



**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 1997 ASSEMBLY BILL 875**

March 24, 1998 – Offered by Representatives SCHAFER and HUBER.

1 **AN ACT to amend** 51.37 (9), 51.37 (10) (c), 302.045 (3), 304.02 (2), 971.17 (3) (e),
2 975.18, 980.06 (2) (d) and 980.08 (6); and **to create** 302.11 (5m), 304.02 (6),
3 304.06 (1s), 973.09 (1c) and 975.10 (1m) of the statutes; **relating to:** prohibiting
4 or restricting use of or access to the internet by persons who have committed
5 certain crimes and who are on parole, probation or other type of supervised or
6 conditional release.

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

7 **SECTION 1.** 51.37 (9) of the statutes is amended to read:
8 51.37 (9) If in the judgment of the director of Mendota mental health institute,
9 Winnebago mental health institute or the Milwaukee county mental health complex,
10 any person who is committed under s. 971.14 or 971.17 is not in such condition as
11 warrants his or her return to the court but is in a condition to receive a conditional

1 transfer or discharge under supervision, the director shall report to the department
2 of health and family services, the committing court and the district attorney of the
3 county in which the court is located his or her reasons for the judgment. If the court
4 does not file objection to the conditional transfer or discharge within 60 days of the
5 date of the report, the director may, with the approval of the department of health
6 and family services, conditionally transfer any person to a legal guardian or other
7 person, subject to the rules of the department of health and family services. If the
8 person being conditionally transferred or discharged under supervision was
9 committed under s. 971.17 after being found not guilty by reason of mental disease
10 or defect for a violation of s. 948.02, 948.025, 948.05, 948.055, 948.07, 948.08, 948.11
11 or 948.12, the department of health and family services shall decide whether to
12 restrict or prohibit the person's use of or access to the internet as a condition of the
13 transfer or discharge. Before a person is conditionally transferred or discharged
14 under supervision under this subsection, the department of health and family
15 services shall so notify the municipal police department and county sheriff for the
16 area where the person will be residing. The notification requirement does not apply
17 if a municipal department or county sheriff submits to the department of health and
18 family services a written statement waiving the right to be notified. The department
19 of health and family services may contract with the department of corrections for the
20 supervision of persons who are transferred or discharged under this subsection.

21 **SECTION 2.** 51.37 (10) (c) of the statutes is amended to read:

22 51.37 (10) (c) Any patient who is granted a home visit or leave under this
23 subsection shall be restricted to the confines of this state unless otherwise
24 specifically permitted. The patient may, in addition, be restricted to a particular
25 geographic area. If a patient granted a home visit or leave was committed under s.

1 971.17 or ch. 975 after being convicted of or found not guilty by reason of mental
2 disease or defect for a violation of s. 948.02, 948.025, 948.05, 948.055, 948.07, 948.08,
3 948.11 or 948.12, the department shall decide whether to restrict or prohibit the
4 patient's use of or access to the internet as a condition of the home visit or leave.
5 Other conditions appropriate to the person's treatment may also be imposed upon the
6 home visit or leave.

7 **SECTION 3.** 302.045 (3) of the statutes is amended to read:

8 302.045 (3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the department
9 determines that an inmate has successfully completed the challenge incarceration
10 program, the parole commission shall parole the inmate under s. 304.06, regardless
11 of the time the inmate has served. When the parole commission grants parole under
12 this subsection, it must require the parolee to participate in an intensive supervision
13 program for drug abusers as a condition of parole. If the inmate is serving a sentence
14 for a violation of s. 948.11 or 948.12 and the parole commission grants parole under
15 this subsection, the parole commission shall decide whether to restrict or prohibit the
16 parolee's use of or access to the internet as a condition of parole. If the parole
17 commission decides not to impose such a condition, the department may restrict or
18 prohibit a parolee's use of or access to the internet as a condition of parole.

19 **SECTION 4.** 302.11 (5m) of the statutes is created to read:

20 302.11 (5m) (a) In this subsection, "child sex crime" means a violation of s.
21 948.02, 948.025, 948.05, 948.055, 948.07, 948.08, 948.11 or 948.12.

22 (b) When an inmate serving a sentence for a child sex crime is released on
23 parole under sub. (1) or (1g) (b), the department shall decide whether to restrict or
24 prohibit the parolee's use of or access to the internet as a condition of parole.

25 **SECTION 5.** 304.02 (2) of the statutes is amended to read:

1 304.02 (2) The department shall promulgate rules for the special action release
2 program, including eligibility criteria, procedures for the secretary to decide whether
3 to grant a prisoner a special action release to parole supervision, procedures for
4 notifying persons, offices or agencies under s. 304.06 (1) (c) and (g) of releases, and,
5 subject to sub. (6), conditions of release. If applicable, the department shall also
6 comply with s. 304.063.

7 **SECTION 6.** 304.02 (6) of the statutes is created to read:

8 304.02 (6) (a) In this subsection, “child sex crime” means a violation of s. 948.02,
9 948.025, 948.05, 948.055, 948.07, 948.08, 948.11 or 948.12.

10 (b) When an inmate serving a sentence for a child sex crime is released on
11 parole under this section, the department shall decide whether to restrict or prohibit
12 the parolee’s use of or access to the internet as a condition of parole.

13 **SECTION 7.** 304.06 (1s) of the statutes is created to read:

14 304.06 (1s) (a) In this subsection, “child sex crime” means a violation of s.
15 948.02, 948.025, 948.05, 948.055, 948.07, 948.08, 948.11 or 948.12.

16 (b) When the parole commission grants parole under sub. (1) to a person serving
17 a sentence for a child sex crime, the parole commission shall decide whether to
18 restrict or prohibit the parolee’s use of or access to the internet as a condition of
19 parole. If the parole commission decides not to impose such a condition, the
20 department may restrict or prohibit a parolee’s use of or access to the internet as a
21 condition of parole.

22 **SECTION 8.** 971.17 (3) (e) of the statutes is amended to read:

23 971.17 (3) (e) An order for conditional release places the person in the custody
24 and control of the department of health and family services. A conditionally released
25 person is subject to the conditions set by the court and to the rules of the department

1 of health and family services. If the person being conditionally released was
2 committed under this section after being found not guilty by reason of mental disease
3 or defect for a violation of s. 948.02, 948.025, 948.05, 948.055, 948.07, 948.08, 948.11
4 or 948.12, the court shall decide whether to restrict or prohibit the person's use of or
5 access to the internet as a condition of conditional release. If the court decides not
6 to impose such a condition, the department of health and family services may restrict
7 or prohibit a person's use of or access to the internet as a condition of conditional
8 release.

9 (f) Before a person is conditionally released by the court under this subsection,
10 the court shall so notify the municipal police department and county sheriff for the
11 area where the person will be residing. The notification requirement under this
12 paragraph does not apply if a municipal department or county sheriff submits to the
13 court a written statement waiving the right to be notified.

14 (g) If the department of health and family services alleges that a released
15 person has violated any condition or rule, or that the safety of the person or others
16 requires that conditional release be revoked, he or she may be taken into custody
17 under the rules of the department. The department of health and family services
18 shall submit a statement showing probable cause of the detention and a petition to
19 revoke the order for conditional release to the committing court and the regional
20 office of the state public defender responsible for handling cases in the county where
21 the committing court is located within 48 hours after the detention. The court shall
22 hear the petition within 30 days, unless the hearing or time deadline is waived by
23 the detained person. Pending the revocation hearing, the department of health and
24 family services may detain the person in a jail or in a hospital, center or facility
25 specified by s. 51.15 (2). The state has the burden of proving by clear and convincing

1 evidence that any rule or condition of release has been violated, or that the safety of
2 the person or others requires that conditional release be revoked. If the court
3 determines after hearing that any rule or condition of release has been violated, or
4 that the safety of the person or others requires that conditional release be revoked,
5 it may revoke the order for conditional release and order that the released person be
6 placed in an appropriate institution under s. 51.37 (3) until the expiration of the
7 commitment or until again conditionally released under this section.

8 **SECTION 9.** 973.09 (1c) of the statutes is created to read:

9 973.09 (1c) (a) In this subsection, “child sex crime” means a violation of s.
10 948.02, 948.025, 948.05, 948.055, 948.07, 948.08, 948.11 or 948.12.

11 (b) If a person is convicted of a child sex crime and the court places the person
12 on probation for that crime, the court shall decide whether to restrict or prohibit the
13 person’s use of or access to the internet as a condition of probation. If the court
14 decides not to impose such a condition, the department may restrict or prohibit a
15 person’s use of or access to the internet as a condition of probation.

16 **SECTION 10.** 975.10 (1m) of the statutes is created to read:

17 975.10 (1m) When a person is paroled under this section, the department shall
18 decide whether to restrict or prohibit the person’s use of or access to the internet as
19 a condition of parole.

20 **SECTION 11.** 975.18 of the statutes is amended to read:

21 **975.18 Establishment of regulations.** The Subject to s. 975.10 (1m), the
22 department may promulgate rules concerning parole, revocation of parole,
23 supervision of parolees, and any other matters necessary for the administration of
24 this chapter.

25 **SECTION 12.** 980.06 (2) (d) of the statutes is amended to read:

1 980.06 (2) (d) An order for supervised release places the person in the custody
2 and control of the department. If a court places a person on supervised release, the
3 court shall decide whether to restrict or prohibit the person's use of or access to the
4 internet as a condition of supervised release. If the court decides not to impose such
5 a condition, the department of health and family services may restrict or prohibit a
6 person's use of or access to the internet as a condition of supervised release. A person
7 on supervised release is also subject to the any other conditions set by the court and
8 to the rules of the department.

9 (e) Before a person is placed on supervised release by the court under this
10 section, the court shall so notify the municipal police department and county sheriff
11 for the municipality and county in which the person will be residing. The notification
12 requirement under this paragraph does not apply if a municipal police department
13 or county sheriff submits to the court a written statement waiving the right to be
14 notified.

15 (f) If the department alleges that a released person has violated any condition
16 or rule, or that the safety of others requires that supervised release be revoked, he
17 or she may be taken into custody under the rules of the department. The department
18 shall submit a statement showing probable cause of the detention and a petition to
19 revoke the order for supervised release to the committing court and the regional
20 office of the state public defender responsible for handling cases in the county where
21 the committing court is located within 48 hours after the detention. The court shall
22 hear the petition within 30 days, unless the hearing or time deadline is waived by
23 the detained person. Pending the revocation hearing, the department may detain
24 the person in a jail or in a hospital, center or facility specified by s. 51.15 (2). The state
25 has the burden of proving by clear and convincing evidence that any rule or condition

1 of release has been violated, or that the safety of others requires that supervised
2 release be revoked. If the court determines after hearing that any rule or condition
3 of release has been violated, or that the safety of others requires that supervised
4 release be revoked, it may revoke the order for supervised release and order that the
5 released person be placed in an appropriate institution until the person is discharged
6 from the commitment under s. 980.09 or until again placed on supervised release
7 under s. 980.08.

8 **SECTION 13.** 980.08 (6) of the statutes is amended to read:

9 980.08 (6) The provisions of s. 980.06 (2) (d), (e) and (f) apply to an order for
10 supervised release issued under this section.

11 **SECTION 14. Initial applicability.**

12 (1) CONDITIONS OF PAROLE. The treatment of sections 302.045 (3), 302.11 (5m),
13 304.02 (6) and 304.06 (1s) of the statutes first applies to persons who are released on
14 parole on the effective date of this subsection.

15 (2) CONDITIONS OF PROBATION. The treatment of section 973.09 (1c) of the
16 statutes first applies to persons who are placed on probation on the effective date of
17 this subsection.

18 (3) CONDITIONS OF RELEASE OF PERSONS FOUND NOT GUILTY BY REASON OF MENTAL
19 DISEASE OR DEFECT. The treatment of sections 51.37 (9) and (10) (c) and 971.17 (3) (e)
20 of the statutes first applies to persons who are granted conditional release, a
21 conditional transfer, a discharge under supervision or a temporary home visit or
22 temporary leave on the effective date of this subsection.

23 (4) CONDITIONS OF RELEASE OF PERSONS FOUND TO BE SEXUALLY VIOLENT PERSONS.
24 The treatment of section 980.06 (2) (d) of the statutes first applies to persons who are
25 granted supervised release on the effective date of this subsection.

