

2013 DRAFTING REQUEST

Bill

Received: **1/21/2013** Received By: **chanaman**
Wanted: **As time permits** Same as LRB:
For: **Legislative Council - JLC** By/Representing: **Katie**
May Contact: Drafter: **chanaman**
Subject: **Mental Health - detent/commit** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **katie.bender-olson@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Study committee draft on sexually violent persons

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>
/?	chanaman 1/24/2013			_____			
/P1		scalvin 1/28/2013	rschlue 1/29/2013	_____			
/P2	chanaman 2/7/2013	scalvin 2/7/2013	phenry 2/7/2013	_____	srose 1/31/2013		
/P3	chanaman	scalvin	rschlue	_____	sbasford		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	2/8/2013	2/8/2013	2/10/2013	_____	2/7/2013		
/1				_____	mbarman	srose	
				_____	2/11/2013	2/11/2013	

FE Sent For:

Not needed

<END>

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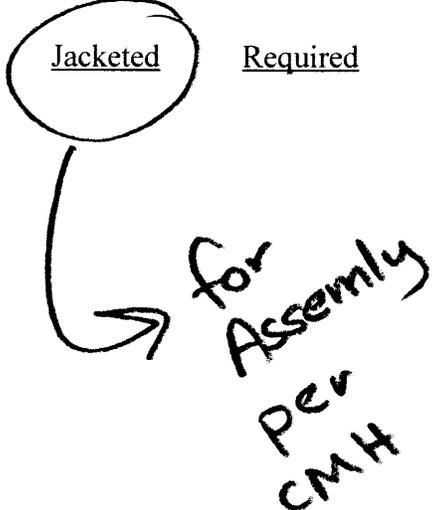
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for
Assembly
per
CMH

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/P3		11 sac 02/08/2013		_____	sbasford		

JACKET FOR Assembly

Vers. Drafted

Reviewed

Typed

Proofed

Submitted

Jacketed

Required

2/7/2013

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/P1		scalvin 1/28/2013	rschluet 1/29/2013				
/P2	chanaman 1/30/2013	scalvin 1/31/2013	rschluet 1/31/2013	RS	srose 1/31/2013		
FE Sent For:		P3 sac 02/07/2013	2/7 ph				

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1/?	chanaman		LC Conversion 1/22 p14	_____			
FE Sent For:		P2 sac a/28/2013					
		P2 (again) SUC 01/30/2013	<END>				

1 **AN ACT** *to repeal* 980.075; *to renumber and amend* 980.08 (3) and 980.09 (intro.); *to*
2 *amend* 980.01 (8), 980.065 (1r), 980.07 (1), 980.08 (1), 980.08 (4) (a), 980.08 (4)
3 (cg) 1., 980.08 (9) (a), 980.09 (2) and (3), 980.09 (4) and 980.095 (1) (a); and *to*
4 *create* 980.07 (7) and (8), 980.08 (2m), 980.08 (4) (cj), 980.09 (1m) and 980.09 (5)
5 of the statutes; **relating to:** criteria for supervised release from commitment as
6 sexually violent persons under chapter 980, placement of females committed as
7 sexually violent persons, and permitted outings under direct supervision for
8 individuals on supervised release from commitment; supervised release and
9 discharge of individuals committed as sexually violent persons under chapter 980.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council's Special Committee on Supervised Release and Discharge of Sexually Violent Persons.

Chapter 980 of the Wisconsin statutes provides a statutory scheme for the involuntary civil commitment of individuals who have completed their criminal sentences and are determined to be "sexually violent persons". In general, a sexually violent person (SVP) is an individual who has been convicted of a sexually violent offense and who is dangerous because he or she suffers from a mental disorder that makes it likely the person will engage in future acts of sexual violence. Current law contains provisions for the discharge or supervised release of individuals committed under ch. 980.

This draft makes various changes to the discharge and supervised release provisions of ch. 980. These changes include the following:

- Assigning the burden of proof regarding supervised release criteria to the petitioner.
- Extending the timelines within which a court must hold a supervised release hearing or discharge trial.

- Altering the pleading requirement a petitioner must meet before receiving a discharge trial.
- Repealing s. 980.075, stats., relating to the supervised release and discharge petition process, and relocating certain provisions to the statutory sections specifically relating to supervised release and discharge.
- Requiring a court to make a supervised release determination after denying discharge at a discharge trial.
- Requiring a delay of up to 10 days in the execution of a court order granting discharge or to a committed individual.
- Altering the criteria which a committed person must show before a court may grant supervised release.
- Expanding the list of activities for which a committed person on supervised release may leave his or her residence under direct supervision of a department of corrections (DOC) escort.

1 SECTION 1. 980.01 (8) of the statutes is amended to read:

2 980.01 (8) "Significant progress in treatment" means that the person ~~has done~~ is doing
3 all of the following:

4 (a) Meaningfully ~~participated~~ participating in the treatment program specifically
5 designed to reduce his or her risk to reoffend offered at a facility described under s. 980.065.

6 (b) ~~Participated~~ Participating in the treatment program at a level that ~~was~~ is sufficient
7 to allow the identification of his or her specific treatment needs and ~~then demonstrated~~
8 demonstrating, through overt behavior, a willingness to work on addressing the specific
9 treatment needs.

10 (c) ~~Demonstrated~~ Demonstrating an understanding of the thoughts, attitudes, emotions,
11 behaviors, and sexual arousal linked to his or her sexual offending and an ability to identify
12 when the thoughts, emotions, behaviors, or sexual arousal occur.

1 (d) ~~Demonstrated~~ Demonstrating sufficiently sustained change in the thoughts,
2 attitudes, emotions, and behaviors and sufficient management of sexual arousal such that one
3 could reasonably assume that, with continued treatment, the change could be maintained.

NOTE: Revises the definition of “significant progress in treatment” to specify that the individual must be participating in treatment programs at a sufficient level and demonstrating the requisite behavior, understanding, and changes, rather than specifying that the individual has already participated in the treatment or has already demonstrated these behaviors, understandings, and changes.

Under current law, a committed individual must meet 5 specified criteria before a court may grant him supervised release. One of the criteria requires that the individual has made “significant progress in treatment” and that the progress can be sustained while on supervised release. Because the draft revises the definition of “significant progress in treatment”, a committed individual must currently be engaged in or working towards the requirements set forth in the definition to meet the criterion for supervised release. A corresponding revision is made in SECTION 10.

4 **SECTION 2.** 980.065 (1r) of the statutes is amended to read:

5 980.065 (1r) Notwithstanding sub. (1m), the department may place a female person
6 committed under s. 980.06 at Mendota Mental Health Institute, Wisconsin Women’s Resource
7 Center, Winnebago Mental Health Institute, or a privately operated residential facility under
8 contract with the department of health services.

NOTE: Expands the list of facilities at which DHS may place a female committed as an SVP to include the Wisconsin Women’s Resource Center.

9 **SECTION 3.** 980.07 (1) of the statutes is amended to read:

10 980.07 (1) If a person is committed under s. 980.06 and has not been discharged under
11 s. 980.09 (4), the department shall appoint an examiner to conduct a reexamination of the
12 person’s mental condition within 12 months after the date of the initial commitment order
13 under s. 980.06 and again thereafter at least once each 12 months to determine whether the

1 person has made sufficient progress for the court to consider whether the person should be
2 placed on supervised release or discharged. The examiner shall apply the criteria under s.
3 980.08 (4) (cg) when considering if the person should be placed on supervised release and
4 shall apply the criteria under s. 980.09 (3) when considering if the person should be
5 discharged. At the time of a reexamination under this section, the ~~person who has been~~
6 ~~committed may retain or have the court appoint an examiner as provided under s. 980.031 (3)~~
7 court shall appoint an examiner as provided under s. 980.031 (3) upon request of the
8 committed person or the person may retain an examiner. The county shall pay the costs of an
9 examiner appointed by the court as provided under s. 51.20 (18) (a).

NOTE: Clarifies that a court must appoint an examiner for the committed person if the person requests an examiner at the time of the 12-month reexamination. Removes ambiguity regarding whether a court may choose not to appoint an examiner when a committed person requests an examiner.

10 **SECTION 4.** 980.07 (7) and (8) of the statutes are created to read:

11 980.07 (7) At any time before a hearing under s. 980.08 or 980.09, the department may
12 file a supplemental report if the department determines that the court should have additional
13 information. The court shall accept the supplemental report and permit testimony from the
14 department regarding the report or any relevant portion of the report.

15 **(8)** When the department provides a copy of the report under s. 980.07 (6) to the person
16 who has been committed under s. 980.06, the department shall provide to the person a
17 standardized petition form for supervised release under s. 980.08 and a standardized petition
18 form for discharge under s. 980.09.

NOTE: Permits the department of health services (DHS) to file a supplemental report at any time prior to a supervised release or discharge hearing. The SECTION also requires DHS to provide petition forms to committed individuals when providing a copy of the person's

reexamination report. This language is currently contained in s. 980.075 (1m) (a) and (6), which this draft repeals.

Creates new language requiring the court to accept any supplemental reports filed by DHS prior to a supervised release or discharge hearing and requires the court to allow DHS to testify about the supplemental report.

1 **SECTION 5.** 980.075 of the statutes is repealed.

NOTE: Repeals s. 980.075, **Patient petition process.** This draft relocates portions of the statute into ss. 980.07, 980.08, and 980.09, stats., as described in the notes appearing beneath SECTIONS 4, 7, and 14.

Portions of the statute which this draft repeals and does not relocate to other portions of the chapter appear in s. 980.075 (2), stats., and contain the following: (1) a 30-day deadline for submitting a supervised release or discharge petition that may conflict with more specific deadlines appearing within s. 980.08 and 980.09, stats; and (2) language stating that a person remains committed or remains on supervised release without court review if the person does not file a timely discharge petition.

2 **SECTION 6.** 980.08 (1) of the statutes is amended to read:

3 980.08 (1) Any person who is committed under s. 980.06 may petition the committing
4 court to modify its order by authorizing supervised release if at least 12 months have elapsed
5 since the initial commitment order was entered or at least 12 months have elapsed since the
6 most recent release petition was denied, since supervised release was denied pursuant to s.
7 980.09 (4), or since the most recent order for supervised release was revoked. The director
8 of the facility at which the person is placed may file a petition under this subsection on the
9 person's behalf at any time.

NOTE: Prohibits a committed individual from filing a supervised release petition for at least 12 months after a court considers and denies supervised release at a discharge hearing.

Currently, if an individual is denied discharge at a discharge trial, then the court may proceed to consider whether the individual qualifies for supervised release. SECTION 16 of this draft eliminates court discretion to decide whether or not to consider supervised release at a discharge

trial and instead requires the court to consider supervised release after denying discharge.

1 **SECTION 7.** 980.08 (2m) of the statutes is created to read:

2 **980.08 (2m)** The petitioner may use experts or professional persons to support his or
3 her petition. The district attorney or the department of justice may use experts or professional
4 persons to support or oppose any petition.

NOTE: Provides that a committed individual and the prosecution may use experts or professionals in supporting or opposing a petition for supervised release. The language is currently contained in s. 980.075 (4) (a) and (b), stats., which this draft repeals.

5 **SECTION 8.** 980.08 (3) of the statutes is renumbered 980.08 (3) (a) and (b) and amended
6 to read:

7 **980.08 (3) (a)** Within 20 days after receipt of the petition, the court shall appoint one
8 or more examiners ~~having~~ for the court who have the specialized knowledge determined by
9 the court to be appropriate, who shall examine the person and furnish a written report of the
10 examination to the court within ~~30~~ 60 days after appointment, unless the court for good cause
11 extends this time limit. If the person requests appointment of an examiner within 20 days after
12 the filing of the petition, the court shall appoint an examiner for the person, unless the court
13 appointed an examiner under s. 980.07 (1) or 980.031 (3) for the current reexamination
14 period. If a report filed by an examiner appointed under s. 980.07 (1) to conduct a
15 reexamination of the person's mental condition within the 6 months preceding the filing of the
16 petition supports supervised release, the court may appoint that examiner as the examiner for
17 the person under this subsection.

18 **(b)** The examiners appointed under par. (a) shall have reasonable access to the person
19 for purposes of examination and to the person's past and present treatment records, as defined
20 in s. 51.30 (1) (b), and patient health care records, as provided under s. 146.82 (2) (c). If any

1 such examiner believes that the person is appropriate for supervised release under the criteria
2 specified in sub. (4) (cg), the examiner shall report on the type of treatment and services that
3 the person may need while in the community on supervised release. The county shall pay the
4 costs of an examiner appointed under ~~this subsection~~ par. (a) as provided under s. 51.20 (18)
5 (a).

NOTE: Renumbers existing s. 980.08 (3) as 2 separate paragraphs.

The SECTION also extends the time period for an examiner to complete an evaluation of the committed person and submit the report to the court from 30 to 60 days, and authorizes the court to extend the time limit for good cause.

The SECTION clarifies that the court appoints an examiner at this stage for purposes of the court. The draft also requires the court to appoint an examiner for the committed person if: (1) the person requests appointment of an examiner; and (2) the court has not previously appointed an examiner for the person under other sections of the chapter during the relevant 12-month reexamination period.

If the committed person requests appointment of his or her own examiner, the SECTION allows the court to appoint the DHS examiner who conducted the person's annual reexamination if: (1) the examiner conducted the examination within the 6 months before the person filed his or her supervised release petition; and (2) the examiner's report supports a grant of supervised release. This will allow the court to appoint an examiner who already conducted an examination of the individual and generated a report favorable to the individual, rather than requiring the court to appoint an additional examiner on behalf of the person.

6 **SECTION 9.** 980.08 (4) (a) of the statutes is amended to read:

7 980.08 (4) (a) The court, without a jury, shall hear the petition within ~~30~~ 120 days after
8 the report of the court-appointed examiner appointed under sub. (3) (a) is filed with the court,
9 unless the court for good cause extends this time limit. Expenses of proceedings under this
10 subsection shall be paid as provided under s. 51.20 (18) (b), (c), and (d).

NOTE: Extends the time period for the supervised release hearing from 30 to 120 days after the examiner's report is filed.

1 **SECTION 10.** 980.08 (4) (cg) 1. of the statutes is amended to read:

2 980.08 (4) (cg) 1. The person ~~has made~~ is making significant progress in treatment and
3 the person's progress can be sustained while on supervised release.

NOTE: Revises one of the 5 criteria a committed individual must meet before being granted supervised release to require that the individual is making significant progress in treatment, rather than requiring that the individual has made significant progress in treatment.

4 **SECTION 11.** 980.08 (4) (cj) of the statutes is created to read:

5 980.08 (4) (cj) The person has the burden of proving by clear and convincing evidence
6 that the person meets the criteria in par. (cg).

NOTE: Provides that the person petitioning for supervised release bears the burden of proving he or she meets the criteria by clear and convincing evidence, codifying the Wisconsin Supreme Court's decision in *State v. West*, 2011 WI 83.

7 **SECTION 12.** 980.08 (9) (a) of the statutes is amended to read:

8 980.08 (9) (a) As a condition of supervised release granted under this chapter, for the
9 first year of supervised release, the court shall restrict the person on supervised release to the
10 person's ~~home~~ residence except for outings approved by the department that are under the
11 direct supervision of a department of corrections escort and that are for employment or
12 volunteer purposes, ~~for~~ religious purposes, educational purposes, treatment and exercise
13 purposes, supervision purposes, residence maintenance, or for caring for the person's basic
14 living needs.

NOTE: Expands the list of activities for which a committed individual on supervised release may leave his or her residence under direct supervision of a DOC escort and requires that all outings be approved by DHS. Specifically, in addition to existing purposes, the draft provides that a committed individual may leave his or her residence for volunteer, educational, treatment, exercise or supervision purposes, or for maintenance of his residence. The draft also replaces use of the term "home", with the term "residence".

1 **SECTION 13.** 980.09 (intro.) of the statutes is renumbered 980.09 (1) and, as
2 renumbered, is amended to read:

3 **980.09 (1)** A committed person may petition the committing court for discharge at any
4 time. The court shall deny the petition under this section without a hearing unless the petition
5 alleges facts from which the court or jury ~~may~~ would likely conclude the person's condition
6 has changed since ~~the date of his or her initial commitment order~~ the most recent order denying
7 a petition for discharge after a hearing on the merits, or since the date of his or her initial
8 commitment order if the person has never received a hearing on the merits of a discharge
9 petition, so that the person ~~does not meet~~ no longer meets the criteria for commitment as a
10 sexually violent person.

NOTE: Alters the pleading requirement which a petitioner must meet before his or her discharge petition will receive a discharge trial. The SECTION requires a petitioner to allege facts which *would likely* lead a fact-finder to determine he or she no longer qualifies as an SVP, rather than alleging facts which *may* lead a fact-finder to this determination.

This SECTION also alters the time period during which a petitioner must show his "condition has changed" in order to merit a discharge trial. The language requires a petitioner to allege a change occurring since the last discharge trial at which a fact-finder determined that he remains an SVP.

11 **SECTION 14.** 980.09 (1m) of the statutes is created to read:

12 **980.09 (1m) (a)** If the person files a petition for discharge under s. 980.09 without
13 counsel, the court shall serve a copy of the petition and any supporting documents on the
14 district attorney or department of justice, whichever is applicable. If the person petitions for
15 discharge under s. 980.09 through counsel, his or her attorney shall serve the district attorney
16 or department of justice, whichever is applicable.

17 (b) If the person files a petition for discharge under s. 980.09 without counsel, as soon
18 as circumstances permit, the court shall refer the matter to the authority for indigency

1 determinations under s. 977.07 (1) and appointment of counsel under s. 977.05 (4) (j) if the
2 person is not represented by counsel.

3 (c) The petitioner may use experts or professional persons to support his or her petition.

4 (d) The district attorney or the department of justice may use experts or professional
5 persons to support or oppose any petition.

6 (e) After receiving the petition for discharge and upon the request of the person, the
7 court shall appoint an examiner for the person, unless the court previously appointed an
8 examiner under ss. 980.07 (1) and 980.031 (3) for the current reexamination period, having
9 the specialized knowledge determined by the court to be appropriate who shall examine the
10 person. If discharge is supported by an examination conducted under s. 980.07 (1) within the
11 6 months preceding the filing of the petition, the court may appoint the examiner who
12 conducted that examination as the examiner for the person. The examiner shall have
13 reasonable access to the person for purposes of examination and to the person's past and
14 present treatment records, as defined in s. 51.30 (1) (b), and patient health care records, as
15 provided in s. 146.82 (2) (c). The county shall pay the costs of an examiner appointed under
16 this subsection as provided under s. 51.20 (18) (a).

NOTE: Requires that a committed person or his or her attorney serve a copy of the person's discharge petition and supporting documents on the prosecuting entity. This language is currently contained in s. 980.075 (3), stats., which this draft repeals.

The SECTION also requires the court to refer a committed person who does not have an attorney to the office of the state public defender for an indigency determination and appointment of counsel. This language is currently contained in s. 980.075 (5), stats., which this draft repeals.

The SECTION permits the committed individual and the prosecution to use experts or other professionals to support or oppose a discharge petition. This language is currently contained in s. 980.075 (4) (a) and (b), which this draft repeals.

The SECTION also creates a new statutory section relating to appointment of an examiner for the person petitioning for discharge. The draft specifies that a court must appoint an examiner for the person if the person is indigent and requests an examiner after submitting a discharge petition to the court.

However, the court is not required to appoint an additional examiner for the person if the court previously appointed an examiner for the person at the time of the person's annual reexamination. Further, instead of appointing a new examiner for the person, the court may appoint an examiner who already completed an examination of the person under certain circumstances. The court may appoint an examiner who previously examined the person if: (1) the examiner completed a reexamination of the person within the 6 months before the person filed his or her petition for discharge; and (2) the examination recommended discharge.

1 SECTION 15. 980.09 (2) and (3) of the statutes are amended to read:

2 980.09 (2) ~~The court shall review the petition within 30 days and may hold a hearing~~
3 In reviewing the petition, the court may hold a hearing to determine if it contains facts from
4 ~~which the court or jury may conclude that the person does not meet~~ the person's condition has
5 sufficiently changed such that a court or jury would likely conclude the person no longer meets
6 the criteria for commitment as a sexually violent person. In determining under this subsection
7 ~~whether facts exist that might warrant such a conclusion,~~ the person's condition has
8 sufficiently changed such that a court or jury would likely conclude that the person no longer
9 meets the criteria for commitment, the court shall ~~shall~~ may consider the record, including evidence
10 introduced at the initial commitment trial or the most recent trial on a petition for discharge,
11 any current or past reports filed under s. 980.07, relevant facts in the petition and in the state's
12 written response, arguments of counsel, and any supporting documentation provided by the
13 person or the state. If the court determines that the ~~petition record~~ record does not contain facts from
14 which a court or jury ~~may~~ would likely conclude that the person ~~does not meet~~ no longer meets
15 the criteria for commitment, the court shall deny the petition. If the court determines that facts

1 ~~exist~~ the record does contain facts from which a court or jury ~~could~~ would likely conclude the
2 person ~~does not meet~~ no longer meets the criteria for commitment, the court shall set the matter
3 for hearing trial.

4 (3) The court shall hold a hearing trial within 90 days of the determination that the
5 ~~petition contains facts from which the court or jury may conclude that the person does not meet~~
6 the person's condition has sufficiently changed such that a court or jury would likely conclude
7 that the person no longer meets the criteria for commitment as a sexually violent person. ~~The~~
8 At trial, the state has the burden of proving by clear and convincing evidence that the person
9 meets the criteria for commitment as a sexually violent person.

NOTE: Alters the procedure for court review of a discharge petition in determining whether the court must hold a discharge trial. Under current law, a court may hold a hearing to determine whether the petition meets the pleading requirement. The hearing is an initial hearing that addresses the sufficiency of the petition itself, unlike a discharge trial which occurs later and determines whether the petitioner remains an SVP.

The SECTION also alters the pleading requirement a petitioner must meet before receiving a discharge trial. Under current law, the petitioner's discharge petition must allege facts from which a court or jury *may* conclude that he no longer qualifies as an SVP. The draft instead provides that a petitioner's discharge petition must allege facts from which a court or jury *would likely* conclude he no longer qualifies as an SVP. The SECTION also specifies that a court may review the entire record in determining whether the petitioner's condition has sufficiently changed to warrant a discharge trial.

The SECTION uses the word "trial" instead of the word "hearing" so that the SECTION refers to discharge trials rather than discharge hearings. This distinguishes between an initial hearing held by a court to determine the sufficiency of a discharge petition and a full trial on the merits.

10 SECTION 16. 980.09 (4) of the statutes is amended to read:

11 980.09 (4) If the court or jury is satisfied that the state has not met its burden of proof
12 under sub. (3), the petitioner shall be discharged from the custody of the department. If the

1 court or jury is satisfied that the state has met its burden of proof under sub. (3), the court ~~may~~
2 shall proceed under s. 980.08 (4) to determine whether to modify the petitioner's existing
3 commitment order by authorizing supervised release, unless the person waives consideration
4 of the criteria in s. 980.08 (4) (cg). A waiver of consideration of these criteria shall be
5 considered a denial of supervised release for purposes of s. 980.08 (1).

NOTE: Requires a court to consider supervised release for a petitioner after denying discharge at a discharge trial. Under current law, the court may choose to evaluate whether the petitioner meets the supervised release criteria, but is not required to do so.

The SECTION permits a petitioner to waive the court's consideration of supervised release, but treats the waiver as a denial of supervised release for purposes of calculating when a committed person may file a petition for supervised release.

6 **SECTION 17.** 980.09 (5) of the statutes is created to read:

7 980.09 (5) If a court orders discharge of a committed person under this section, the court
8 shall stay the execution of the order so that the department may comply with its statutory duties
9 under s. 980.11 (2) and (3). The stay of execution may not exceed 10 working days and shall
10 be for as short a period as necessary to permit the department to comply with s. 980.11 (2) and
11 (3).

NOTE: Specifies that a court ordering discharge of a person from commitment must delay execution of the order for a period of time, not to exceed 10 working days, during which DHS must issue notice to victims and their family members and notify DOC.

12 **SECTION 18.** 980.095 (1) (a) of the statutes is amended to read:

13 980.095 (1) (a) The district attorney or the department of justice, whichever filed the
14 original petition, or the petitioner or his or her attorney may request that a hearing under s.
15 980.09 (3) be to a jury of 6. A jury trial is deemed waived unless it is demanded within 10 days

1 of the ~~filing of the petition for discharge~~ determination by the court that a court or jury would
2 likely conclude the person's condition has sufficiently changed pursuant to s. 980.09 (1).

NOTE: Alters the deadline by which a petitioner must request a jury trial in discharge proceedings. Under current law, a petitioner must request a jury trial within 10 days of filing his discharge petition, which requires the petitioner to request a jury trial before the court determines whether or not he will receive a trial on his discharge petition. The SECTION specifies that a petitioner must request a jury trial within 10 days after the court determines that his or her petition warrants a trial.

3

(END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1261/PT

CMH: [signature]

Sec

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

repeal

1 **AN ACT** *to repeal* 980.075; *to renumber and amend* 980.08 (3) and 980.09
2 (intro.); *to amend* 980.01 (8), 980.065 (1r), 980.07 (1), 980.08 (1), 980.08 (4) (a),
3 980.08 (4) (cg) 1., 980.08 (9) (a), 980.09 (2) and (3), 980.09 (4) and 980.095 (1)
4 (a); and *to create* 980.07 (7) and (8), 980.08 (2m), 980.08 (4) (cj), 980.09 (1m)
5 and 980.09 (5) of the statutes; **relating to:** criteria for supervised release from
6 commitment as sexually violent persons under chapter 980, placement of
7 females committed as sexually violent persons, and permitted outings under
8 direct supervision for individuals on supervised release from commitment; and
9 supervised release and discharge of individuals committed as sexually violent
10 persons under chapter 980.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

ANAL. LAC NOTE

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

*

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council's Special Committee on Supervised Release and Discharge of Sexually Violent Persons.

Chapter 980 of the Wisconsin statutes provides a statutory scheme for the involuntary civil commitment of individuals who have completed their criminal sentences and are determined to be "sexually violent persons." In general, a sexually violent person (SVP) is an individual who has been convicted of a sexually violent offense and who is dangerous because he or she suffers from a mental disorder that makes it likely the ~~person~~ will engage in future acts of sexual violence. Current law contains provisions for the discharge or supervised release of individuals committed under ch. 980.

individual

tr

This draft makes various changes to the discharge and supervised release provisions of ch. 980. These changes include the following:

- Assigning the burden of proof regarding supervised release criteria to the petitioner.
- Extending the timelines within which a court must hold a supervised release hearing or discharge trial.
- Altering the pleading requirement a petitioner must meet before receiving a discharge trial.
- Repealing ^{parts of} s. 980.075, stats., relating to the supervised release and discharge petition process, and ~~relocating~~ ^{renumbering} certain provisions to the statutory sections specifically relating to supervised release and discharge.
- Requiring a court to make a supervised release determination after denying discharge at a discharge trial.
- Requiring a delay of up to 10 days in the execution of a court order granting discharge ~~or~~ to a committed individual.
- Altering the criteria which a committed person must ~~show~~ ^{meet} before a court may grant supervised release.
- Expanding the list of activities for which a committed person on supervised release may leave his or her residence under direct supervision of a department of corrections (DOC) escort.

*
*

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WS
2-1

①

SECTION 1. 980.01 (8) of the statutes is amended to read:

980.01 (8) "Significant progress in treatment" means that the person ~~has done~~ is doing all of the following:

(a) Meaningfully ~~participated~~ participating in the treatment program specifically designed to reduce his or her risk to reoffend offered at a facility described under s. 980.065.

(b) ~~Participated~~ Participating in the treatment program at a level that was is sufficient to allow the identification of his or her specific treatment needs and then

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8

1 ~~demonstrated~~ demonstrating, through overt behavior, a willingness to work on
2 addressing the specific treatment needs.

3 (c) ~~Demonstrated~~ Demonstrating an understanding of the thoughts, attitudes,
4 emotions, behaviors, and sexual arousal linked to his or her sexual offending and an
5 ability to identify when the thoughts, emotions, behaviors, or sexual arousal occur.

6 (d) ~~Demonstrated~~ Demonstrating sufficiently sustained change in the
7 thoughts, attitudes, emotions, and behaviors and sufficient management of sexual
8 arousal such that one could reasonably assume that, with continued treatment, the
9 change could be maintained.

NOTE: Revises the definition of "significant progress in treatment" to specify that the individual must be participating in treatment programs at a sufficient level and demonstrating the requisite behavior, understanding, and changes, rather than specifying that the individual has already participated in the treatment or has already demonstrated these behaviors, understandings, and changes.

or her

Under current law, a committed individual must meet 5 specified criteria before a court may grant him supervised release. One of the criteria requires that the individual has made "significant progress in treatment" and that the progress can be sustained while on supervised release. Because the draft revises the definition of "significant progress in treatment", a committed individual must currently be engaged in or working towards the requirements set forth in the definition to meet the criterion for supervised release. A corresponding revision is made in SECTION 2.

10 SECTION 2. 980.065 (1r) of the statutes is amended to read:

11 980.065 (1r) Notwithstanding sub. (1m), the department may place a female
12 person committed under s. 980.06 at Mendota Mental Health Institute, Wisconsin
13 Women's Resource Center, Winnebago Mental Health Institute, or a privately
14 operated residential facility under contract with the department of health services.

NOTE: Expands the list of facilities at which DHS may place a female committed as an SVP to include the Wisconsin Women's Resource Center.

15 SECTION 3. 980.07 (1) of the statutes is amended to read:

16 980.07 (1) If a person is committed under s. 980.06 and has not been discharged
17 under s. 980.09 (4), the department shall appoint an examiner to conduct a

1 reexamination of the person's mental condition within 12 months after the date of
 2 the initial commitment order under s. 980.06 and again thereafter at least once each
 3 12 months to determine whether the person has made sufficient progress for the
 4 court to consider whether the person should be placed on supervised release or
 5 discharged. The examiner shall apply the criteria under s. 980.08 (4) (cg) when
 6 considering if the person should be placed on supervised release and shall apply the
 7 criteria under s. 980.09 (3) when considering if the person should be discharged. At
 8 the time of a reexamination ^{shall} under this section, the ~~person who has been committed~~
 9 may retain or have the court appoint an examiner as provided under s. 980.031 (3)
 10 court shall appoint an examiner as provided under s. 980.031 (3) upon request of the
 11 committed person or the person may retain an examiner. The county shall pay the
 12 costs of an examiner appointed by the court as provided under s. 51.20 (18) (a).

NOTE: Clarifies that a court must appoint an examiner for the committed person if the person requests an examiner at the time of the 12-month reexamination. Removes ambiguity regarding whether a court may choose not to appoint an examiner when a committed person requests an examiner.

13 **SECTION 4.** 980.07 (7) and (8) of the statutes are created to read:

14 980.07 (7) At any time before a hearing under s. 980.08 or 980.09, the
 15 department may file a supplemental report if the department determines that the
 16 court should have additional information. The court shall accept the supplemental
 17 report and permit testimony from the department regarding the report or any
 18 relevant portion of the report.

19 (8) When the department provides a copy of the report under s. ^{Sub.} ~~980.07~~ (6) to
 20 the person who has been committed under s. 980.06, the department shall provide
 21 to the person a standardized petition form for supervised release under s. 980.08 and
 22 a standardized petition form for discharge under s. 980.09.

NS
4-13

PLM

NOTE to follow 980.075(6) RA -

NOTE to follow 980.075 (1m)(a) RA

NOTE: Permits the department of health services (DHS) to file a supplemental report at any time prior to a supervised release or discharge hearing. The Section also requires DHS to provide petition forms to committed individuals when providing a copy of the person's reexamination report. (This language is currently contained in s. 980.075 (1m)(a) and (6), which this draft repeals.

Creates new language requiring the court to accept any supplemental reports filed by DHS prior to a supervised release or discharge hearing and requires the court to allow DHS to testify about the supplemental report.

1

SECTION 5. 980.075 of the statutes is repealed.

(title), (1), (1m)(b) and (2)

NOTE: Repeals s. 980.075, Patient petition process. This draft relocates portions of the statute into ss. 980.07, 980.08, and 980.09, stats., as described in the notes appearing beneath SECTIONS and bill

5 980.075

Portions of the statute which this draft repeals and does not relocate to other portions of the chapter appear in s. 980.075 (2), stats., and contain the following: (1) a 30-day deadline for submitting a supervised release or discharge petition that may conflict with more specific deadlines appearing within s. 980.08 and 980.09, stats; and (2) language stating that a person remains committed or remains on supervised release without court review if the person does not file a timely discharge petition.

2

SECTION 6. 980.08 (1) of the statutes is amended to read:

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3

980.08 (1) Any person who is committed under s. 980.06 may petition the

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committing court to modify its order by authorizing supervised release if at least 12

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months have elapsed since the initial commitment order was entered or at least 12

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months have elapsed since the most recent release petition was denied, since

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supervised release was denied pursuant to s. 980.09 (4), or since the most recent

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order for supervised release was revoked. The director of the facility at which the

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person is placed may file a petition under this subsection on the person's behalf at

10

any time.

NOTE: Prohibits a committed individual from filing a supervised release petition for at least 12 months after a court considers and denies supervised release at a discharge hearing.

Currently, if an individual is denied discharge at a discharge trial, then the court may proceed to consider whether the individual qualifies for supervised release. SECTION 16 of this draft eliminates court discretion to decide whether or not to consider supervised release at a discharge trial and instead requires the court to consider supervised release after denying discharge.

LPS: check autoref. If it isn't there, use AR Fish. bill

This draft also adds some identical language from s. 980.075 to s. 980.08.

See SECTION the note following SECTION TRANTURA

11

SECTION 7. 980.08 (2m) of the statutes is created to read:

AR TRANTURA

person submitting the petition

1 980.08 (2m) The ~~petitioner~~ may use experts or professional persons to support
2 his or her petition. The district attorney or the department of justice may use experts
3 or professional persons to support or oppose any petition.

NOTE: Provides that a committed individual and the prosecution may use experts or professionals in supporting or opposing a petition for supervised release. The language is currently contained in s. 980.075 (4) (a) and (b), stats., which this draft ~~repeals~~.

renumbered to s. 980.09 (1m) (c) to apply discharge. It needs to be reported to apply to s. 980.08 Supervised release.

bill

4 SECTION 8. 980.08 (3) of the statutes is renumbered 980.08 (3) (a) and (b) and
5 amended to read:

6 980.08 (3) (a) Within 20 days after receipt of the petition, the court shall
7 appoint one or more examiners having for the court who have the specialized
8 knowledge determined by the court to be appropriate, who shall examine the person
9 and furnish a written report of the examination to the court within 30 60 days after
10 appointment, unless the court for good cause extends this time limit. If the person
11 requests appointment of an examiner within 20 days after the filing of the petition,
12 the court shall appoint an examiner for the person, unless the court appointed an
13 examiner under s. 980.07 (1) or 980.031 (3) for the current reexamination period.
14 If a report filed by an examiner appointed under s. 980.07 (1) to conduct a
15 reexamination of the person's mental condition within the 6 months preceding the
16 filing of the petition supports supervised release, the court may appoint that
17 examiner as the examiner for the person under this subsection.

18 (b) The examiners appointed under par. (a) shall have reasonable access to the
19 person for purposes of examination and to the person's past and present treatment
20 records, as defined in s. 51.30 (1) (b), and patient health care records, as provided
21 under s. 146.82 (2) (c). If any such examiner believes that the person is appropriate
22 for supervised release under the criteria specified in sub. (4) (cg), the examiner shall
23 report on the type of treatment and services that the person may need while in the

1 community on supervised release. The county shall pay the costs of an examiner
2 appointed under ~~this subsection~~ par. (a) as provided under s. 51.20 (18) (a).

NOTE: Renumbers existing s. 980.08 (3) as 2 separate paragraphs.

The SECTION also extends the time period for an examiner to complete an evaluation of the committed person and submit the report to the court from 30 to 60 days, and authorizes the court to extend the time limit for good cause.

The SECTION clarifies that the court appoints an examiner at this stage for purposes of the court. The draft also requires the court to appoint an examiner for the committed person if: (1) the person requests appointment of an examiner; and (2) the court has not previously appointed an examiner for the person under other sections of the chapter during the relevant 12-month reexamination period.

If the committed person requests appointment of his or her own examiner, the SECTION allows the court to appoint the DHS examiner who conducted the person's annual reexamination if: (1) the examiner conducted the examination within the 6 months before the person filed his or her supervised release petition; and (2) the examiner's report supports a grant of supervised release. This will allow the court to appoint an examiner who already conducted an examination of the individual and generated a report favorable to the individual, rather than requiring the court to appoint an additional examiner on behalf of the person.

3 **SECTION 9.** 980.08 (4)^x (a) of the statutes is amended to read:

4 980.08 (4) (a) The court, without a jury, shall hear the petition within 30 120
5 days after the report of the court-appointed examiner appointed under sub. (3) (a)
6 is filed with the court, unless the court for good cause extends this time limit.
7 Expenses of proceedings under this subsection shall be paid as provided under s.
8 51.20 (18) (b), (c), and (d).

NOTE: Extends the time period for the supervised release hearing from 30 to 120 days after the examiner's report is filed.

9 **SECTION (10)** 980.08 (4)^x (cg) 1. of the statutes is amended to read:

10 980.08 (4) (cg) 1. The person ~~has made~~ is making significant progress in
11 treatment and the person's progress can be sustained while on supervised release.

NOTE: Revises one of the 5 criteria a committed individual must meet before being granted supervised release to require that the individual is making significant progress in treatment, rather than requiring that the individual has made significant progress in treatment. *This change corresponds with the revision in SECTION 11*

12 **SECTION 11.** 980.08 (4) (cj)[✓] of the statutes is created to read:

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1 980.08 (4) (cj) The person has the burden of proving by clear and convincing
2 evidence that the person meets the criteria in par. (cg).

NOTE: Provides that the person petitioning for supervised release bears the burden of proving he or she meets the criteria by clear and convincing evidence, codifying the Wisconsin Supreme Court's decision in *State v. West*, 2011 WI 83.

3 **SECTION 12.** 980.08 (9) (a) of the statutes is amended to read:

4 980.08 (9) (a) As a condition of supervised release granted under this chapter,
5 for the first year of supervised release, the court shall restrict the person on
6 supervised release to the person's home residence except for outings approved by the
7 department of health services that are under the direct supervision of a department of corrections
8 escort and that are for employment or volunteer purposes, for religious purposes,
9 educational purposes, treatment and exercise purposes, supervision purposes, or
10 residence maintenance, or for caring for the person's basic living needs.

NOTE: Expands the list of activities for which a committed individual on supervised release may leave his or her residence under direct supervision of a DOC escort and requires that all outings be approved by DHS. Specifically, in addition to existing purposes, the draft provides that a committed individual may leave his or her residence for volunteer, educational, treatment, exercise or supervision purposes, or for maintenance of his residence. The draft also replaces use of the term "home", with the term "residence".

bill
Please fix
11 Commitment

12 **SECTION 13.** 980.09 (intro.) of the statutes is renumbered 980.09 (1) and, as
renumbered, is amended to read:

13 980.09 (1) A committed person may petition the committing court for discharge
14 at any time. The court shall deny the petition under this section without a hearing
15 unless the petition alleges facts from which the court or jury may would likely
16 conclude the person's condition has changed since the date of his or her initial
17 commitment order the most recent order denying a petition for discharge after a
18 hearing on the merits, or since the date of his or her initial commitment order if the
19 person has never received a hearing on the merits of a discharge petition, so that the

1 person ~~does not meet~~ no longer meets the criteria for commitment as a sexually
2 violent person.

NOTE: Alters the pleading requirement which a petitioner must meet before his or her discharge petition will receive a discharge trial. The SECTION requires a petitioner to allege facts which *would likely* lead a fact-finder to determine he or she no longer qualifies as an SVP, rather than alleging facts which *may* lead a fact-finder to this determination.

This SECTION also alters the time period during which a petitioner must show his "condition has changed" in order to merit a discharge trial. The language requires a petitioner to allege a change occurring since the last discharge trial at which a fact-finder determined that he ^{or her} remains an SVP.
_{or she}

3 **SECTION 14.** 980.09 (1m) of the statutes is created to read:

4 980.09 (1m) (a) If the person files a petition for discharge under s. 980.09
5 without counsel, the court shall serve a copy of the petition and any supporting
6 documents on the district attorney or department of justice, whichever is applicable.

7 If the person petitions for discharge under s. 980.09 through counsel, his or her
8 attorney shall serve the district attorney or department of justice, whichever is
9 applicable.

10 (b) If the person files a petition for discharge under s. 980.09 without counsel,
11 as soon as circumstances permit, the court shall refer the matter to the authority for
12 indigency determinations under s. 977.07 (1) and appointment of counsel under s.
13 977.05 (4) (j) if the person is not represented by counsel.

14 (c) The petitioner may use experts or professional persons to support his or her
15 petition.

16 (d) The district attorney or the department of justice may use experts or
17 professional persons to support or oppose any petition.

18 (e) After receiving the petition for discharge and upon the request of the person,
19 the court shall appoint an examiner for the person, unless the court previously
20 appointed an examiner under ss. 980.07 (1) and 980.031 (3) for the current

980.075
(3)

(5)

(a)

(b)

ck

1 reexamination period, having the specialized knowledge determined by the court to
 2 be appropriate who shall examine the person. If discharge is supported by an
 3 examination conducted under s. 980.07 (1) within the 6 months preceding the filing
 4 of the petition, the court may appoint the examiner who conducted that examination
 5 as the examiner for the person. The examiner shall have reasonable access to the
 6 person for purposes of examination and to the person's past and present treatment
 7 records, as defined in s. 51.30 (1) (b), and patient health care records, as provided in
 8 s. 146.82 (2) (c). The county shall pay the costs of an examiner appointed under this
 9 subsection as provided under s. 51.20 (18) (a).

NOTE A
 Follows SECTION 980.075(3) RA

NOTE: Requires that a committed person or his or her attorney serve a copy of the person's discharge petition and supporting documents on the prosecuting entity. This language is currently contained in s. 980.075 (3), stats., which this draft repeats.

(CS) SECTION relocates

NOTE B
 Follows SECTION 980.075(5) RA

NOTE: The SECTION also requires the court to refer a committed person who does not have an attorney to the office of the state public defender for an indigency determination and appointment of counsel. This language is currently contained in s. 980.075 (5), stats., which this draft repeats.

(CS) This SECTION relocates

NOTE
 Follows SECTION 980.075 (4)(a)(b) CRA

NOTE: The SECTION permits the committed individual and the prosecution to use experts or other professionals to support or oppose a discharge petition. This language is currently contained in s. 980.075 (4) (a) and (b), which this draft repeats.

This SECTION relocates

NOTE D
 Follows SECTION 980.09 (1)(d) CRA

NOTE: The SECTION also creates a new statutory section relating to appointment of an examiner for the person petitioning for discharge. The draft specifies that a court must appoint an examiner for the person if the person is indigent and requests an examiner after submitting a discharge petition to the court.

e-bill

However, the court is not required to appoint an additional examiner for the person if the court previously appointed an examiner for the person at the time of the person's annual reexamination. Further, instead of appointing a new examiner for the person, the court may appoint an examiner who already completed an examination of the person under certain circumstances. The court may appoint an examiner who previously examined the person if: (1) the examiner completed a reexamination of the person within the 6 months before the person filed his or her petition for discharge; and (2) the examination recommended discharge.

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SECTION 15. 980.09 (2)* and (3)* of the statutes are amended to read:

980.09 (2) The court shall review the petition within 30 days and may hold a hearing. In reviewing the petition, the court may hold a hearing to determine if it contains facts from which the court or jury may conclude that the person does not

plan

plan

1 meet the person's condition has sufficiently changed such that a court or jury would
2 likely conclude the person no longer meets the criteria for commitment as a sexually
3 violent person. In determining under this subsection whether ~~facts exist that might~~
4 ~~warrant such a conclusion,~~ ^{er} the person's condition has sufficiently changed such that
5 a court or jury would likely conclude that the person no longer meets the criteria for
6 commitment, the court shall ~~may~~ consider the record, including evidence introduced
7 at the initial commitment trial or the most recent trial on a petition for discharge,
8 any current or past reports filed under s. 980.07, relevant facts in the petition and
9 in the state's written response, arguments of counsel, and any supporting
10 documentation provided by the person or the state. If the court determines that the
11 ~~petition record~~ record does not contain facts from which a court or jury ~~may~~ would likely
12 conclude that the person does not meet no longer meets the criteria for commitment,
13 the court shall deny the petition. If the court determines that ~~facts exist~~ the record
14 does contain ^s facts from which a court or jury ~~could~~ would likely conclude the person
15 ~~does not meet~~ no longer meets the criteria for commitment, the court shall set the
16 matter for ~~hearing~~ trial.

17 (3) The court shall hold a ^{plur shall} ~~hearing~~ trial within 90 days of the determination that
18 the ~~petition contains facts from which the court or jury may conclude that the person~~
19 ~~does not meet~~ the person's condition has sufficiently changed such that a court or jury
20 would likely conclude that the person no longer meets the criteria for commitment
21 as a sexually violent person. ~~The~~ At trial, the state has the burden of proving by clear
22 and convincing evidence that the person meets the criteria for commitment as a
23 sexually violent person.

NOTE: Alters the procedure for court review of a discharge petition in determining whether the court must hold a discharge trial. Under current law, a court may hold a hearing to determine whether the petition meets the pleading requirement. The hearing

is an initial hearing that addresses the sufficiency of the petition itself, unlike a discharge trial which occurs later and determines whether the petitioner remains an SVP.

The SECTION also alters the pleading requirement a petitioner must meet before receiving a discharge trial. Under current law, the petitioner's discharge petition must allege facts from which a court or jury *may* conclude that he no longer qualifies as an SVP. The ~~draft~~ instead provides that a petitioner's discharge petition must allege facts from which a court or jury *would likely* conclude he no longer qualifies as an SVP. The SECTION also specifies that a court may review the entire record in determining whether the petitioner's condition has sufficiently changed to warrant a discharge trial.

bill

The SECTION uses the word "trial" instead of the word "hearing" so that the SECTION refers to discharge trials rather than discharge hearings. This distinguishes between an initial hearing held by a court to determine the sufficiency of a discharge petition and a full trial on the merits.

draft: Air Fish

1 SECTION 16 980.09 (4) of the statutes is amended to read:

2 980.09 (4) If the court or jury is satisfied that the state has not met its burden

3 of proof under sub. (3), the ~~petitioner~~ ^{person} shall be discharged from the custody of the

4 department. If the court or jury is satisfied that the state has met its burden of proof

5 under sub. (3), the court ~~may~~ shall proceed under s. 980.08 (4) to determine whether

6 to modify the ~~petitioner's~~ ^{person's} existing commitment order by authorizing supervised

7 release, unless the person waives consideration of the criteria in s. 980.08 (4) (cg).

8 ~~A waiver of consideration of these criteria shall be considered~~ a denial of supervised

9 release for purposes of s. 980.08 (1).

If the person

the waiver is

NOTE: Requires a court to consider supervised release for a petitioner after denying discharge at a discharge trial. Under current law, the court may choose to evaluate whether the petitioner meets the supervised release criteria, but is not required to do so.

The SECTION permits a petitioner to waive the court's consideration of supervised release, but treats the waiver as a denial of supervised release for purposes of calculating when a committed person may file a petition for supervised release.

10 SECTION 17. 980.09 (5) of the statutes is created to read:

11 980.09 (5) If a court orders discharge of a committed person under this section,

12 the court shall stay the execution of the order so that the department may comply

13 with its statutory duties under s. 980.11 (2) and (3). The stay of execution may not

14 exceed 10 working days and shall be for as short a period as necessary to permit the

15 department to comply with s. 980.11 (2) and (3).

creat AR BIRD

NOTE: Specifies that a court ordering discharge of a person from commitment must delay execution of the order for a period of time, not to exceed 10 working days, during which DHS must issue notice to victims and their family members and notify DOC.

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SECTION 18. 980.095 (1) (a) of the statutes is amended to read:

980.095 (1) (a) The district attorney or the department of justice, whichever filed the original petition, or the ^{person who filed the petition for discharge} petitioner or his or her attorney may request that a ^{trial} hearing ~~under~~ s. 980.09 (3) be to a jury of 6. A jury trial is deemed waived unless it is demanded within 10 days of the ~~filing of the petition for discharge determination~~ by the court that a court or jury would likely conclude ~~the person's condition has~~ sufficiently changed pursuant to s. 980.09 (1). ^{under that}

NOTE: Alters the deadline by which a petitioner must request a jury trial in discharge proceedings. Under current law, a petitioner must request a jury trial within 10 days of filing his discharge petition, which requires the petitioner to request a jury trial before the court determines whether or not he will receive a trial on his discharge petition. The SECTION specifies that a petitioner must request a jury trial within 10 days after the court determines that his or her petition warrants a trial.

8

(END)

(P) Changes "hearing" to "trial" to be consistent with changes under s. 980.09(3), See Section # use AR Snake

INSERT "NOTES"
ARE ~~ON~~
IN
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2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1261/p2ins
CMH:.....

1 Insert 2-1

2 SECTION 1. 980.01^x (3) of the statutes is amended to read:

3 980.01 (3) ~~Except in ss. 980.075, 980.09, and 980.095,~~ "petitioner" "Petitioner"
4 means the agency or person that filed a petition under s. 980.02.

History: 1993 a. 479; 1995 a. 27 s. 9126 (19); 1997 a. 284, 295; 2003 a. 187; 2005 a. 277, 2005 a. 434 ss. 60 to 73; 2007 a. 20 s. 9121 (6) (a); 2007 a. 96, 97.

NOTE: Part of s. 980.075 is repealed in this bill and parts are renumbered s. 980.07, but the only instance of "petitioner" was changed to "person." See SECTION 7. Section 980.09 contains one occurrence of "petitioner"; this bill changes it to "person" for consistency. See SECTION 7. Section 980.095 contains one occurrence of "petitioner"; this bill changes it to "person" to be consistent and to eliminate any confusion since that statutory section also discusses the petition under s. 980.02. See SECTION 7.

in s. 980.075

to be part of

LAS; check
auto ref.
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pg 2
(treats
980.075
(4)(a)+(b)
at line 17)

5
6 Insert 4-13

use AR
fish ✓

use AR BIRD ✓

7 SECTION 2. 980.07^x (4) (b) of the statutes is amended to read:

create
AR
mongoose

8 980.07 (4) (b) Whether the person has made is making significant progress in
9 treatment or has refused treatment.

History: 1993 a. 479; 1999 a. 9; 2005 a. 434; 2009 a. 248.

NOTE: This change corresponds with the revision

SECTION 7

10 SECTION 3. 980.07 (6) of the statutes is renumbered 980.07 (6) (a).

11 SECTION 4. 980.07^x (6m) of the statutes is amended to read:

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12 980.07 (6m) If a person committed under s. 980.06 is incarcerated at a county
13 jail, state correctional institution, or federal correction institution for a new criminal
14 charge or conviction or because his or her parole was revoked, any reporting
15 requirement under sub. (1), (4), or (6) (a) does not apply during the incarceration
16 period. A court may order a reexamination of the person under sub. (3) if the courts
17 finds reexamination to be necessary. The schedule for reporting established under
18 sub. (1) shall resume upon the release of the person.

History: 1993 a. 479; 1999 a. 9; 2005 a. 434; 2009 a. 248.

END OF INSERT 4-13

1 Insert 5-2

ARC TORTOISE

2 **SECTION 5** 980.075 (1m) (a) of the statutes is renumbered 980.07 (6) (b) and
3 amended to read:

4 980.07 (6) (b) When the department provides a copy of the report under s.
5 ~~980.07 (6) par. (a)~~ to the person who has been committed under s. 980.06, the
6 department shall provide to the person a standardized petition form for supervised
7 release under s. 980.08 and a standardized petition form for discharge under s.
8 980.09.

History: 2005 a. 434.

9 **SECTION 6** 980.075 (3) of the statutes is renumbered 980.09 (1m) (a) and
10 amended to read:

ARC GUINEA PIG

11 980.09 (1m) (a) If the person files a petition for discharge under s. ~~980.09 sub.~~
12 (1) without counsel, the court shall serve a copy of the petition and any supporting
13 documents on the district attorney or department of justice, whichever is applicable.
14 If the person petitions for discharge under s. ~~980.09 sub. (1)~~ through counsel, his or
15 her attorney shall serve the district attorney or department of justice, whichever is
16 applicable.

History: 2005 a. 434.

17 **SECTION 7** 980.075 (4) (a) and (b) of the statutes are consolidated, renumbered
18 980.09 (1m) (c) and amended to read:

ARC DOODLEBUG

19 980.09 (1m) (c) ~~The petitioner~~ If a person files a petition for discharge under
20 sub. (1), the person may use experts or professional persons to support his or her
21 petition. (b) The district attorney or the department of justice may use experts or
22 professional persons to support or oppose any petition filed under sub. (1).

History: 2005 a. 434.

23 **SECTION 8** 980.075 (5) of the statutes is renumbered 980.09 (1m) (b) and
24 amended to read:

ARC HYENNA

*INS
NOTE
F
From pg 5*

*INS
NOTE
A
From pg 10*

*INS
NOTE
C
From pg 10*