



2009 SENATE BILL 493

January 25, 2010 – Introduced by LAW REVISION COMMITTEE. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

1 **AN ACT to amend** 980.07 (1), 980.08 (9) (a) and 980.08 (9) (b) of the statutes;
2 **relating to:** appointment of an examiner for a person committed as a sexually
3 violent person, and specification of the department responsible for providing an
4 escort for a sexually violent person on supervised release (suggested as
5 remedial legislation by the Department of Health Services).

Analysis by the Legislative Reference Bureau

Current law provides for committing a person who is found to be a sexually violent person to the custody of the Department of Health Services (DHS). Upon initial commitment, a sexually violent person is placed in institutional care and may subsequently be placed on supervised release or discharged from commitment. Every 12 months DHS must appoint an examiner to examine the mental condition of a person who remains in an institution or on supervised release. At the time of the annual examination, the sexually violent person may retain his or her own examiner or have the court appoint an examiner. However, the court is not required to appoint an examiner if the examination conducted by the DHS-appointed examiner supports supervised release or discharge of the sexually violent person. This bill eliminates the exception that the court need not appoint an examiner for a sexually violent person at the time of the required annual examination if the annual examination conducted by the DHS-appointed examiner supports supervised release or discharge.

Current law provides that DHS is responsible for the control, care, and treatment of a sexually violent person committed to DHS and placed on supervised

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release. However, current law specifies that during the first year a sexually violent person is placed on supervised release, he or she must remain at his or her home unless under the direct supervision of a Department of Corrections escort. This bill clarifies that a DHS escort, rather than a Department of Corrections escort, supervises sexually violent persons on supervised release.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Health Services and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 980.07 (1) of the statutes is amended to read:

980.07 (1) If a person is committed under s. 980.06 and has not been discharged under s. 980.09 (4), the department shall appoint an examiner to conduct a reexamination of the person's mental condition within 12 months after the date of the initial commitment order under s. 980.06 and again thereafter at least once each 12 months to determine whether the person has made sufficient progress for the court to consider whether the person should be placed on supervised release or discharged. The examiner shall apply the criteria under s. 980.08 (4) (cg) when considering if the person should be placed on supervised release and shall apply the criteria under s. 980.09 (3) when considering if the person should be discharged. At the time of a reexamination under this section, the person who has been committed may retain or have the court appoint an examiner as provided under s. 980.031 (3), except that the court is not required to appoint an examiner if supervised release or discharge is supported by the examination conducted by the examiner appointed by

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1 ~~the department.~~ The county shall pay the costs of an examiner appointed by the
2 court as provided under s. 51.20 (18) (a).

NOTE: This SECTION eliminates an exception in current law that says that the court is not required to appoint an examiner to examine a committed sexually violent person, if the examination conducted by the Department of Health Services-appointed examiner supports supervised release or discharge of the person.

3 **SECTION 2.** 980.08 (9) (a) of the statutes is amended to read:

4 980.08 (9) (a) As a condition of supervised release granted under this chapter,
5 for the first year of supervised release, the court shall restrict the person on
6 supervised release to the person's home except for outings that are under the direct
7 supervision of a department of ~~corrections~~ escort and that are for employment
8 purposes, for religious purposes, or for caring for the person's basic living needs.

9 **SECTION 3.** 980.08 (9) (b) of the statutes is amended to read:

10 980.08 (9) (b) The department of ~~corrections~~ may contract for the escort
11 services under par. (a).

NOTE: SECTIONS 2 and 3 clarify that the Department of Health Services, not the Department of Corrections, is responsible for supervising a sexually violent person on supervised release.

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(END)