



State of Wisconsin  
1997 - 1998 LEGISLATURE

LRBs0603/1  
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**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1997 ASSEMBLY BILL 875**

March 16, 1998 - Offered by Representatives SCHAFER and HUBER.

1     **AN ACT to amend** 51.37 (9), 51.37 (10) (c), 302.045 (3), 304.02 (2), 971.17 (3) (e),  
2             975.18, 980.06 (2) (d) and 980.08 (6); and **to create** 302.11 (5m), 304.02 (6),  
3             304.06 (1s), 973.09 (1c) and 975.10 (1m) of the statutes; **relating to:** prohibiting  
4             or restricting use of or access to the internet by persons who have committed  
5             certain crimes and who are on parole, probation or other type of supervised or  
6             conditional release.

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

7             **SECTION 1.** 51.37 (9) of the statutes is amended to read:  
8             51.37 (9) If in the judgment of the director of Mendota mental health institute,  
9             Winnebago mental health institute or the Milwaukee county mental health complex,  
10            any person who is committed under s. 971.14 or 971.17 is not in such condition as  
11            warrants his or her return to the court but is in a condition to receive a conditional  
12            transfer or discharge under supervision, the director shall report to the department

1 of health and family services, the committing court and the district attorney of the  
2 county in which the court is located his or her reasons for the judgment. If the court  
3 does not file objection to the conditional transfer or discharge within 60 days of the  
4 date of the report, the director may, with the approval of the department of health  
5 and family services, conditionally transfer any person to a legal guardian or other  
6 person, subject to the rules of the department of health and family services. If the  
7 person being conditionally transferred or discharged under supervision was  
8 committed under s. 971.17 after being found not guilty by reason of mental disease  
9 or defect for a violation of s. 948.02, 948.025, 948.05, 948.055, 948.07, 948.08, 948.11  
10 or 948.12, the department of health and family services shall decide whether to  
11 restrict or prohibit the person's use of or access to the internet as a condition of the  
12 transfer or discharge. Before a person is conditionally transferred or discharged  
13 under supervision under this subsection, the department of health and family  
14 services shall so notify the municipal police department and county sheriff for the  
15 area where the person will be residing. The notification requirement does not apply  
16 if a municipal department or county sheriff submits to the department of health and  
17 family services a written statement waiving the right to be notified. The department  
18 of health and family services may contract with the department of corrections for the  
19 supervision of persons who are transferred or discharged under this subsection.

20 **SECTION 2.** 51.37 (10) (c) of the statutes is amended to read:

21 51.37 (10) (c) Any patient who is granted a home visit or leave under this  
22 subsection shall be restricted to the confines of this state unless otherwise  
23 specifically permitted. The patient may, in addition, be restricted to a particular  
24 geographic area. If a patient granted a home visit or leave was committed under s.  
25 971.17 or ch. 975 after being convicted of or found not guilty by reason of mental

1 disease or defect for a violation of s. 948.02, 948.025, 948.05, 948.055, 948.07, 948.08,  
2 948.11 or 948.12, the department shall decide whether to restrict or prohibit the  
3 patient's use of or access to the internet as a condition of the home visit or leave.

4 Other conditions appropriate to the person's treatment may also be imposed upon the  
5 home visit or leave.

6 **SECTION 3.** 302.045 (3) of the statutes is amended to read:

7 302.045 (3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the department  
8 determines that an inmate has successfully completed the challenge incarceration  
9 program, the parole commission shall parole the inmate under s. 304.06, regardless  
10 of the time the inmate has served. When the parole commission grants parole under  
11 this subsection, it must require the parolee to participate in an intensive supervision  
12 program for drug abusers as a condition of parole. If the inmate is serving a sentence  
13 for a violation of s. 948.11 or 948.12 and the parole commission grants parole under  
14 this subsection, the parole commission shall decide whether to restrict or prohibit the  
15 parolee's use of or access to the internet as a condition of parole.

16 **SECTION 4.** 302.11 (5m) of the statutes is created to read:

17 302.11 (5m) (a) In this subsection, "child sex crime" means a violation of s.  
18 948.02, 948.025, 948.05, 948.055, 948.07, 948.08, 948.11 or 948.12.

19 (b) When an inmate serving a sentence for a child sex crime is released on  
20 parole under sub. (1) or (1g) (b), the parole commission and the department shall  
21 decide whether to restrict or prohibit the parolee's use of or access to the internet as  
22 a condition of parole.

23 **SECTION 5.** 304.02 (2) of the statutes is amended to read:

24 304.02 (2) The department shall promulgate rules for the special action release  
25 program, including eligibility criteria, procedures for the secretary to decide whether

1 to grant a prisoner a special action release to parole supervision, procedures for  
2 notifying persons, offices or agencies under s. 304.06 (1) (c) and (g) of releases, and,  
3 subject to sub. (6), conditions of release. If applicable, the department shall also  
4 comply with s. 304.063.

5 **SECTION 6.** 304.02 (6) of the statutes is created to read:

6 304.02 **(6)** (a) In this subsection, “child sex crime” means a violation of s. 948.02,  
7 948.025, 948.05, 948.055, 948.07, 948.08, 948.11 or 948.12.

8 (b) When an inmate serving a sentence for a child sex crime is released on  
9 parole under this section, the department shall decide whether to restrict or prohibit  
10 the parolee’s use of or access to the internet as a condition of parole.

11 **SECTION 7.** 304.06 (1s) of the statutes is created to read:

12 304.06 **(1s)** (a) In this subsection, “child sex crime” means a violation of s.  
13 948.02, 948.025, 948.05, 948.055, 948.07, 948.08, 948.11 or 948.12.

14 (b) When the parole commission grants parole under sub. (1) to a person serving  
15 a sentence for a child sex crime, the parole commission shall decide whether to  
16 restrict or prohibit the parolee’s use of or access to the internet as a condition of  
17 parole.

18 **SECTION 8.** 971.17 (3) (e) of the statutes is amended to read:

19 971.17 **(3)** (e) An order for conditional release places the person in the custody  
20 and control of the department of health and family services. A conditionally released  
21 person is subject to the conditions set by the court and to the rules of the department  
22 of health and family services. If the person being conditionally released was  
23 committed under this section after being found not guilty by reason of mental disease  
24 or defect for a violation of s. 948.02, 948.025, 948.05, 948.055, 948.07, 948.08, 948.11

1 or 948.12, the court shall decide whether to restrict or prohibit the person's use of or  
2 access to the internet as a condition of conditional release.

3 (f) Before a person is conditionally released by the court under this subsection,  
4 the court shall so notify the municipal police department and county sheriff for the  
5 area where the person will be residing. The notification requirement under this  
6 paragraph does not apply if a municipal department or county sheriff submits to the  
7 court a written statement waiving the right to be notified.

8 (g) If the department of health and family services alleges that a released  
9 person has violated any condition or rule, or that the safety of the person or others  
10 requires that conditional release be revoked, he or she may be taken into custody  
11 under the rules of the department. The department of health and family services  
12 shall submit a statement showing probable cause of the detention and a petition to  
13 revoke the order for conditional release to the committing court and the regional  
14 office of the state public defender responsible for handling cases in the county where  
15 the committing court is located within 48 hours after the detention. The court shall  
16 hear the petition within 30 days, unless the hearing or time deadline is waived by  
17 the detained person. Pending the revocation hearing, the department of health and  
18 family services may detain the person in a jail or in a hospital, center or facility  
19 specified by s. 51.15 (2). The state has the burden of proving by clear and convincing  
20 evidence that any rule or condition of release has been violated, or that the safety of  
21 the person or others requires that conditional release be revoked. If the court  
22 determines after hearing that any rule or condition of release has been violated, or  
23 that the safety of the person or others requires that conditional release be revoked,  
24 it may revoke the order for conditional release and order that the released person be

1 placed in an appropriate institution under s. 51.37 (3) until the expiration of the  
2 commitment or until again conditionally released under this section.

3 **SECTION 9.** 973.09 (1c) of the statutes is created to read:

4 973.09 (1c) (a) In this subsection, “child sex crime” means a violation of s.  
5 948.02, 948.025, 948.05, 948.055, 948.07, 948.08, 948.11 or 948.12.

6 (b) If a person is convicted of a child sex crime and the court places the person  
7 on probation for that crime, the court shall decide whether to restrict or prohibit the  
8 person’s use of or access to the internet as a condition of probation.

9 **SECTION 10.** 975.10 (1m) of the statutes is created to read:

10 975.10 (1m) When a person is paroled under this section, the department shall  
11 decide whether to restrict or prohibit the person’s use of or access to the internet as  
12 a condition of parole.

13 **SECTION 11.** 975.18 of the statutes is amended to read:

14 **975.18 Establishment of regulations.** The Subject to s. 975.10 (1m), the  
15 department may promulgate rules concerning parole, revocation of parole,  
16 supervision of parolees, and any other matters necessary for the administration of  
17 this chapter.

18 **SECTION 12.** 980.06 (2) (d) of the statutes is amended to read:

19 980.06 (2) (d) An order for supervised release places the person in the custody  
20 and control of the department. If a court places a person on supervised release, the  
21 court shall decide whether to restrict or prohibit the person’s use of or access to the  
22 internet as a condition of supervised release. A person on supervised release is also  
23 subject to the any other conditions set by the court and to the rules of the department.

24 (e) Before a person is placed on supervised release by the court under this  
25 section, the court shall so notify the municipal police department and county sheriff

1 for the municipality and county in which the person will be residing. The notification  
2 requirement under this paragraph does not apply if a municipal police department  
3 or county sheriff submits to the court a written statement waiving the right to be  
4 notified.

5 (f) If the department alleges that a released person has violated any condition  
6 or rule, or that the safety of others requires that supervised release be revoked, he  
7 or she may be taken into custody under the rules of the department. The department  
8 shall submit a statement showing probable cause of the detention and a petition to  
9 revoke the order for supervised release to the committing court and the regional  
10 office of the state public defender responsible for handling cases in the county where  
11 the committing court is located within 48 hours after the detention. The court shall  
12 hear the petition within 30 days, unless the hearing or time deadline is waived by  
13 the detained person. Pending the revocation hearing, the department may detain  
14 the person in a jail or in a hospital, center or facility specified by s. 51.15 (2). The state  
15 has the burden of proving by clear and convincing evidence that any rule or condition  
16 of release has been violated, or that the safety of others requires that supervised  
17 release be revoked. If the court determines after hearing that any rule or condition  
18 of release has been violated, or that the safety of others requires that supervised  
19 release be revoked, it may revoke the order for supervised release and order that the  
20 released person be placed in an appropriate institution until the person is discharged  
21 from the commitment under s. 980.09 or until again placed on supervised release  
22 under s. 980.08.

23 **SECTION 13.** 980.08 (6) of the statutes is amended to read:

24 980.08 (6) The provisions of s. 980.06 (2) (d), (e) and (f) apply to an order for  
25 supervised release issued under this section.

