

State of Wisconsin



1997 Assembly Bill 577

Date of enactment: **June 15, 1998**
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1997 WISCONSIN ACT 284

AN ACT to renumber 980.12; to amend 302.11 (1g) (b) 2., 980.06 (2) (b), 980.06 (2) (c), 980.08 (4) and 980.08 (5); and to create 20.410 (1) (bm), 301.03 (11), 304.06 (1q), 980.01 (4m) and 980.12 (2) of the statutes; relating to: pharmacological treatment for persons convicted of certain child sex offenses and certain persons found to be sexually violent persons, affecting parole and making an appropriation.

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

SECTION 1e. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

		1997-98	1998-99
20.410	Corrections, department of		
(1)	ADULT CORRECTIONAL SERVICES		
(bm)	Pharmacological treatment for certain child sex offenders		
		GPR A	-0- 374,700

SECTION 1m. 20.410 (1) (bm) of the statutes is created to read:

20.410 (1) (bm) *Pharmacological treatment for certain child sex offenders.* The amounts in the schedule for the pharmacological treatment of certain child sex offenders.

SECTION 1r. 301.03 (11) of the statutes is created to read:

301.03 (11) By the first day of the 37th month beginning after the effective date of this subsection [revisor inserts date], submit a report to the legislature under s. 13.172 (2) concerning the extent to which the department has required pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen as a condition of probation or parole and the effectiveness

of the treatment in the cases in which its use has been required.

SECTION 2. 302.11 (1g) (b) 2. of the statutes is amended to read:

302.11 (1g) (b) 2. Refusal by the inmate to participate in counseling or treatment that the social service and clinical staff of the institution determines is necessary for the inmate, including pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen if the inmate is a serious child sex offender as defined in s. 304.06 (1q) (a).

SECTION 3. 304.06 (1q) of the statutes is created to read:

304.06 (1q) (a) In this subsection, "serious child sex offender" means a person who has been convicted of

* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

committing a crime specified in s. 948.02 (1) or (2) or 948.025 (1) against a child who had not attained the age of 13 years.

(b) The parole commission or the department may require as a condition of parole that a serious child sex offender undergo pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen. This paragraph does not prohibit the department from requiring pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen as a condition of probation.

(c) In deciding whether to grant a serious child sex offender release on parole under this subsection, the parole commission may not consider, as a factor in making its decision, that the offender is a proper subject for pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen or that the offender is willing to participate in pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen.

SECTION 4. 980.01 (4m) of the statutes is created to read:

980.01 (4m) “Serious child sex offender” means a person who has been convicted, adjudicated delinquent or found not guilty or not responsible by reason of insanity or mental disease, defect or illness for committing a violation of a crime specified in s. 948.02 (1) or (2) or 948.025 (1) against a child who had not attained the age of 13 years.

SECTION 5. 980.06 (2) (b) of the statutes is amended to read:

980.06 (2) (b) An order for commitment under this section shall specify either institutional care in a secure mental health unit or facility, as provided under s. 980.065, or other facility or supervised release. In determining whether commitment shall be for institutional care in a secure mental health unit or facility or other facility or for supervised release, the court may consider, without limitation because of enumeration, the nature and circumstances of the behavior that was the basis of the allegation in the petition under s. 980.02 (2) (a), the person’s mental history and present mental condition, where the person will live, how the person will support himself or herself, and what arrangements are available to ensure that the person has access to and will participate in necessary treatment, including pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen if the person is a serious child sex offender. In deciding whether to order supervised release of person who is a serious child sex offender, the court may not consider, as a factor in making its decision, that the person is a proper subject for pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen or that the person is willing to participate in pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen. The depart-

ment shall arrange for control, care and treatment of the person in the least restrictive manner consistent with the requirements of the person and in accordance with the court’s commitment order.

SECTION 6. 980.06 (2) (c) of the statutes is amended to read:

980.06 (2) (c) If the court finds that the person is appropriate for supervised release, the court shall notify the department. The department and the county department under s. 51.42 in the county of residence of the person, as determined under s. 980.105, shall prepare a plan that identifies the treatment and services, if any, that the person will receive in the community. The plan shall address the person’s need, if any, for supervision, counseling, medication, community support services, residential services, vocational services, and alcohol or other drug abuse treatment. If the person is a serious child sex offender, the plan shall address the person’s need for pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen. The department may contract with a county department, under s. 51.42 (3) (aw) 1. d., with another public agency or with a private agency to provide the treatment and services identified in the plan. The plan shall specify who will be responsible for providing the treatment and services identified in the plan. The plan shall be presented to the court for its approval within 21 days after the court finding that the person is appropriate for supervised release, unless the department, county department and person to be released request additional time to develop the plan. If the county department of the person’s county of residence declines to prepare a plan, the department may arrange for another county to prepare the plan if that county agrees to prepare the plan and if the person will be living in that county. If the department is unable to arrange for another county to prepare a plan, the court shall designate a county department to prepare the plan, order the county department to prepare the plan and place the person on supervised release in that county, except that the court may not so designate the county department in the county where the facility in which the person was committed for institutional care is located unless that county is also the person’s county of residence.

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

980.08 (4) The court, without a jury, shall hear the petition within 30 days after the report of the court-appointed examiner is filed with the court, unless the petitioner waives this time limit. Expenses of proceedings under this subsection shall be paid as provided under s. 51.20 (18). The court shall grant the petition unless the state proves by clear and convincing evidence that the person is still a sexually violent person and that it is still substantially probable that the person will engage in acts of sexual violence if the person is not confined in a secure mental health unit or facility. In making a decision under

this subsection, the court may consider, without limitation because of enumeration, the nature and circumstances of the behavior that was the basis of the allegation in the petition under s. 980.02 (2) (a), the person's mental history and present mental condition, where the person will live, how the person will support himself or herself and what arrangements are available to ensure that the person has access to and will participate in necessary treatment, including pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen if the person is a serious child sex offender. A decision under this subsection on a petition filed by a person who is a serious child sex offender may not be made based on the fact that the person is a proper subject for pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen or on the fact that the person is willing to participate in pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen.

SECTION 8. 980.08 (5) of the statutes is amended to read:

980.08 (5) If the court finds that the person is appropriate for supervised release, the court shall notify the department. The department and the county department under s. 51.42 in the county of residence of the person, as determined under s. 980.105, shall prepare a plan that identifies the treatment and services, if any, that the person will receive in the community. The plan shall address the person's need, if any, for supervision, counseling, medication, community support services, residential services, vocational services, and alcohol or other drug abuse treatment. If the person is a serious child sex offender, the plan shall address the person's need for pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen. The department may contract with a county department, under s. 51.42 (3) (aw) 1. d., with another public agency or with a private agency to provide the treatment and services identified in the plan. The plan shall specify who will be responsible for providing the treatment and services identified in the plan. The plan shall be presented to the court for its approval within 60 days after the court finding that the

person is appropriate for supervised release, unless the department, county department and person to be released request additional time to develop the plan. If the county department of the person's county of residence declines to prepare a plan, the department may arrange for another county to prepare the plan if that county agrees to prepare the plan and if the person will be living in that county. If the department is unable to arrange for another county to prepare a plan, the court shall designate a county department to prepare the plan, order the county department to prepare the plan and place the person on supervised release in that county, except that the court may not so designate the county department in the county where the facility in which the person was committed for institutional care is located unless that county is also the person's county of residence.

SECTION 9. 980.12 of the statutes is renumbered 980.12 (1).

SECTION 10. 980.12 (2) of the statutes is created to read:

980.12 (2) By the first day of the 37th month beginning after the effective date of this subsection [revisor inserts date], the department shall submit a report to the legislature under s. 13.172 (2) concerning the extent to which pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen has been required as a condition of supervised release under s. 980.06 or 980.08 and the effectiveness of the treatment in the cases in which its use has been required.

SECTION 11c. Nonstatutory provisions.

(1) POSITION AUTHORIZATIONS. The authorized FTE positions for the department of corrections are increased by 1.0 GPR position and 1.0 GPR project position, to be funded from the appropriation under section 20.410 (1) (bm) of the statutes, as created by this act, for the purpose of performing services relating to the pharmacological treatment of certain child sex offenders. The 1.0 GPR project position shall be for a period not to exceed one year.

SECTION 11r. Effective date.

(1) This act takes effect on January 1, 1999.