



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2019 Senate Bill 60	Senate Amendment 2
<i>Memo published:</i> June 27, 2019	<i>Contact:</i> David Moore, Senior Staff Attorney

BACKGROUND

State law provides a civil commitment process under ch. 980, Stats., for sex offenders who meet certain criteria and have completed their criminal sentences. Offenders determined to be “sexually violent persons” (SVP) after a court process are committed to a civil treatment facility for an indeterminate amount of time. SVPs may petition for supervised release from commitment, which a court may grant if the SVP meets specified statutory criteria.

2017 Wisconsin Act 184 made changes related to the placement of a person determined to be an SVP. Among other changes, the act eliminated the ability of a court to place an SVP outside his or her home county. Under Act 184, if a court finds that an SVP meets the criteria for supervised release, the county in which the SVP will be placed must form a temporary committee for identifying prospective housing for the SVP in that county and prepare a report for the Department of Health Services (DHS). The act required a county to prepare its report within 180 days of the court order if the order was made on or after March 30, 2018 and within 120 days if the order was made on or after April 1, 2019.

Under Wisconsin law that predates 2017 Wisconsin Act 184, any plan proposing the placement of an SVP must ensure that the person’s placement is not less than 1,500 feet of any school premises, child care facility, public park, place of worship, or youth center. If the person committed a sexually violent offense against an adult at risk, the person’s placement may not be less than 1,500 feet from a nursing home or facility. If the person is a serious child sex offender, the person’s placement may not be into a residence that is on a property adjacent to a property where a child’s primary residence exists.

2019 SENATE BILL 60

2019 Senate Bill 60 clarifies the initial applicability of 2017 Wisconsin Act 184. The provisions of that act first applied to petitions pending under s. 980.08, Stats., on the effective date of the act. The bill clarifies that a petition is pending if the person who filed the petition has not been physically placed in a residence on supervised release under s. 980.08, Stats. The bill also requires DHS to identify any person on supervised release whose residence or proposed residence does not conform with 2017 Wisconsin Act 184 and notify the court of the nonconforming residence or proposed residence. Under the bill, when the court is notified of the nonconforming residence or proposed residence, the court shall revoke the order for the person's supervised release and order the county of the person's residence to prepare a new report.

The bill also modifies the timeframes 2017 Wisconsin Act 184 established for a county in which an SVP will be placed to complete its report to eliminate the shortened timeframe for reports made following orders after April 1, 2019. Under the bill, a county must file its report within 180 days of the court order; however, the bill provides that if a county does not meet this deadline, it may ask the court to determine that the county is making a good faith effort to conform to the deadline. If a court makes this finding, the county is not subject to enforcement and damages for not meeting the deadline.

Finally, the bill eliminates the prohibition on placing an SVP within 1,500 feet of any school premises, child care facility, public park, place of worship, or youth center. It also eliminates the specific distance requirements that apply to persons who committed a sexually violent offense against an adult at risk and child sex offenders. Instead, it requires the county to consider the distance between the person's placement and particular types of properties.

SENATE AMENDMENT 2

Senate Amendment 2 provides that when the temporary committee has selected a city, village, or town for the placement of an SVP, the chief executive officer of that city, village, or town, or his or her designee, shall become a member of the temporary committee. The amendment also modifies the portion of the bill requiring DHS to identify any SVP who was incorrectly placed under 2017 Wisconsin Act 184. The amendment removes the requirement that the court revoke that person's supervision until the county of residence has prepared a report identifying an appropriate residential option.

BILL HISTORY

Senator Feyen offered Senate Amendment 2 to 2019 Senate Bill 60 on June 17, 2019. On June 18, 2019, the Senate Committee on Judiciary and Public Safety unanimously voted to recommend adoption of Senate Amendment 2 and passage of Senate Bill 60, as amended.

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