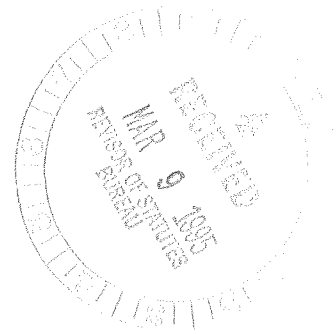


CR 94-194



CERTIFICATE


STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Richard W. Lorang, Acting Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to sexually violent persons on supervised release were duly approved and adopted by this Department on March 9, 1995.


I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 9th day of March, 1995.

SEAL:

  
Richard W. Lorang, Acting Secretary  
Department of Health and Social Services

5-1-95



ORDER OF THE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
RENUMBERING, AMENDING, REPEALING AND RECREATING  
AND CREATING RULES

To renumber HSS 98.04(3)(k); to amend HSS 98.01(intro.), 98.03(21), 98.04(2)(p) and (3)(j) and 98.16(1); to repeal and recreate HSS 98.02; and to create HSS 98.03(23g) and (23m) and 98.04(3)(k), relating to sexually violent persons on supervised release.

Analysis Prepared by the Department of Health and Social Services

Chapter 980, Stats., as created by 1993 Wisconsin Act 479, establishes a procedure for the involuntary commitment to the Department of certain persons who are currently incarcerated for sexually violent offenses and are soon to be released. When a court or jury determines that a person who is a subject of a petition under s. 980.02, Stats., as created by Act 479, is a sexually violent person, s.980.06, Stats., as created by Act 479, provides that the court commit the person to the Department, and that the commitment order specify either institutional care or supervised release. If the court in its commitment order specifies supervised release or if it later, under s.980.08, Stats., modifies its commitment order to specify supervised release, the Department and a county department under s. 51.42, Stats., are to prepare a plan for treatment and other services the person is to receive in the community, and the person on supervised release is made subject to conditions established by the court and to rules of the Department. With the passage of ch. 980, Stats., as created by Act 479, the Department needed to have rules for supervision of these persons. The Department already has rules for the field supervision of persons committed to the Department under s. 971.17, Stats., and placed on conditional release. Those rules are amended by this order so that they apply as well to sexually violent persons on supervised release. The Department has a contract with the Department of Corrections to have that department's agents carry out the actual field supervision of both conditional release and supervised release clients.

The rules in ch. HSS 98 as amended by this order cover agent responsibilities, rules and conditions of a client's supervision, levels of supervision, notice to local law enforcement agencies that a client will be under field supervision, management of a client's financial resources, transfer of the client within Wisconsin, resolution of client complaints, agent action when a client absconds or when contraband is found in the client's possession, use of force, use of mechanical restraints, searches, taking a client into custody and transporting the client, the predispositional report and maintenance of a case record on a client.

The rule changes were published as emergency rules effective October 1, 1994, because the Department had to act quickly to protect the public by establishing a legal basis for supervising persons whose commitment order specifies supervised release. These are the permanent rules to replace the emergency rules.

The Department's authority to renumber, amend, repeal and recreate and create these rules is found in ss.51.37(9) and 971.17(3)(e), Stats., and ss.980.06(2)(d) and 980.08(6), Stats., as created by 1993 Wisconsin Act 479. The rules interpret ss. 46.03(1) and (5), 51.37(9) and 971.17(3) to (6), Stats., and ss.980.06 and 980.08, Stats., as created by 1993 Wisconsin Act 479.

SECTION 1. HSS 98.01(intro.) is amended to read:

**HSS 98.01 AUTHORITY AND PURPOSE.** (intro.) This chapter is promulgated under the authority of ss. 51.37(9) ~~and~~, 971.17(3)(e), ~~980.06(2)(d) and 980.08(6)~~, Stats., to provide rules for supervision in communities of persons who are committed to the department and placed under its control after being found not guilty by reason of mental illness or defect of having committed a crime or after being found to be sexually violent persons. Supervision is intended to provide for the public's safety, promote social reintegration, reduce repetition of crime and carry out the statutory directives under s. 46.03(1) and (5), Stats. The following goals and objectives are relevant for fulfillment of these purposes:

SECTION 2. HSS 98.02 is repealed and recreated to read:

**HSS 98.02 APPLICABILITY.** This chapter applies to the department and to all persons under its custody and supervision who were committed to the department by a court after being found:

(1) Not guilty by reason of mental disease or mental defect of a crime and for whom the commitment order specifies conditional release or who were conditionally transferred or discharged by the department to field supervision; or

(2) To be sexually violent and for whom the commitment order specifies supervised release or who were found by the court to be appropriate for supervised release.

SECTION 3. HSS 98.03 (21) is amended to read:

HSS 98.03(21) "Revocation" means the removal of a client from supervision in accordance with s.971.17(3)(e) or 980.06(2)(d), Stats.

SECTION 4. HSS 98.03(23g) and (23m) are created to read:

HSS 98.03(23g) "Sexually violent person" has the meaning prescribed in s.980.01(7), Stats.

(23m) "Supervised release" means the status of a person found by a court or a jury under s. 980.05(5), Stats., to be a sexually violent person and ordered by the court under s. 980.06, Stats., to be committed to the department for control, care and treatment but with

the control care and treatment provided in the community rather than in a secure mental health unit or facility.

SECTION 5. HSS 98.04(2)(p) and (3)(j) are amended to read:

HSS 98.04(2)(p) Supervising persons committed under ss. 971.14 ~~and~~, 971.17 and 980.06, Stats., who are conditionally released by the court or conditionally transferred by the department or who are on supervised release, in accordance with the agreement between the department and the department of corrections;

(3)(j) Make himself or herself available for searches or tests ordered by the agent including but not limited to urinalysis, breathalyzer, and the taking of blood samples or search of residence or any other property under his or her control; ~~and~~

SECTION 6. HSS 98.04(3)(k) is renumbered 98.04(3)(l).

SECTION 7. HSS 98.04(3)(k) is created to read:

HSS 98.04 (3)(k) May not live, work, travel or be trained or educated in another state, because persons committed to the department under s. 971.17 or 980.06, Stats., are not covered by the interstate compact under s. 304.13, Stats., or by s. 304.135, Stats.

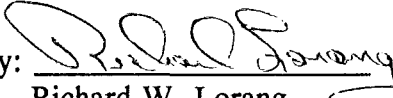
SECTION 8. HSS 98.16(1) is amended to read:

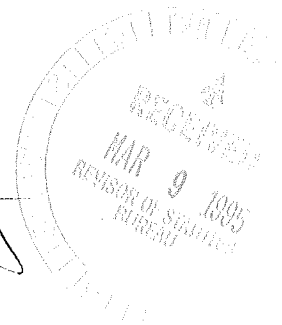
HSS 98.16 (1) A client committed under s. 971.17 or 980.06, Stats., may have his or her conditional or supervised release revoked only by the releasing court.

The rules contained in this order shall take effect as emergency rules upon publication in the official state newspaper, as provided in s. 227.24(1)(c), Stats.

Wisconsin Department of Health and  
Social Services

Dated: March 9, 1995

By:   
Richard W. Lorang  
Acting Secretary



SEAL: