person would pose a significant risk
20 of bodily harm to himself or herself or to others or of serious property damage if
21 conditionally released. In making this determination or that the person refuses to
22 comply with sub. (4f), if applicable. In determining whether the person would pose
23 a significant risk of bodily harm to himself or herself or to others or of serious
24 property damage, the court may consider, without limitation because of
25 enumeration, the nature and circumstances of the crime, the person's mental history

BILL

1 and present mental condition, where the person will live, how the person will support
2 himself or herself, what arrangements are available to ensure that the person has
3 access to and will take necessary medication, and what arrangements are possible
4 for treatment beyond medication.

5 **SECTION 16.** 971.17 (4f) of the statutes is created to read:

6 **971.17 (4f) RESIDENCY OF SEX OFFENDERS ON CONDITIONAL RELEASE.** A person who
7 has been found not guilty by reason of mental disease or defect of a serious sex
8 offense, as defined in s. 302.116 (1) (a), and who is conditionally released under sub.
9 (3) or (4) (e) may not, as a condition of the person's release, establish or reestablish
10 a residence that is within one mile of the residence of the victim of that offense.

11 **SECTION 17.** 973.09 (8) of the statutes is created to read:

12 **973.09 (8)** If the court places a person on probation for a serious sex offense,
13 as defined in s. 302.116 (1) (a), the court shall prohibit the probationer, as a condition
14 of probation, from moving to a residence that is within one mile of the residence of
15 the victim of that offense. If, at the time he or she is placed on probation, the
16 probationer resides within one mile of the residence of the victim, the court shall
17 require the probationer, as a condition of probation, to move to a residence that is at
18 least one mile from the residence of the victim.

19 **SECTION 18.** 975.10 (1m) of the statutes is created to read:

20 **975.10 (1m)** A person who is released on parole under sub. (1) may not establish
21 or reestablish a residence that is within one mile of the residence of ^{the} a victim of any
22 crime that formed a basis for the person's commitment under this chapter. A person
23 may not be released on parole under sub. (1) unless he or she agrees to comply with
24 this prohibition as a condition of parole.

25 **SECTION 19.** 980.08 (4) (b) 3. of the statutes is created to read:

BILL

1 980.08 (4) (b) 3. That the person who is the subject of the petition refuses to
2 comply with sub. (5) (a) 2.

3 **SECTION 20.** 980.08 (4) (c) of the statutes is amended to read:

4 980.08 (4) (c) In making a decision under par. (b) 1. or 2., the court may consider,
5 without limitation because of enumeration, the nature and circumstances of the
6 behavior that was the basis of the allegation in the petition under s. 980.02 (2) (a),
7 the person's mental history and present mental condition, where the person will live,
8 how the person will support himself or herself, and what arrangements are available
9 to ensure that the person has access to and will participate in necessary treatment,
10 including pharmacological treatment using an antiandrogen or the chemical
11 equivalent of an antiandrogen if the person is a serious child sex offender. A decision
12 under par. (b) 1. or 2. on a petition filed by a person who is a serious child sex offender
13 may not be made based on the fact that the person is a proper subject for
14 pharmacological treatment using an antiandrogen or the chemical equivalent of an
15 antiandrogen or on the fact that the person is willing to participate in
16 pharmacological treatment using an antiandrogen or the chemical equivalent of an
17 antiandrogen.

18 **SECTION 21.** 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~~

BILL

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~~

BILL

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 22.** 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, establish or reestablish a residence that is within one mile of
10 the residence of ^{the} a victim of any sexually violent offense committed by the person.

11 **SECTION 23.** 980.08 (5) (b) of the statutes is created to read:

12 980.08 (5) (b) If the person will be living in his or her county of residence, the
13 department and the county department under s. 51.42 in that county shall prepare
14 a plan that identifies the treatment and services, if any, that the person will receive
15 in the community. If the county department of the person's county of residence
16 declines to prepare a plan, the department may arrange for another county to
17 prepare the plan if that county agrees to prepare the plan and if the person will be
18 living in that county. If the department is unable to arrange for another county to
19 prepare a plan, the court shall designate a county department to prepare the plan,
20 order the county department to prepare the plan, and place the person on supervised
21 release in that county, except that the court may not so designate the county
22 department in any county where there is a facility in which persons committed to
23 institutional care under this chapter are placed unless that county is also the
24 person's county of residence.

25 **SECTION 24.** 980.08 (6m) of the statutes is amended to read:

BILL

1 980.08 (6m) An order for supervised release places the person in the custody
2 and control of the department. The department shall arrange for control, care, and
3 treatment of the person in the least restrictive manner consistent with the
4 requirements of the person and in accordance with the plan for supervised release
5 approved by the court under sub. (5) (d). A person on supervised release is subject
6 to the conditions set by the court and to the rules of the department. Before a person
7 is placed on supervised release by the court under this section, the court shall so
8 notify the municipal police department and county sheriff for the municipality and
9 county in which the person will be residing. The notification requirement under this
10 subsection does not apply if a municipal police department or county sheriff submits
11 to the court a written statement waiving the right to be notified. If the department
12 alleges that a released person has violated any condition or rule, or that the safety
13 of others requires that supervised release be revoked, he or she may be taken into
14 custody under the rules of the department. The department shall submit a
15 statement showing probable cause of the detention and a petition to revoke the order
16 for supervised release to the committing court and the regional office of the state
17 public defender responsible for handling cases in the county where the committing
18 court is located within 72 hours after the detention, excluding Saturdays, Sundays,
19 and legal holidays. The court shall hear the petition within 30 days, unless the
20 hearing or time deadline is waived by the detained person. Pending the revocation
21 hearing, the department may detain the person in a jail or in a hospital, center, or
22 facility specified by s. 51.15 (2). The state has the burden of proving by clear and
23 convincing evidence that any rule or condition of release has been violated, or that
24 the safety of others requires that supervised release be revoked. If the court
25 determines after hearing that any rule or condition of release has been violated, or

BILL

1 that the safety of others requires that supervised release be revoked, it may revoke
2 the order for supervised release and order that the released person be placed in an
3 appropriate institution until the person is discharged from the commitment under
4 s. 980.09 or until again placed on supervised release under this section.

5

(END)

Emery, Lynn

From: Flury, Kelley
Sent: Thursday, April 14, 2005 10:40 AM
To: LRB.Legal
Subject: Draft review: LRB 05-0052/2 Topic: Residence of sex offenders

It has been requested by <Flury, Kelley> that the following draft be jacketed for the SENATE:

Draft review: LRB 05-0052/2 Topic: Residence of sex offenders