



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRBs0404/1  
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**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2003 ASSEMBLY BILL 861**

March 3, 2004 – Offered by Representatives FRISKE, OWENS, F. LASEE, JESKEWITZ,  
GUNDRUM, PETROWSKI, TURNER, TAYLOR and SCHNEIDER.

1     **AN ACT** *to renumber and amend* 980.08 (4); *to amend* 980.01 (7), 980.02 (2)  
2           (c), 980.08 (3), 980.09 (1) (c) and 980.09 (2) (c); and *to create* 980.01 (1m) and  
3           980.08 (4) (b) 2. of the statutes; **relating to:** the definition of sexually violent  
4           person and criteria for supervised release.

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

5           **SECTION 1.** 980.01 (1m) of the statutes is created to read:

6           980.01 (1m) “Likely” means more likely than not.

7           **SECTION 2.** 980.01 (7) of the statutes is amended to read:

8           980.01 (7) “Sexually violent person” means a person who has been convicted  
9           of a sexually violent offense, has been adjudicated delinquent for a sexually violent  
10          offense, or has been found not guilty of or not responsible for a sexually violent  
11          offense by reason of insanity or mental disease, defect, or illness, and who is

1 dangerous because he or she suffers from a mental disorder that makes it  
2 substantially probable likely that the person will engage in acts of sexual violence.

3 **SECTION 3.** 980.02 (2) (c) of the statutes is amended to read:

4 980.02 (2) (c) The person is dangerous to others because the person’s mental  
5 disorder ~~creates a substantial probability~~ makes it likely that he or she will engage  
6 in acts of sexual violence.

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

8 980.08 (3) Within 20 days after receipt of the petition, the court shall appoint  
9 one or more examiners having the specialized knowledge determined by the court to  
10 be appropriate, who shall examine the person and furnish a written report of the  
11 examination to the court within 30 days after appointment. The examiners shall  
12 have reasonable access to the person for purposes of examination and to the person’s  
13 past and present treatment records, as defined in s. 51.30 (1) (b), and patient health  
14 care records, as provided under s. 146.82 (2) (c). If any such examiner believes that  
15 the person is appropriate for supervised release under the ~~criterion~~ criteria specified  
16 in sub. (4) (b), the examiner shall report on the type of treatment and services that  
17 the person may need while in the community on supervised release. The county shall  
18 pay the costs of an examiner appointed under this subsection as provided under s.  
19 51.20 (18) (a).

20 **SECTION 5.** 980.08 (4) of the statutes is renumbered 980.08 (4) (a) and amended  
21 to read:

22 980.08 (4) (a) The court, without a jury, shall hear the petition within 30 days  
23 after the report of the court-appointed examiner is filed with the court, unless the  
24 petitioner waives this time limit. Expenses of proceedings under this subsection  
25 shall be paid as provided under s. 51.20 (18) (b), (c), and (d).

1           **(b)** The court shall grant the petition unless the state proves by clear and  
2           convincing evidence ~~that the person is still a sexually violent person and that~~ one of  
3           the following:

4           1. That it is still ~~substantially probable~~ likely that the person will engage in acts  
5           of sexual violence if the person is not continued in institutional care.

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

20           **SECTION 6.** 980.08 (4) (b) 2. of the statutes is created to read:

21           980.08 (4) (b) 2. That the person has not demonstrated significant progress in  
22           his or her treatment or the person has refused treatment.

23           **SECTION 7.** 980.09 (1) (c) of the statutes is amended to read:

24           980.09 (1) (c) If the court is satisfied that the state has not met its burden of  
25           proof under par. (b), the petitioner shall be discharged from the custody or

1 supervision of the department. If the court is satisfied that the state has met its  
2 burden of proof under par. (b), the court may proceed to determine, using the ~~riterion~~  
3 criteria specified in s. 980.08 (4) (b), whether to modify the petitioner's existing  
4 commitment order by authorizing supervised release.

5 **SECTION 8.** 980.09 (2) (c) of the statutes is amended to read:

6 980.09 (2) (c) If the court is satisfied that the state has not met its burden of  
7 proof under par. (b), the person shall be discharged from the custody or supervision  
8 of the department. If the court is satisfied that the state has met its burden of proof  
9 under par. (b), the court may proceed to determine, using the ~~riterion~~ criteria  
10 specified in s. 980.08 (4) (b), whether to modify the person's existing commitment  
11 order by authorizing supervised release.

12 **SECTION 9. Initial applicability.**

13 (1) The treatment of section 980.01 (1m) and (7) of the statutes, the  
14 renumbering and amendment of section 980.08 (4) of the statutes, and the creation  
15 of section 980.08 (4) (b) 2. of the statutes first apply to hearings, trials, and  
16 proceedings that are commenced on the effective date of this subsection.

17 **(END)**