

1979 Senate Bill 339

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CHAPTER 117, Laws of 1979

AN ACT to repeal 975.02 to 975.05, 975.13 and 975.14; to renumber and amend 975.09; to amend 46.10 (2), 51.05 (2), 51.37 (1), 51.42 (9) (a), 51.437 (12) (a) and 975.12; to repeal and recreate 975.01, 975.15 and 975.17; and to create 975.09 (2) and (3) and 975.12 (3) of the statutes, relating to commitment and treatment of persons convicted of sex crimes.

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

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

46.10 (2) Except as provided in sub. (2m), any person, including but not limited to a person admitted or committed under ss. 51.10, 51.13, 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.06, 971.14 (2) and (5), 971.17 (1), 975.01, 1977 stats., 975.02, 1977 stats., 975.06 and 975.17, 1977 stats., receiving care, maintenance, services and supplies provided by any institution in this state including university of Wisconsin hospital and clinics, in which the state is chargeable with all or part of the person's care, maintenance, services and supplies, and any person receiving care and services under boards or facilities established under ss. 49.175, 51.42 and 51.437, and the person's property and estate, including the homestead, and the spouse of ~~such~~ the person, and the spouse's property and estate, including the homestead, and, in the case of a minor child, the parents of ~~such~~ the person, and their property and estates, including their homestead, shall be liable for the cost of the care, maintenance, services and supplies in accordance with the fee schedule established by the department under s. 46.03 (18). The department may bring action for the enforcement of ~~such~~ the liability. If a spouse, widow or minor, or an incapacitated person may be lawfully dependent upon ~~such~~ the property for their support, the court shall release all or such part of the property and estate from ~~such~~ the charges that may be necessary to provide for ~~such~~ those persons. The department shall make every reasonable effort to notify the relatives liable as soon as possible after the beginning of the maintenance, but ~~such~~ the notice or the receipt thereof is not a condition of liability of the relative.

SECTION 2. 51.05 (2) of the statutes is amended to read:

51.05 (2) The department may not accept for admission to a mental health institute any resident person, except in an emergency, unless the board established under s. 51.42 in the county where the person has legal residency authorizes ~~such~~ the care, as provided in s. 51.42 (9). Patients who are committed to the department under s. 971.14, 971.17, 975.01, 1977 stats., 975.02, 1977 stats., or 975.06, admitted by the department under s. 975.17, 1977 stats., or are transferred from a juvenile correctional facility to a state treatment facility under s. 51.35 (3) or from a jail or prison to a state treatment facility under s. 51.37 (5) are not subject to this section.

SECTION 3. 51.37 (1) of the statutes is amended to read:

51.37 (1) All commitments under ss. 971.14 (5), 971.17, 975.01, 1977 stats., 975.02, 1977 stats., and 975.06 shall be to the department.

SECTION 4. 51.42 (9) (a) of the statutes is amended to read:

51.42 (9) (a) Authorization for all care of any patient in a state, local or private facility shall be provided under a contractual agreement between the board and the facility, unless the board governs ~~such~~ the facility. The need for inpatient care shall be determined by the clinical director of the program. In cases of emergency, a facility under contract with any board shall charge the board having jurisdiction in the county where the patient is found. The board shall reimburse the facility for the actual cost of all authorized care and services less applicable collections according to s. 46.036, unless the department determines that a charge is administratively infeasible, or unless the department, after individual review, determines that the charge is not attributable to the cost of basic care and services. ~~However, boards~~ Boards shall not reimburse any state institution nor receive credit for collections for care received therein by nonresidents of this state, interstate compact clients, transfers under s. 51.35 (3), and transfers from Wisconsin state prisons under s. 51.37 (5) (a), commitments under s. 971.14, 971.17, 975.01, 1977 stats., 975.02, 1977 stats., 975.06 or admissions under s. 975.17, 1977 stats., or children placed in the guardianship or legal custody of the department under s. 48.355 or 48.43.

The exclusionary provisions of s. 46.03 (18) do not apply to direct and indirect costs which are attributable to care and treatment of the client.

SECTION 5. 51.437 (12) (a) of the statutes is amended to read:

51.437 (12) (a) Authorization for all care of any patient in a state, local or private facility shall be provided under a contractual agreement between the board and the facility, unless the board governs ~~such~~ the facility. The need for inpatient care shall be determined by the clinical director of the program prior to the admission of a patient to the facility except in the case of emergency services. In cases of emergency, a facility under contract with any board shall charge the board having jurisdiction in the county where the individual receiving care is found. The board shall reimburse the facility for the actual cost of all authorized care and services less applicable collections according to s. 46.036, unless the department determines that a charge is administratively infeasible, or unless the department, after individual review, determines that the charge is not attributable to the cost of basic care and services. The exclusionary provisions of s. 46.03 (18) do not apply to direct and indirect costs which are attributable to care and treatment of the client. Boards shall not reimburse any state institution nor receive credit for collections for care received therein by nonresidents of this state, interstate compact clients, transfers under s. 51.35 (3) (a), commitments under s. 971.14, 971.17, 975.01, 1977 stats., 975.02, 1977 stats., 975.06, admissions under s. 975.17, 1977 stats., or children placed in the guardianship or legal custody of the department under s. 48.355 or 48.43.

SECTION 6. 975.01 of the statutes is repealed and recreated to read:

975.01 End of commitments; declaration of policy. (1) No person may be committed under this chapter after the effective date of this act (1979).

(2) The legislature finds and declares that persons violating s. 940.225 or committing crimes when motivated by a desire for sexual excitement may be in need of specialized treatment. The legislature intends that the department should provide treatment for those persons.

SECTION 7. 975.02 to 975.05 of the statutes are repealed.

SECTION 8. 975.09 of the statutes is renumbered 975.09 (1) and amended to read:

975.09 (1) The department shall make periodic examinations of all persons within its control under s. 975.06 for the purpose of determining whether existing orders and dispositions in individual cases should be modified or continued in force. These examinations may be made as frequently as the department considers desirable and shall be made with respect to every person at intervals not exceeding one year. The department shall keep written records of all examinations and of conclusions predicated thereon, and of all orders concerning the disposition or treatment of every person under its control. Failure of the department to examine a person committed to it or to make periodic examination ~~shall~~ does not entitle him the person to a discharge from the control of the department, but ~~shall~~ does entitle him the person to petition the committing court for an order of discharge, and the court shall discharge ~~him the person~~ him the person unless it appears in accordance with s. 975.13 sub. (3) that there is necessity for further control.

SECTION 9. 975.09 (2) and (3) of the statutes are created to read:

975.09 (2) If the person petitions the court for discharge under sub. (1), the person may appear in court with counsel and compel the attendance of witnesses and the production of evidence. The person may have a physician or clinical psychologist of the person's choosing examine the person and the medical records in the institution to which confined or at some suitable place designated by the department. If unable to provide counsel, the court shall appoint counsel to represent the person. Section 975.06 (1) governs the procedure of the hearing.

(3) If, after a hearing, it is found that discharge from the control of the department of the person to whom the order applies would be dangerous to the public because of the person's mental or physical deficiency, disorder or abnormality, the court shall dismiss the petition. If it is found that discharge from the control of the department would not be dangerous to the public for the causes stated, the court shall order that the person be discharged from the control of the department.

SECTION 10. 975.12 of the statutes is amended to read:

975.12 Termination of control. (1) Every person committed to the department under this chapter who has not been discharged as provided in this chapter shall be discharged at the expiration of one year or the expiration of the maximum term prescribed by the law for the offense for which he or she was committed subject to sub. (2) and the credit provisions of s. 973.155, whichever period of time is greater, unless the department ~~shall have acted under s. 975.13 to continue him or her subject to its control~~ has petitioned for civil commitment of the person under s. 51.20. For the purpose of this subsection, sentence shall begin at noon of the day of the commitment by the court to the department.

(2) All commitments under s. 975.06 for offenses committed after July 1, 1970, shall be subject to ss. 53.11 and 53.12. If the department is of the opinion that release on parole ~~pursuant to~~ under s. 53.11 (7) (a) would be dangerous to the public, it shall ~~either make an order directing that the person remain subject to its control or make an order suspending the provisions of s. 53.11 (7) (a) and in either case shall make application to the committing court for a review of that order proceeding as provided in this chapter petition for civil commitment under s. 51.20.~~

SECTION 11. 975.12 (3) of the statutes is created to read:

975.12 (3) Every person subject to the extended control of the department under ss. 975.13 to 975.15, 1977 stats., shall be discharged 5 years from the date of the commencement of extended control unless previously discharged under s. 975.15. If the department is of the opinion that release of a person from extended control would be dangerous to the public, it shall petition for civil commitment under s. 51.20.

SECTION 12. 975.13 and 975.14 of the statutes are repealed.

SECTION 13. 975.15 of the statutes is repealed and recreated to read:

975.15 Review by court of orders of the department. During any period of extended control, but not more often than semiannually, a person may apply to the committing court for a reexamination of his or her mental condition and the court shall fix a time for hearing the matter. The proceeding shall be as provided in s. 51.20 (16), except as otherwise provided in this section.

SECTION 14. 975.17 of the statutes is repealed and recreated to read:

975.17 Option for resentencing. A person who has been committed under ch. 975, 1977 stats., may petition the committing court for resentencing. A court shall act upon any petition received, and resentencing shall be in accordance with ch. 973. The person shall be given credit for time served pursuant to the commitment under this chapter.

SECTION 15. **Effective date.** This act takes effect July 1, 1980, or on the day after publication, whichever is later.
