



2005 SENATE BILL 568

February 3, 2006 – Introduced by Senator REYNOLDS. Referred to Committee on Labor and Election Process Reform.

1 **AN ACT** *to repeal* 980.105; *to renumber and amend* 980.08 (5); *to amend*
2 20.435 (2) (bj), 46.10 (2), chapter 77 (title), 301.03 (19) and 980.12 (1); and *to*
3 **create** 20.435 (2) (gb), subchapter XIII of chapter 77 [precedes 77.9971] and
4 980.08 (5m) of the statutes; **relating to:** the county of placement for persons
5 on supervised release, creating a tax on adult entertainment businesses,
6 providing grants for transitional release facilities, requiring the exercise of
7 rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, a person who has been committed to the custody of the Department of Health and Family Services (DHFS) as a sexually violent person may be placed on supervised release if the person no longer requires institutional care. If a court determines that supervised release is appropriate, DHFS must make its best effort to arrange that the person be placed in a residential facility or dwelling in the person's county of residence (generally the county where the person lived prior to committing the sexually violent offense), as determined by DHFS. If the person's county of residence declines to prepare a plan for supervised release, DHFS may arrange for another county to prepare a plan, and if no county agrees to prepare a plan, the court must order a county to prepare a plan. DHFS and the county in which the person will be released must prepare a plan for treating and monitoring the person while on supervised release.

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This bill eliminates the requirement that DHFS make its best effort to place the person in his or her county of residence. Instead DHFS must designate the county of placement based on the type of treatment and services the person may need and the ability of the county, a public agency, or a private agency to provide the treatment and services and based on the proximity of other persons on supervised release and of persons in the custody of the Department of Corrections regarding whom a sex offender notification bulletin has been issued to law enforcement agencies.

This bill imposes a tax on the operation of an adult book store or video store. The tax is equal to 12 percent of the amount paid to the business for an admissions fee, a user fee, and the sale of food, beverages, tangible personal property, and services. The revenue generated from the tax will be distributed as a grant by DHFS to counties and municipalities for the siting, construction, and maintenance of transitional release facilities for sexually violent persons who are placed on supervised release. Only transitional release facilities that are to be located in a remote area are eligible for a grant for siting or constructing.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 20.435 (2) (bj) of the statutes is amended to read:

2 20.435 (2) (bj) *Competency examinations and conditional and supervised*
3 *release services.* Biennially, the amounts in the schedule for outpatient competency
4 examinations and for payment by the department of costs for treatment and services
5 for persons released under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d) or (4) (e)
6 or 980.08 (5) (b), for which the department has contracted with county departments
7 under s. 51.42 (3) (aw) 1. d., with other public agencies, or with private agencies to
8 provide the treatment and services.

9 **SECTION 2.** 20.435 (2) (gb) of the statutes is created to read:

10 20.435 (2) (gb) *Transitional release facilities.* All moneys received from the tax
11 imposed under s. 77.9971 to be used for the siting, construction, and maintenance
12 of transitional release facilities for persons who are placed on supervised release, as
13 provided under s. 980.08 (5m).

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1 **SECTION 3.** 46.10 (2) of the statutes is amended to read:

2 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
3 including but not limited to a person admitted, committed or placed under s. 975.01,
4 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 51.10, 51.13,
5 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.06, 971.14
6 (2) and (5), 971.17 (1), 975.06 and 980.06, receiving care, maintenance, services and
7 supplies provided by any institution in this state including University of Wisconsin
8 Hospitals and Clinics, in which the state is chargeable with all or part of the person's
9 care, maintenance, services and supplies, any person receiving care and services
10 from a county department established under s. 51.42 or 51.437 or from a facility
11 established under s. 49.73, and any person receiving treatment and services from a
12 public or private agency under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d) or (4)
13 (e) or 980.08 (5) (b) and the person's property and estate, including the homestead,
14 and the spouse of the person, and the spouse's property and estate, including the
15 homestead, and, in the case of a minor child, the parents of the person, and their
16 property and estates, including their homestead, and, in the case of a foreign child
17 described in s. 48.839 (1) who became dependent on public funds for his or her
18 primary support before an order granting his or her adoption, the resident of this
19 state appointed guardian of the child by a foreign court who brought the child into
20 this state for the purpose of adoption, and his or her property and estate, including
21 his or her homestead, shall be liable for the cost of the care, maintenance, services
22 and supplies in accordance with the fee schedule established by the department
23 under s. 46.03 (18). If a spouse, widow surviving spouse, or minor, or an
24 incapacitated person may be lawfully dependent upon the property for their support,
25 the court shall release all or such part of the property and estate from the charges

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1 that may be necessary to provide for those persons. The department shall make
2 every reasonable effort to notify the liable persons as soon as possible after the
3 beginning of the maintenance, but the notice or the receipt thereof is not a condition
4 of liability.

5 **SECTION 4.** Chapter 77 (title) of the statutes is amended to read:

CHAPTER 77**TAXATION OF FOREST CROPLANDS;****REAL ESTATE TRANSFER FEES;****SALES AND USE TAXES; COUNTY****AND SPECIAL DISTRICT SALES****AND USE TAXES; MANAGED FOREST****LAND; TEMPORARY RECYCLING****SURCHARGE; LOCAL FOOD AND****BEVERAGE TAX; LOCAL RENTAL****CAR TAX; PREMIER RESORT AREA****TAXES; STATE RENTAL VEHICLE FEE;****DRY CLEANING FEES; ADULT****ENTERTAINMENT BUSINESS TAX**

19 **SECTION 5.** Subchapter XIII of chapter 77 [precedes 77.9971] of the statutes is
20 created to read:

CHAPTER 77**SUBCHAPTER XIII****ADULT ENTERTAINMENT BUSINESS TAX**

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1 **77.9971 Imposition. (1)** A tax is imposed on a business that operates an adult
2 book store or adult video store, as determined by ordinance or zoning by the
3 municipality in which the store is located, at the rate of 12 percent of the amount paid
4 to the business for any of the following:

5 (a) An admissions fee.

6 (b) A user fee.

7 (c) A retail sale of tangible personal property that is subject to the taxes
8 imposed under subch. III.

9 (d) A sale of food, food products, or beverages that is subject to the taxes
10 imposed under subch. III.

11 (e) A sale of any service that is subject to the tax imposed under subch III.

12 **77.9972 Administration. (1)** The department of revenue shall administer
13 the tax under this subchapter and shall take any action, conduct any proceeding, and
14 impose interest and penalties.

15 **(2)** Sections 77.52 (4), (12) to (14) and (19), 77.58 (1) to (5) and (7), 77.59, 77.60,
16 77.61 (3), (5), (8), (9), and (12) to (14), and 77.62, as they apply to the taxes under
17 subch. III, apply to the tax under this subchapter.

18 **(3)** All revenue collected from the tax imposed under this subchapter shall be
19 credited to the appropriation account under s. 20.435 (2) (gb).

20 **SECTION 6.** 301.03 (19) of the statutes is amended to read:

21 301.03 **(19)** Work to minimize, to the greatest extent possible, the residential
22 population density of sex offenders, as defined in s. 302.116 (1) (b), who are on
23 probation, parole, or extended supervision or placed on supervised release under s.
24 980.06 (2) (c), 1997 stats., or s. 980.08 ~~(5)~~.

SENATE BILL 568**SECTION 7**

1 **SECTION 7.** 980.08 (5) of the statutes is renumbered 980.08 (5) (a) and amended
2 to read:

3 980.08 **(5)** (a) If the court finds that the person is appropriate for supervised
4 release, the court shall notify the department. The department shall ~~make its best~~
5 ~~effort to~~ arrange for placement of the person in a residential facility or dwelling that
6 is in the person's a county of residence, as determined ~~as determined~~ designated by the department
7 under s. 980.105. The department shall designate the county of placement based on
8 the type of treatment and services identified in sub. (3) that the person may need
9 while on supervised release and the county's ability to provide the treatment and
10 services or the department's ability to contract with a public agency or with a private
11 agency for the provision of the treatment and services in the county and based on the
12 proximity of any potential placement to the residence of other persons on supervised
13 release and to the residence of persons who are in the custody of the department of
14 corrections and regarding whom a sex offender notification bulletin has been issued
15 to law enforcement agencies under s. 301.46 (2m) (a) or (am).

16 (b) The department and the county department under s. 51.42 in the county of
17 residence of the person ~~designated by the department under par. (a)~~ shall prepare
18 a plan that identifies the treatment and services, if any, that the person will receive
19 in the community. The plan shall address the person's need, if any, for supervision,
20 counseling, medication, community support services, residential services, vocational
21 services, and alcohol or other drug abuse treatment. ~~In developing a plan for where~~
22 the person may reside while on supervised release, the department shall consider the
23 proximity of any potential placement to the residence of other persons on supervised
24 release and to the residence of persons who are in the custody of the department of
25 corrections and regarding whom a sex offender notification bulletin has been issued

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1 ~~to law enforcement agencies under s. 301.46 (2m) (a) or (am).~~ If the person is a serious
2 child sex offender, the plan shall address the person's need for pharmacological
3 treatment using an antiandrogen or the chemical equivalent of an antiandrogen. The
4 department may contract with a county department, under s. 51.42 (3) (aw) 1. d.,
5 with another public agency or with a private agency to provide the treatment and
6 services identified in the plan. The plan shall specify who will be responsible for
7 providing the treatment and services identified in the plan. The plan shall be
8 presented to the court for its approval within 60 days after the court finding that the
9 person is appropriate for supervised release, unless the department, county
10 department, and person to be released request additional time to develop the plan.

11 (c) If the county department of the person's county of residence designated
12 under par. (a) declines to prepare a plan, the department may arrange for designate
13 another county to prepare the plan if the department determines that that county
14 meets the criteria under par. (a) and if that county agrees to prepare the plan and
15 if the person will be living in that county. If the department is unable to arrange for
16 designate another county to prepare a plan, the court shall designate a county
17 department to prepare the plan, order the county department to prepare the plan,
18 and place the person on supervised release in that county, except that the court may
19 not so designate the county department in any county where there is a facility in
20 which persons committed to institutional care under this chapter are placed unless
21 that county is also the person's county of residence.

22 **SECTION 8.** 980.08 (5m) of the statutes is created to read:

23 980.08 **(5m)** (a) From the appropriation under s. 20.435 (2) (gb), the
24 department shall provide grants, in the manner determined by the department by
25 rule, to counties and municipalities for the siting, construction, and maintenance of

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1 transitional release facilities for persons placed on supervised release. No grant
2 awarded under this subsection may exceed \$1,000,000 in a fiscal year.

3 (b) The department may not provide a grant under this subsection for the siting
4 or construction of a transitional release facility unless the facility will be located in
5 a remote area, as determined by the department by rule.

6 **SECTION 9.** 980.105 of the statutes is repealed.

7 **SECTION 10.** 980.12 (1) of the statutes is amended to read:

8 980.12 (1) Except as provided in ss. 980.03 (4) and 980.08 (3) and (5m), the
9 department shall pay from the appropriations under s. 20.435 (2) (a) and (bm) for all
10 costs relating to the evaluation, treatment and care of persons evaluated or
11 committed under this chapter.

12 **SECTION 11. Initial applicability.**

13 (1) The treatment of section 980.08 (5) of the statutes first applies to plans for
14 supervised released that are not approved by the court on the effective date of this
15 subsection.

16 **SECTION 12. Effective date.**

17 (1) This act takes effect on the first day of the 2nd month beginning after
18 publication.

19 (END)