

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-AB133)**

Received: **06/8/99**

Received By: **olsenje**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Megna**

This file may be shown to any legislator: **NO**

Drafter: **olsenje**

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Subject: **Criminal Law - miscellaneous  
Mental Health - detent/commit**

Extra Copies: **DAK  
MGD**

**Pre Topic:**

LFB:.....Megna -

**Topic:**

Supervised release of sexually violent persons

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	olsenje 06/8/99	chanaman 06/9/99	martykr 06/9/99	_____	lrb_docadmin 06/9/99		
/2	olsenje 06/11/99	gilfokm 06/11/99	martykr 06/12/99	_____	lrb_docadmin 06/12/99		

FE Sent For:

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FE Sent For:

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<END>

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/1	olsenje	<i>cmh 1 u/g</i>	<i>km/g</i>	<i>mcg 6 km/g</i>			

FE Sent For:

<END>



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

60587

June 7, 1999

Joint Committee on Finance

Paper #474

### **Supervised Release of Sexually Violent Persons (DHFS -- Care and Treatment Facilities)**

[LFB 1999-01 Budget Summary: Page 305, #13]

#### **CURRENT LAW**

1993 Wisconsin Act 479 created a procedure for the involuntary civil commitment of sexually violent persons (SVPs) to secure mental health facilities prior to their release from the custody of the Department of Corrections (DOC) or the Department of Health and Family Services (DHFS). A court may commit a SVP to either institutional care or supervised release in the community.

#### **GOVERNOR**

Modify provisions relating to the commitment of SVPs as follows.

*Criteria for Supervised Release.* Require courts to commit a SVP to institutional care, rather than supervised release in the community, if the court finds that it is substantially probable that the person will engage in acts of sexual violence unless the person resides in a facility with a level of security comparable to that of a secure mental health unit or facility. However, permit a court to withhold final determination of the commitment order and direct DHFS to prepare a supervised release plan if the SVP establishes that it is likely that the daily cost of supervised release would be less than the cost of institutional care. In approving such a plan, require that the court determine that the plan provides adequate treatment and services to the person and adequate protection to the community.

*Procedures for Establishing Supervised Release Plan.* Establish an additional procedure for approving plans for supervised release. Require the court to hold a hearing within 30 days after the plan is presented to the court, unless DHFS, the county department that prepared the plan and the person considered for supervised release agree to a later hearing date. Require a

court to provide, at least 10 days before the hearing, a written notice of the hearing to: (a) the person considered for supervised release; (b) DHFS; (c) the county department that prepared the plan; (d) the chairperson of the county board of supervisors (or county executive) of the county in which the person would reside; (e) the mayor, city manager, village president or town chairperson of the municipality in which the person would reside; and (f) the district attorney or DOJ, whichever is applicable. Provide that all notified parties could present evidence at the hearing except that the county department that prepared the plan and DHFS could only present evidence at the request of the court.

If the court approves the plan for supervised release, require the court to send a copy of its decision and order approving the plan to: (a) the chairperson of the county board (or county executive) of the county in which the person would reside; and (b) the mayor, city manager, village president or town chairperson of the municipality in which the person would reside. Specify that, if the court determines that the plan either does not provide adequate services to the person or does not provide adequate protection for the community, the court would instruct DHFS and the county department to revise the plan. The revised plan would be subject to a second court hearing under the same procedures. Specify that, if the court disapproves the plan because the person was found likely to engage in acts of sexual violence unless the person resides in a facility with a level of security comparable to that of a secure mental health unit or facility and the cost of the supervised release plan exceeds the cost of institutional care, the court would be prohibited from ordering a revised supervised plan.

*Court Orders to Ensure Implementation of Plan.* Authorize DHFS to request the court to make such orders as are necessary to ensure implementation of a supervised release plan approved by the court.

*Costs of Reexaminations.* Clarify that counties are responsible for the costs of all court-appointed experts for indigent persons for periodic reexaminations and other proceedings before the court, as well as for the initial commitment trial.

*Facilities Used for Institutional Commitments.* Require DHFS to place a sexually violent person committed to institutional care at one of the following facilities: (a) the new secure mental health facility for sexually violent persons; (b) the Wisconsin Resource Center; and (c) a secure mental health unit or facility provided by the Corrections. This provision would prohibit DHFS from placing a person committed as a SVP at either the Winnebago or Mendota Mental Health Institutes.

*Initial Applicability.* Specify that: (a) the provisions relating to initial commitment orders would first apply to initial commitment orders in cases in which a judgement is entered on the bill's general effective date; (b) the provisions that clarify that counties must pay for the costs of court-appointed experts would first apply to examinations that occur on the bill's general effective date; and (c) the provisions that would modify standards for granting or denying petitions for supervised release would first apply to petitions for supervised release filed on the bill's general effective date.

## DISCUSSION POINTS

1. Typically, persons who are committed as SVPs have served criminal sentences as repeat sex offenders. Evidence showing the person's likelihood of future violence is central to the court decision to commit the person. In December, 1995, the Wisconsin Supreme Court found the state's SVP statute constitutional. In 1997, the U.S. Supreme Court upheld the constitutionality of Kansas' SVP law, which is similar to Wisconsin's law. Although the constitutionality of SVP laws has been upheld, the constitutionality assumes that treatment is offered to the committed person. However, individuals have the right to refuse treatment.

2. The SVP program in Wisconsin has grown substantially since the new commitment procedures were enacted in 1994. Currently, there are approximately 200 SVPs, a number that is increasing by approximately 35 per year.

3. The number of SVPs on supervised release has increased from four in 1996-97 to five in 1997-98 and to eight, currently. The current average monthly cost of providing services to the eight persons on supervised release is \$2,600 per month per person, but varies from one person who has no costs to one with monthly costs of \$10,800.

4. The Department is concerned that current statutory provisions do not place enough emphasis on the costs of supervised release and that there is a potential for escalating costs in this area. The number of SVPs continues to increase and as current SVPs receive treatment in the institutional setting over a number of years, it is anticipated that many of them will be ordered to supervised release. Currently, about 60% of SVPs at the Wisconsin Resource Center are participating in treatment.

5. It can be very difficult to place an SVP in supervised release because there are potential security concerns and significant local resistance to such placements. Currently, there is one person who has been ordered by a court to be placed on supervised release, but the Department and the county of the person's residence have been unable to find a suitable arrangement over the last 24 months. The estimated costs for placing this person on supervised release under the Department's plan was \$180,000 per year.

6. The Department of Justice has raised concerns about the provisions in the bill that would restrict the use of supervised release. One concern is that a constitutional problem may be created by allowing cost to play a primary role in determining whether an individual is eligible for supervised release. Also, DOJ is concerned about other standards, such as "adequate treatment" and "adequate protection," that would be used under the proposed language. These new concepts may create problems for DOJ and district attorneys who litigate SVP cases and must demonstrate that these standards are met. Overall, DOJ feels that the approach taken by DHFS involves changes that cannot be suitably addressed as part of the budget process.

7. Although DOJ has concerns about establishing new standards for supervised release, it may be possible to simply eliminate the option of supervised release when a person is initially

committed as a SVP. Both Minnesota and Kansas do not allow for supervised release when a person is committed as a SVP. Both states have survived court challenges to their law, and the Kansas' law survived a challenge that was taken to the U.S. Supreme Court.

8. By denying supervised release at the initial commitment, a person would likely have to participate in treatment and have made progress before being eligible for supervised release. SVP treatment programs are not completed within predetermined time periods and depend on the individual's progress. However, treatment is usually a lengthy process for most SVPs.

9. Since treatment is generally a lengthy process, denying supervised release at the time of commitment would likely address current threats of escalating costs for supervised release and the problems of finding placements for persons ordered to supervised release. In the future, as more SVPs progress through the treatment program, this concern may resurface. However, there is time to thoroughly review and study the appropriate statutory standards that can be established to guide the use of supervised release.

10. DHFS has offered a revised proposal that would eliminate supervised release at the time of the initial commitment. As part of this proposal, a person committed to institutional care would not be allowed to first petition the court for supervised release for 24 months after the initial commitment, rather than six months, as provided under current law. Although the committed person could not petition the court for 24 months, the proposal would retain the current provision that requires the treatment facility to conduct an examination of the person's mental condition within six months after an initial commitment and every 12 months thereafter for determining whether the person is suitable for supervised release or discharge.

11. The revised DHFS proposal also includes a change that would increase from 48 hours to 72 hours, not including Saturdays, Sundays and legal holidays, the time period for the Department to submit a statement showing probable cause of the detention and a petition to revoke the order for supervised when a person has been detained for violating a condition of the supervised release.

12. The revised DHFS proposal would not change any other current statutory provisions regarding petitions for supervised release and does not contain any of the recommendations in the budget bill that would change the procedures for holding a supervised release hearing. The revised proposal would retain the recommendation that clarifies that counties are responsible for the costs of all court-appointed experts for indigent persons for periodic reexaminations and other proceedings before the court, as well as for the initial commitment trial. Also, the revised proposal would retain the recommendation to require DHFS to place a SVP committed to institutional care at one of the following facilities: (a) the new secure mental health facility for SVPs; (b) the Wisconsin Resource Center; and (c) a secure mental health unit or facility provided by the Corrections.

13. Since the Department's revised proposal would restrict supervised release in a manner that has been upheld by the courts, it may avoid constitutional issues that may be raised with the proposal in the bill. Also, it could be argued that when a person is found initially to be a

SVP, an institutional commitment may be the most appropriate setting since: (a) there is less of a security risk to local communities; (b) it will provide the committed person more of an incentive to undergo treatment and participate in a meaningful way; and (c) the most comprehensive treatment program may be in the institutional setting, since the staff at the state institutions specialize in such treatment. The Department intends to have its treatment program certified by a British organization that has an international reputation for the treatment of SVPs.

14. The disadvantage of eliminating the option of supervised release at the initial commitment is that in some cases where the individual is not as great a threat but there is still some risk of his committing an offense, supervised release may be an appropriate alternative. However, the facility has the option of recommending supervised release after six months.

15. The one issue that might be raised with the Department's revised proposal is that a committed SVP could not petition the court for supervised release until 24 months after the initial commitment. This length of time might be challenged as unreasonably long. The current restriction is six months. Other states have imposed a period of 12 months. If the Committee adopts the Department's revised proposal, it may be appropriate to limit the waiting period to 12 months until the issue can be more thoroughly studied.

16. With respect to the issue of who bears the costs for court-appointed experts for indigent persons for periodic reexaminations and other proceedings before the court, it could be argued that the state is burdened with the institutional costs and supervised release costs for the commitment of SVPs. A new facility is being built for SVPs that will cost \$39 million to build and \$25 million annually to operate. Since the state is responsible for these capital costs and treatment costs, it may be reasonable to require counties to fund the costs of reexaminations.

17. The rationale for the provision in the bill that would require that SVPs be housed only in facilities that specialize in the treatment of SVPs is to avoid a SVP petitioning the court for placement at either Mendota Mental Health Institute or the Winnebago Mental Health Institute. The Department argues that it would be problematic to mix SVPs with some of the populations at Mendota or Winnebago. SVPs can be very manipulative and have patient rights because they are civil commitments, rather than inmates. As a result, DHFS argues that SVPs can be better managed at institutions that specialize in treating that population.

## ALTERNATIVES

1. Approve the Governor's recommendation.
2. Modify the Governor's recommendation by deleting provisions that would impose new standards for supervised release and create new court procedures for establishing supervised release plans. Instead, eliminate supervised release as an option at the initial commitment. In addition, change the time at which a committed person may first petition the court for supervised release from six months to 24 months after commitment. Also, increase from 48 hours to 72 hours, not including Saturdays, Sundays and legal holidays, the time limit for the Department to submit a

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statement showing probable cause of the detention and a petition to revoke the order for supervised release when a person has been detained for violating a condition of the supervised release. Include the Governor's recommendation to clarify that counties are responsible for the costs of reexaminations for court actions and include the restriction that a SVP be committed to facilities established for the treatment of SVPs.

3. Make the statutory changes described in Alternative 2, but decrease the time limit for a person to petition the court for supervised release from the date of the initial commitment to 12 months, rather than 24 months.

18 mos

4. Maintain current law.

Prepared by: Richard Megna

statement showing probable cause of the detention and a petition to revoke the order for supervised release when a person has been detained for violating a condition of the supervised release. Include the Governor's recommendation to clarify that counties are responsible for the costs of reexaminations for court actions and include the restriction that a SVP be committed to facilities established for the treatment of SVPs.

3. Make the statutory changes described in Alternative 2, but decrease the time limit for a person to petition the court for supervised release from the date of the initial commitment to 12 months, rather than 24 months.

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4. Maintain current law.

Modify Alt. # 3  
to specify 18 months

Prepared by: Richard Megna

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State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb0587/1

JEO:.....

Soon

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LFB:.....Megna – Supervised release of sexually violent persons

FOR 1999-01 BUDGET – NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

1 At the locations indicated, amend the bill as follows:

2 1. Page 420, line 21: delete the material beginning with that line and ending

3 with page 421, line 7, and substitute:

4 "SECTION 387g. 20.435 (2) (a) of the statutes is amended to read:

5 20.435 (2) (a) *General program operations.* The amounts in the schedule to

6 operate institutions, to provide administrative services and to evaluate, treat and

7 care for persons under ch. 980, including persons placed on supervised release under

8 s. 980.06 (2), 1997 stats., or s. 980.08.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293.

9 SECTION 387m. 20.435 (2) (bj) of the statutes is amended to read:

1 20.435 (2) (bj) *Conditional and supervised release treatment and services.*

2 Biennially, the amounts in the schedule for payment by the department of costs for  
3 treatment and services for persons released under s. 980.06 (2) (c), 1997 stats., or s.  
4 971.17 (3) (d) or (4) (e), 980.06 (2) (e) or 980.08 (5), for which the department has  
5 contracted with county departments under s. 51.42 (3) (aw) 1. d., with other public  
6 agencies or with private agencies to provide the treatment and services.

**History:** 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293.

7 **SECTION 388m.** 20.435 (2) (bm) of the statutes is amended to read:

8 20.435 (2) (bm) *Secure mental health units or facilities.* The amounts in the  
9 schedule for the general program operations of secure mental health units or  
10 facilities under s. 980.065 for persons committed to institutional care under s. 980.06  
11 (2) (b) and placed in a secure mental health unit or facility.”

**History:** 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293.

12 **2.** Page 579, line 20: delete that line and substitute “public or private agency

13 under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d) or (4) (e), 980.06 (2) (e) or  
14 980.08”.

15 **3.** Page 579, line 21: delete “(e)”.

16 **4.** Page 787, line 1: delete that line and substitute “release plan approved by  
17 a court under s. 980.06 (2) (c), 1997 stats., or s. 980.08 (5). If the”.

18 **5.** Page 1205, line 20: after that line insert:

19 **SECTION 2689m.** 301.03 (3c) of the statutes is amended to read:

1           301.03 (3c) If requested by the department of health and family services,  
2           contract with that department to supervise and provide services to persons who are  
3           conditionally transferred or discharged under s. 51.37 (9), conditionally released  
4           under s. 971.17 (3) or placed on supervised release under s. 980.06 (2), 1997 stats.,  
5           or s. 980.08.”.

History: 1989 a. 31, 107, 121, 188, 336; 1991 a. 39; 1993 a. 16, 377, 479; 1995 a. 27 ss. 6355, 6356m, 6356p, 9126 (19); 1995 a. 77, 141; 1997 a. 27, 35, 237, 275, 283, 284;  
s. 13.93 (1) (b).

6           **6.** Page 1214, line 9: after that line insert:

7           “**SECTION 2716j.** 301.45 (3) (a) 3r. of the statutes is amended to read:

8           301.45 (3) (a) 3r. If the person has been committed under ch. 980, he or she is  
9           subject to this subsection upon being placed on supervised release under s. 980.06  
10          (2), 1997 stats., or s. 980.08 or, if he or she was not placed on supervised release,  
11          before being discharged under s. 980.09 or 980.10.”.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 v. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

12          **7.** Page 1355, line 18: after that line insert:

13          “**SECTION 3198m.** 950.04 (1v) (xm) of the statutes is amended to read:

14          950.04 (1v) (xm) To have the department of health and family services make  
15          a reasonable attempt to notify the victim under s. 980.11 regarding supervised  
16          release under s. ~~980.06~~ 980.08 and discharge under s. 980.09 or 980.10.”.

History: 1979 c. 219; 1983 a. 102, 364; 1985 a. 311; 1987 a. 332 s. 64; 1989 a. 31; 1997 a. 181, 237, 283

17          **8.** Page 1360, line 21: after that line insert:

18          “**SECTION 3206k.** 977.08 (5) (bn) 1r. of the statutes is amended to read:

19          977.08 (5) (bn) 1r. Cases representing persons under ~~ss.~~ <sup>s.</sup> 980.05 and 980.06:  
20          15.”.

History: 1977 c. 29, 354; 1979 c. 352, 356; 1981 c. 20; 1983 a. 377; 1985 a. 29 ss. 2473 to 2476a, 3202 (42); 1985 a. 120; 1987 a. 27, 399; 1989 a. 12; 1991 a. 39, 263; 1993  
a. 16, 318, 423, 451, 491; 1995 a. 27, 77; 1997 a. 27.

21          **9.** Page 1363, line 11: delete lines 11 to 18.

1           **10.** Page 1366, line 10: delete the material beginning with that line and  
2 ending with page 1374, line 3<sup>↓</sup> and substitute:

3           <sup>✓</sup>“SECTION 3223c. 980.05 (6)<sup>×</sup> of the statutes is repealed.

4           **SECTION 3223h.** 980.06 (1) of the statutes is renumbered 980.06 and amended  
5 to read:

6           **980.06 Commitment.** If a court or jury determines that the person who is the  
7 subject of a petition under s. 980.02 is a sexually violent person, the court shall order  
8 the person to be committed to the custody of the department for control, care and  
9 treatment until such time as the person is no longer a sexually violent person. A  
10 commitment order under this section shall specify that the person be placed in  
11 institutional care.

12 History: 1993 a. 479; 1995 a. 276; 1997 a. 27, 275, 284; s. 13.93 (2)<sup>✓</sup>(6).

12           <sup>✓</sup>**SECTION 3223i.** 980.06 (2) (a) of the statutes is repealed.

13           <sup>✓</sup>**SECTION 3223j.** 980.06 (2) (b) of the statutes is repealed.

14           <sup>✓</sup>**SECTION 3223k.** 980.06 (2) (c) of the statutes is repealed.

15           <sup>✓</sup>**SECTION 3223L.** 980.06 (2) (d) of the statutes is renumbered 980.08 (6m)<sup>✓</sup> and  
16 amended to read:

17           **980.08 (6m)** An order for supervised release places the person in the custody  
18 and control of the department. The department shall arrange for control, care and  
19 treatment of the person in the least restrictive manner consistent with the  
20 requirements of the person and in accordance with the plan for supervised release  
21 approved by the court under sub. (5)<sup>✓</sup>. A person on supervised release is subject to the  
22 conditions set by the court and to the rules of the department. Before a person is  
23 placed on supervised release by the court under this section, the court shall so notify  
24 the municipal police department and county sheriff for the municipality and county

1 in which the person will be residing. The notification requirement under this  
 2 <sup>strike</sup>  
 3 <sup>subsection</sup> ~~paragraph~~ does not apply if a municipal police department or county sheriff submits  
 4 to the court a written statement waiving the right to be notified. If the department  
 5 alleges that a released person has violated any condition or rule, or that the safety  
 6 of others requires that supervised release be revoked, he or she may be taken into  
 7 custody under the rules of the department. The department shall submit a  
 8 statement showing probable cause of the detention and a petition to revoke the order  
 9 for supervised release to the committing court and the regional office of the state  
 10 public defender responsible for handling cases in the county where the committing  
 11 court is located within ~~48~~ 72 hours after the detention, excluding Saturdays,  
 12 Sundays and legal holidays. The court shall hear the petition within 30 days, unless  
 13 the hearing or time deadline is waived by the detained person. Pending the  
 14 revocation hearing, the department may detain the person in a jail or in a hospital,  
 15 center or facility specified by s. 51.15 (2). The state has the burden of proving by clear  
 16 and convincing evidence that any rule or condition of release has been violated, or  
 17 that the safety of others requires that supervised release be revoked. If the court  
 18 determines after hearing that any rule or condition of release has been violated, or  
 19 that the safety of others requires that supervised release be revoked, it may revoke  
 20 the order for supervised release and order that the released person be placed in an  
 21 appropriate institution until the person is discharged from the commitment under  
 s. 980.09 or until again placed on supervised release under s. ~~980.08~~ this section.

History: 1993 a. 479; 1995 a. 276; 1997 a. 27, 275, 284; s. 13.93 (2) (c).

**SECTION 3230m.** 980.065 (1m) of the statutes is amended to read:

980.065 (1m) The department ~~may~~ shall place a person committed to  
 institutional care under s. 980.06 (2) (b) at a mental health unit or facility, including

1 a ~~the~~ secure mental health ~~unit or~~ facility at ~~established~~ under s. 46.055, the  
2 Wisconsin resource center established under s. 46.056 or a secure mental health unit  
3 or facility provided by the department of corrections under sub. (2).

History: 1993 a. 479; 1997 a. 27.

4 **SECTION 3231m.** 980.065 (2) of the statutes is amended to read:

5 980.065 (2) The department may contract with the department of corrections  
6 for the provision of a secure mental health unit or facility for persons committed to  
7 ~~institutional care~~ under s. 980.06 (2) ~~(b)~~. The department shall operate a secure  
8 mental health unit or facility provided by the department of corrections under this  
9 subsection and shall promulgate rules governing the custody and discipline of  
10 persons placed by the department in the secure mental health unit or facility  
11 provided by the department of corrections under this subsection.”.

History: 1993 a. 479; 1997 a. 27.

12 **11.** Page 1374, line 15: after that line insert:

13 “**SECTION 3232p.** 980.08 (1) of the statutes is amended to read:

14 980.08 (1) Any person who is committed to ~~institutional care~~ under s. 980.06  
15 may petition the committing court to modify its order by authorizing supervised  
16 release if at least 6 18 months have elapsed since the initial commitment order was  
17 entered, the most recent release petition was denied or the most recent order for  
18 supervised release was revoked. The director of the facility at which the person is  
19 placed may file a petition under this subsection on the person’s behalf at any time.”.

History: 1993 a. 479; 1995 a. 276; 1997 a. 27, 275, 284; s. 13.93 (2) (c).

20 **12.** Page 1374, line 25: delete “(a)”.

21 **13.** Page 1375, line 4: delete the material beginning with that line and ending  
22 with page 1380, line 11, and substitute:

23 “**SECTION 3234m.** 980.08 (4) of the statutes is amended to read:



1           980.08 (4) The court, without a jury, shall hear the petition within 30 days after  
2 the report of the court-appointed examiner is filed with the court, unless the  
3 petitioner waives this time limit. Expenses of proceedings under this subsection  
4 shall be paid as provided under s. 51.20 (18) (b), (c) and (d). The court shall grant the  
5 petition unless the state proves by clear and convincing evidence that the person is  
6 still a sexually violent person and that it is still substantially probable that the  
7 person will engage in acts of sexual violence if the person is not continued in  
8 institutional care. In making a decision under this subsection, the court may  
9 consider, without limitation because of enumeration, the nature and circumstances  
10 of the behavior that was the basis of the allegation in the petition under s. 980.02 (2)  
11 (a), the person's mental history and present mental condition, where the person will  
12 live, how the person will support himself or herself and what arrangements are  
13 available to ensure that the person has access to and will participate in necessary  
14 treatment, including pharmacological treatment using an antiandrogen or the  
15 chemical equivalent of an antiandrogen if the person is a serious child sex offender.  
16 A decision under this subsection on a petition filed by a person who is a serious child  
17 sex offender may not be made based on the fact that the person is a proper subject  
18 for pharmacological treatment using an antiandrogen or the chemical equivalent of  
19 an antiandrogen or on the fact that the person is willing to participate in  
20 pharmacological treatment using an antiandrogen or the chemical equivalent of an  
21 antiandrogen.

NOTE: NOTE: Sub. (4) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:

History: 1993 a. 479; 1995 a. 276; 1997 a. 27, 275, 284; s. 13.93 (2) (c).

22           **SECTION 3238d.** 980.08 (6) of the statutes is repealed.

23           **SECTION 3238h.** 980.09 (1) (c) of the statutes is amended to read:

*plain*

1 980.09 (1) (c) If the court is satisfied that the state has not met its burden of  
 2 proof under par. (b), the petitioner shall be discharged from the custody or  
 3 supervision of the department. If the court is satisfied that the state has met its  
 4 burden of proof under par. (b), the court may proceed ~~under s. 980.06~~ to determine,  
 5 using the criterion specified in s. 980.08 (4), whether to modify the petitioner's  
 6 existing commitment order by authorizing supervised release.

History: 1993 a. 479.

7 **SECTION 3238j.** 980.09 (2) (c) of the statutes is amended to read:

8 980.09 (2) (c) If the court is satisfied that the state has not met its burden of  
 9 proof under par. (b), the person shall be discharged from the custody or supervision  
 10 of the department. If the court is satisfied that the state has met its burden of proof  
 11 under par. (b), the court may proceed ~~under s. 980.06~~ to determine, using the  
 12 criterion specified in s. 980.08 (4), whether to modify the person's existing  
 13 commitment order by authorizing supervised release.

History: 1993 a. 479.

14 **SECTION 3238t.** 980.11 (2) (intro.) of the statutes is amended to read:

15 980.11 (2) (intro.) If the court places a person on supervised release under s.  
 16 ~~980.06~~ ~~980.08~~ or discharges a person under s. 980.09 or 980.10, the department shall  
 17 do all of the following:".

History: 1993 a. 479; 1995 a. 27 s. 9126 (19); 1995 a. 440; 1997 a. 181.

18 **14.** Page 1380, line 16: after that line insert:

19 **"SECTION 3239d.** 980.12 (2) of the statutes is amended to read:

20 980.12 (2) By February 1, 2002, the department shall submit a report to the  
 21 legislature under s. 13.172 (2) concerning the extent to which pharmacological  
 22 treatment using an antiandrogen or the chemical equivalent of an antiandrogen has  
 23 been required as a condition of supervised release under s. 980.06, 1997 stats., or s.

1 980.08 and the effectiveness of the treatment in the cases in which its use has been  
2 required.”.

History: 1993 a. 479; 1997 a. 284.

3 **15.** Page 1451, line 16: delete lines 16 to 18 and substitute:

Initial  
App

4 “(a<sup>g</sup>) *Initial commitment orders.* The treatment of sections 980.06 (1) and (2)  
5 (a), (b) and (c) and 980.065 (1m) of the statutes first applies to initial commitment”.

6 **16.** Page 1451, line 20: after that line insert:

7

7 “(a<sup>h</sup>) *Interlocutory appeals.* The treatment of section 980.05 (6) of the statutes  
8 first applies to cases in which judgment is entered under section 980.05 (5) of the  
9 statutes on the effective date of this paragraph.”.

10 **17.** Page 1452, line 1: delete lines 1 to 6 and substitute:

Initial  
App

11 “(b<sup>g</sup>) *Petitions for supervised release.* The treatment of section 980.08 (1) of the  
12 statutes first applies to persons committed under section 980.06 of the statutes, as  
13 affected by this act, in cases in which judgment is entered under section 980.05 (5)  
14 of the statutes on the effective date of this paragraph.”.

15 “(b<sup>h</sup>) *Orders for supervised release.* The treatment of section 980.06 (2) (d) of the  
16 statutes (with respect to the duties of the department of health and family services  
17 under a supervised release order) first applies to orders for supervised release issued  
18 under section 980.08 of the statutes, as affected by this act, on the effective date of  
19 this paragraph.

20 “(c<sup>g</sup>) *Revocation of supervised release.* The treatment of section 980.06 (2) (d) of  
21 the statutes (with respect to time for submitting a statement showing probable cause  
22 for a detention and a petition for revocation of supervised release) first applies to  
23 detentions commencing on the effective date of this paragraph.

1

<sup>h</sup>  
~~(c)~~ *Victim notification.* The treatment of sections 950.04 (1v) (xm) and 980.11

2

(2) (intro.) of the statutes first applies to the placement of a person on supervised

3

release under section 980.08 of the statutes, as affected by this act, on the effective

4

date of this paragraph.”.

5

(END)

60587(1)

Per Richard Meyers

18 mos. 1st; 6 mos. thereafter



State of Wisconsin  
1999 - 2000 LEGISLATURE

Soon!

LRBb0587/1  
JEO:pmh:km

1  
Kmgz

2

redraft  
make  
run

LFB:.....Magna – Supervised release of sexually violent persons

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

1 At the locations indicated, amend the bill as follows:

2 1. Page 420, line 21: delete the material beginning with that line and ending  
3 with page 421, line 7, and substitute:

4 "SECTION 387g. 20.435 (2) (a) of the statutes is amended to read:

5 20.435 (2) (a) *General program operations.* The amounts in the schedule to  
6 operate institutions, to provide administrative services and to evaluate, treat and  
7 care for persons under ch. 980, including persons placed on supervised release under  
8 s. 980.06 (2), 1997 stats., or s. 980.08.

9 SECTION 387m. 20.435 (2) (bj) of the statutes is amended to read:

10 20.435 (2) (bj) *Conditional and supervised release treatment and services.*  
11 Biennially, the amounts in the schedule for payment by the department of costs for  
12 treatment and services for persons released under s. 980.06 (2) (c), 1997 stats., or s.

1 971.17 (3) (d) or (4) (e), ~~980.06 (2) (e)~~ or 980.08 (5), for which the department has  
2 contracted with county departments under s. 51.42 (3) (aw) 1. d., with other public  
3 agencies or with private agencies to provide the treatment and services.

4 **SECTION 388m.** 20.435 (2) (bm) of the statutes is amended to read:

5 20.435 (2) (bm) *Secure mental health units or facilities.* The amounts in the  
6 schedule for the general program operations of secure mental health units or  
7 facilities under s. 980.065 for persons committed to institutional care under s. 980.06  
8 ~~(2) (b)~~ and placed in a secure mental health unit or facility.”

9 **2.** Page 579, line 20: delete that line and substitute “public or private agency  
10 under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d) or (4) (e), 980.06 (2) (e) or  
11 980.08”.

12 **3.** Page 579, line 21: delete “(e)”.

13 **4.** Page 787, line 1: delete that line and substitute “release plan approved by  
14 a court under s. 980.06 (2) (c), 1997 stats., or s. 980.08 (5). If the”.

15 **5.** Page 1205, line 20: after that line insert:

16 “**SECTION 2689m.** 301.03 (3c) of the statutes is amended to read:

17 301.03 (3c) If requested by the department of health and family services,  
18 contract with that department to supervise and provide services to persons who are  
19 conditionally transferred or discharged under s. 51.37 (9), conditionally released  
20 under s. 971.17 (3) or placed on supervised release under s. 980.06 (2), 1997 stats.,  
21 or s. 980.08.”

22 **6.** Page 1214, line 9: after that line insert:

23 “**SECTION 2716j.** 301.45 (3) (a) 3r. of the statutes is amended to read:

1           301.45 (3) (a) 3r. If the person has been committed under ch. 980, he or she is  
2 subject to this subsection upon being placed on supervised release under s. 980.06  
3 (2), 1997 stats., or s. 980.08 or, if he or she was not placed on supervised release,  
4 before being discharged under s. 980.09 or 980.10.”.

5           **7.** Page 1355, line 18: after that line insert:

6           “**SECTION 3198m.** 950.04 (1v) (xm) of the statutes is amended to read:

7           950.04 (1v) (xm) To have the department of health and family services make  
8 a reasonable attempt to notify the victim under s. 980.11 regarding supervised  
9 release under s. ~~980.06~~ 980.08 and discharge under s. 980.09 or 980.10.”.

10          **8.** Page 1360, line 21: after that line insert:

11          “**SECTION 3206k.** 977.08 (5) (bn) 1r. of the statutes is amended to read:

12          977.08 (5) (bn) 1r. Cases representing persons under ss. s. 980.05 and 980.06:  
13 15.”.

14          **9.** Page 1363, line 11: delete lines 11 to 18.

15          **10.** Page 1366, line 10: delete the material beginning with that line and  
16 ending with page 1374, line 3, and substitute:

17          “**SECTION 3223c.** 980.05 (6) of the statutes is repealed.

18          **SECTION 3223h.** 980.06 (1) of the statutes is renumbered 980.06 and amended  
19 to read:

20          **980.06 Commitment.** If a court or jury determines that the person who is the  
21 subject of a petition under s. 980.02 is a sexually violent person, the court shall order  
22 the person to be committed to the custody of the department for control, care and  
23 treatment until such time as the person is no longer a sexually violent person. A



1 commitment order under this section shall specify that the person be placed in  
2 institutional care.

3 SECTION 3223i. 980.06 (2) (a) of the statutes is repealed.

4 SECTION 3223j. 980.06 (2) (b) of the statutes is repealed.

5 SECTION 3223k. 980.06 (2) (c) of the statutes is repealed.

6 SECTION 3223L. 980.06 (2) (d) of the statutes is renumbered 980.08 (6m) and  
7 amended to read:

8 980.08 (6m) An order for supervised release places the person in the custody  
9 and control of the department. The department shall arrange for control, care and  
10 treatment of the person in the least restrictive manner consistent with the  
11 requirements of the person and in accordance with the plan for supervised release  
12 approved by the court under sub. (5). A person on supervised release is subject to the  
13 conditions set by the court and to the rules of the department. Before a person is  
14 placed on supervised release by the court under this section, the court shall so notify  
15 the municipal police department and county sheriff for the municipality and county  
16 in which the person will be residing. The notification requirement under this  
17 ~~paragraph~~ subsection does not apply if a municipal police department or county  
18 sheriff submits to the court a written statement waiving the right to be notified. If  
19 the department alleges that a released person has violated any condition or rule, or  
20 that the safety of others requires that supervised release be revoked, he or she may  
21 be taken into custody under the rules of the department. The department shall  
22 submit a statement showing probable cause of the detention and a petition to revoke  
23 the order for supervised release to the committing court and the regional office of the  
24 state public defender responsible for handling cases in the county where the  
25 committing court is located within 48 72 hours after the detention, excluding

1 Saturdays, Sundays and legal holidays. The court shall hear the petition within 30  
2 days, unless the hearing or time deadline is waived by the detained person. Pending  
3 the revocation hearing, the department may detain the person in a jail or in a  
4 hospital, center or facility specified by s. 51.15 (2). The state has the burden of  
5 proving by clear and convincing evidence that any rule or condition of release has  
6 been violated, or that the safety of others requires that supervised release be  
7 revoked. If the court determines after hearing that any rule or condition of release  
8 has been violated, or that the safety of others requires that supervised release be  
9 revoked, it may revoke the order for supervised release and order that the released  
10 person be placed in an appropriate institution until the person is discharged from the  
11 commitment under s. 980.09 or until again placed on supervised release under s.  
12 ~~980.08~~ this section.

13 **SECTION 3230m.** 980.065 (1m) of the statutes is amended to read:

14 980.065 (1m) The department ~~may~~ shall place a person committed to  
15 ~~institutional care~~ under s. 980.06 (2) (b) at ~~a mental health unit or facility, including~~  
16 ~~a~~ the secure mental health ~~unit or facility at established under s. 46.055,~~ the  
17 Wisconsin resource center established under s. 46.056 or a secure mental health unit  
18 or facility provided by the department of corrections under sub. (2).

19 **SECTION 3231m.** 980.065 (2) of the statutes is amended to read:

20 980.065 (2) The department may contract with the department of corrections  
21 for the provision of a secure mental health unit or facility for persons committed to  
22 ~~institutional care~~ under s. 980.06 (2) (b). The department shall operate a secure  
23 mental health unit or facility provided by the department of corrections under this  
24 subsection and shall promulgate rules governing the custody and discipline of

1 persons placed by the department in the secure mental health unit or facility  
2 provided by the department of corrections under this subsection.”.

3 **11.** Page 1374, line 15: after that line insert:

4 “**SECTION 3232p.** 980.08 (1) of the statutes is amended to read:

5 980.08 (1) Any person who is committed to ~~institutional care~~ under s. 980.06  
6 may petition the committing court to modify its order by authorizing supervised  
7 release if at least ~~6~~ 18 months have elapsed since the initial commitment order was  
8 entered, <sup>↓ or at least 6 months have elapsed since</sup> the most recent release petition was denied or the most recent order for  
9 supervised release was revoked. The director of the facility at which the person is  
10 placed may file a petition under this subsection on the person’s behalf at any time.”.

11 **12.** Page 1374, line 25: delete “(a)”.

12 **13.** Page 1375, line 4: delete the material beginning with that line and ending  
13 with page 1380, line 11, and substitute:

14 “**SECTION 3234m.** 980.08 (4) of the statutes is amended to read:

15 980.08 (4) The court, without a jury, shall hear the petition within 30 days after  
16 the report of the court-appointed examiner is filed with the court, unless the  
17 petitioner waives this time limit. Expenses of proceedings under this subsection  
18 shall be paid as provided under s. 51.20 (18) (b), (c) and (d). The court shall grant the  
19 petition unless the state proves by clear and convincing evidence that the person is  
20 still a sexually violent person and that it is still substantially probable that the  
21 person will engage in acts of sexual violence if the person is not continued in  
22 institutional care. In making a decision under this subsection, the court may  
23 consider, without limitation because of enumeration, the nature and circumstances  
24 of the behavior that was the basis of the allegation in the petition under s. 980.02 (2)

1 (a), the person's mental history and present mental condition, where the person will  
2 live, how the person will support himself or herself and what arrangements are  
3 available to ensure that the person has access to and will participate in necessary  
4 treatment, including pharmacological treatment using an antiandrogen or the  
5 chemical equivalent of an antiandrogen if the person is a serious child sex offender.  
6 A decision under this subsection on a petition filed by a person who is a serious child  
7 sex offender may not be made based on the fact that the person is a proper subject  
8 for pharmacological treatment using an antiandrogen or the chemical equivalent of  
9 an antiandrogen or on the fact that the person is willing to participate in  
10 pharmacological treatment using an antiandrogen or the chemical equivalent of an  
11 antiandrogen.

12 **SECTION 3238d.** 980.08 (6) of the statutes is repealed.

13 **SECTION 3238h.** 980.09 (1) (c) of the statutes is amended to read:

14 980.09 (1) (c) If the court is satisfied that the state has not met its burden of  
15 proof under par. (b), the petitioner shall be discharged from the custody or  
16 supervision of the department. If the court is satisfied that the state has met its  
17 burden of proof under par. (b), the court may proceed ~~under s. 980.06~~ to determine,  
18 using the criterion specified in s. 980.08 (4), whether to modify the petitioner's  
19 existing commitment order by authorizing supervised release.

20 **SECTION 3238j.** 980.09 (2) (c) of the statutes is amended to read:

21 980.09 (2) (c) If the court is satisfied that the state has not met its burden of  
22 proof under par. (b), the person shall be discharged from the custody or supervision  
23 of the department. If the court is satisfied that the state has met its burden of proof  
24 under par. (b), the court may proceed ~~under s. 980.06~~ to determine, using the

1 criterion specified in s. 980.08 (4), whether to modify the person's existing  
2 commitment order by authorizing supervised release.

3 **SECTION 3238t.** 980.11 (2) (intro.) of the statutes is amended to read:

4 980.11 (2) (intro.) If the court places a person on supervised release under s.  
5 ~~980.06~~ 980.08 or discharges a person under s. 980.09 or 980.10, the department shall  
6 do all of the following:"

7 **14.** Page 1380, line 16: after that line insert:

8 **"SECTION 3239d.** 980.12 (2) of the statutes is amended to read:

9 980.12 (2) By February 1, 2002, the department shall submit a report to the  
10 legislature under s. 13.172 (2) concerning the extent to which pharmacological  
11 treatment using an antiandrogen or the chemical equivalent of an antiandrogen has  
12 been required as a condition of supervised release under s. 980.06, 1997 stats., or s.  
13 980.08 and the effectiveness of the treatment in the cases in which its use has been  
14 required."

15 **15.** Page 1451, line 16: delete lines 16 to 18 and substitute:

16 "(ag) *Initial commitment orders.* The treatment of sections 980.06 (1) and (2)  
17 (a), (b) and (c) and 980.065 (1m) of the statutes first applies to initial commitment".

18 **16.** Page 1451, line 20: after that line insert:

19 "(ah) *Interlocutory appeals.* The treatment of section 980.05 (6) of the statutes  
20 first applies to cases in which judgment is entered under section 980.05 (5) of the  
21 statutes on the effective date of this paragraph."

22 **17.** Page 1452, line 1: delete lines 1 to 6 and substitute:

23 "(bg) *Petitions for supervised release.* The treatment of section 980.08 (1) of the  
24 statutes first applies to persons committed under section 980.06 of the statutes, as

1 affected by this act, in cases in which judgment is entered under section 980.05 (5)  
2 of the statutes on the effective date of this paragraph.

3 (bh) *Orders for supervised release.* The treatment of section 980.06 (2) (d) of the  
4 statutes (with respect to the duties of the department of health and family services  
5 under a supervised release order) first applies to orders for supervised release issued  
6 under section 980.08 of the statutes, as affected by this act, on the effective date of  
7 this paragraph.

8 (cg) *Revocation of supervised release.* The treatment of section 980.06 (2) (d)  
9 of the statutes (with respect to time for submitting a statement showing probable  
10 cause for a detention and a petition for revocation of supervised release) first applies  
11 to detentions commencing on the effective date of this paragraph.

12 (ch) *Victim notification.* The treatment of sections 950.04 (1v) (xm) and 980.11  
13 (2) (intro.) of the statutes first applies to the placement of a person on supervised  
14 release under section 980.08 of the statutes, as affected by this act, on the effective  
15 date of this paragraph.”

16 (END)



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb0587/2  
JEO:kmg&cmh:km

LFB:.....Megna – Supervised release of sexually violent persons

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

**LFB AMENDMENT**

**TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 420, line 21: delete the material beginning with that line and ending  
3 with page 421, line 7, and substitute:

4 **“SECTION 387g.** 20.435 (2) (a) of the statutes is amended to read:

5 20.435 (2) (a) *General program operations.* The amounts in the schedule to  
6 operate institutions, to provide administrative services and to evaluate, treat and  
7 care for persons under ch. 980, including persons placed on supervised release under  
8 s. 980.06 (2), 1997 stats., or s. 980.08.

9 **SECTION 387m.** 20.435 (2) (bj) of the statutes is amended to read:

10 20.435 (2) (bj) *Conditional and supervised release treatment and services.*  
11 Biennially, the amounts in the schedule for payment by the department of costs for  
12 treatment and services for persons released under s. 980.06 (2) (c), 1997 stats., or s.

1 971.17 (3) (d) or (4) (e), ~~980.06 (2) (e)~~ or 980.08 (5), for which the department has  
2 contracted with county departments under s. 51.42 (3) (aw) 1. d., with other public  
3 agencies or with private agencies to provide the treatment and services.

4 **SECTION 388m.** 20.435 (2) (bm) of the statutes is amended to read:

5 20.435 (2) (bm) *Secure mental health units or facilities.* The amounts in the  
6 schedule for the general program operations of secure mental health units or  
7 facilities under s. 980.065 for persons committed to institutional care under s. 980.06  
8 ~~(2) (b)~~ and placed in a secure mental health unit or facility.”

9 **2.** Page 579, line 20: delete that line and substitute “public or private agency  
10 under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d) or (4) (e), ~~980.06 (2) (e)~~ or  
11 980.08”.

12 **3.** Page 579, line 21: delete “(e)”.

13 **4.** Page 787, line 1: delete that line and substitute “release plan approved by  
14 a court under s. 980.06 (2) (c), 1997 stats., or s. 980.08 (5). If the”.

15 **5.** Page 1205, line 20: after that line insert:

16 “**SECTION 2689m.** 301.03 (3c) of the statutes is amended to read:

17 301.03 (3c) If requested by the department of health and family services,  
18 contract with that department to supervise and provide services to persons who are  
19 conditionally transferred or discharged under s. 51.37 (9), conditionally released  
20 under s. 971.17 (3) or placed on supervised release under s. 980.06 (2), 1997 stats.,  
21 or s. 980.08.”

22 **6.** Page 1214, line 9: after that line insert:

23 “**SECTION 2716j.** 301.45 (3) (a) 3r. of the statutes is amended to read:



1           301.45 (3) (a) 3r. If the person has been committed under ch. 980, he or she is  
2 subject to this subsection upon being placed on supervised release under s. 980.06  
3 (2), 1997 stats., or s. 980.08 or, if he or she was not placed on supervised release,  
4 before being discharged under s. 980.09 or 980.10.”.

5           **7.** Page 1355, line 18: after that line insert:

6           “**SECTION 3198m.** 950.04 (1v) (xm) of the statutes is amended to read:

7           950.04 (1v) (xm) To have the department of health and family services make  
8 a reasonable attempt to notify the victim under s. 980.11 regarding supervised  
9 release under s. ~~980.06~~ 980.08 and discharge under s. 980.09 or 980.10.”.

10          **8.** Page 1360, line 21: after that line insert:

11          “**SECTION 3206k.** 977.08 (5) (bn) 1r. of the statutes is amended to read:

12          977.08 (5) (bn) 1r. Cases representing persons under ~~ss. s.~~ s. 980.05 and ~~980.06:~~  
13 15.”.

14          **9.** Page 1363, line 11: delete lines 11 to 18.

15          **10.** Page 1366, line 10: delete the material beginning with that line and  
16 ending with page 1374, line 3, and substitute:

17          “**SECTION 3223c.** 980.05 (6) of the statutes is repealed.

18          **SECTION 3223h.** 980.06 (1) of the statutes is renumbered 980.06 and amended  
19 to read:

20          **980.06 Commitment.** If a court or jury determines that the person who is the  
21 subject of a petition under s. 980.02 is a sexually violent person, the court shall order  
22 the person to be committed to the custody of the department for control, care and  
23 treatment until such time as the person is no longer a sexually violent person. A

1 commitment order under this section shall specify that the person be placed in  
2 institutional care.

3 **SECTION 3223i.** 980.06 (2) (a) of the statutes is repealed.

4 **SECTION 3223j.** 980.06 (2) (b) of the statutes is repealed.

5 **SECTION 3223k.** 980.06 (2) (c) of the statutes is repealed.

6 **SECTION 3223L.** 980.06 (2) (d) of the statutes is renumbered 980.08 (6m) and  
7 amended to read:

8 980.08 (6m) An order for supervised release places the person in the custody  
9 and control of the department. The department shall arrange for control, care and  
10 treatment of the person in the least restrictive manner consistent with the  
11 requirements of the person and in accordance with the plan for supervised release  
12 approved by the court under sub. (5). A person on supervised release is subject to the  
13 conditions set by the court and to the rules of the department. Before a person is  
14 placed on supervised release by the court under this section, the court shall so notify  
15 the municipal police department and county sheriff for the municipality and county  
16 in which the person will be residing. The notification requirement under this  
17 paragraph subsection does not apply if a municipal police department or county  
18 sheriff submits to the court a written statement waiving the right to be notified. If  
19 the department alleges that a released person has violated any condition or rule, or  
20 that the safety of others requires that supervised release be revoked, he or she may  
21 be taken into custody under the rules of the department. The department shall  
22 submit a statement showing probable cause of the detention and a petition to revoke  
23 the order for supervised release to the committing court and the regional office of the  
24 state public defender responsible for handling cases in the county where the  
25 committing court is located within 48 72 hours after the detention, excluding

1 Saturdays, Sundays and legal holidays. The court shall hear the petition within 30  
2 days, unless the hearing or time deadline is waived by the detained person. Pending  
3 the revocation hearing, the department may detain the person in a jail or in a  
4 hospital, center or facility specified by s. 51.15 (2). The state has the burden of  
5 proving by clear and convincing evidence that any rule or condition of release has  
6 been violated, or that the safety of others requires that supervised release be  
7 revoked. If the court determines after hearing that any rule or condition of release  
8 has been violated, or that the safety of others requires that supervised release be  
9 revoked, it may revoke the order for supervised release and order that the released  
10 person be placed in an appropriate institution until the person is discharged from the  
11 commitment under s. 980.09 or until again placed on supervised release under s.  
12 ~~980.08~~ this section.

13 **SECTION 3230m.** 980.065 (1m) of the statutes is amended to read:

14 980.065 (1m) The department ~~may~~ shall place a person committed to  
15 ~~institutional care~~ under s. 980.06 (2) (b) ~~at a mental health unit or facility, including~~  
16 ~~a~~ the secure mental health unit ~~or facility at established under s. 46.055,~~ the  
17 Wisconsin resource center established under s. 46.056 or a secure mental health unit  
18 or facility provided by the department of corrections under sub. (2).

19 **SECTION 3231m.** 980.065 (2) of the statutes is amended to read:

20 980.065 (2) The department may contract with the department of corrections  
21 for the provision of a secure mental health unit or facility for persons committed to  
22 ~~institutional care~~ under s. 980.06 (2) (b). The department shall operate a secure  
23 mental health unit or facility provided by the department of corrections under this  
24 subsection and shall promulgate rules governing the custody and discipline of

1 persons placed by the department in the secure mental health unit or facility  
2 provided by the department of corrections under this subsection.”.

3 **11.** Page 1374, line 15: after that line insert:

4 **“SECTION 3232p.** 980.08 (1) of the statutes is amended to read:

5 980.08 (1) Any person who is committed to ~~institutional care~~ under s. 980.06  
6 may petition the committing court to modify its order by authorizing supervised  
7 release if at least ~~6~~ 18 months have elapsed since the initial commitment order was  
8 entered, ~~or at least 6 months have elapsed since the most recent release petition was~~  
9 denied or the most recent order for supervised release was revoked. The director of  
10 the facility at which the person is placed may file a petition under this subsection on  
11 the person’s behalf at any time.”.

12 **12.** Page 1374, line 25: delete “(a)”.

13 **13.** Page 1375, line 4: delete the material beginning with that line and ending  
14 with page 1380, line 11, and substitute:

15 **“SECTION 3234m.** 980.08 (4) of the statutes is amended to read:

16 980.08 (4) The court, without a jury, shall hear the petition within 30 days after  
17 the report of the court-appointed examiner is filed with the court, unless the  
18 petitioner waives this time limit. Expenses of proceedings under this subsection  
19 shall be paid as provided under s. 51.20 (18) (b), (c) and (d). The court shall grant the  
20 petition unless the state proves by clear and convincing evidence that the person is  
21 still a sexually violent person and that it is still substantially probable that the  
22 person will engage in acts of sexual violence if the person is not continued in  
23 institutional care. In making a decision under this subsection, the court may  
24 consider, without limitation because of enumeration, the nature and circumstances

1 of the behavior that was the basis of the allegation in the petition under s. 980.02 (2)  
2 (a), the person's mental history and present mental condition, where the person will  
3 live, how the person will support himself or herself and what arrangements are  
4 available to ensure that the person has access to and will participate in necessary  
5 treatment, including pharmacological treatment using an antiandrogen or the  
6 chemical equivalent of an antiandrogen if the person is a serious child sex offender.  
7 A decision under this subsection on a petition filed by a person who is a serious child  
8 sex offender may not be made based on the fact that the person is a proper subject  
9 for pharmacological treatment using an antiandrogen or the chemical equivalent of  
10 an antiandrogen or on the fact that the person is willing to participate in  
11 pharmacological treatment using an antiandrogen or the chemical equivalent of an  
12 antiandrogen.

13 **SECTION 3238d.** 980.08 (6) of the statutes is repealed.

14 **SECTION 3238h.** 980.09 (1) (c) of the statutes is amended to read:

15 980.09 (1) (c) If the court is satisfied that the state has not met its burden of  
16 proof under par. (b), the petitioner shall be discharged from the custody or  
17 supervision of the department. If the court is satisfied that the state has met its  
18 burden of proof under par. (b), the court may proceed ~~under s. 980.06~~ to determine,  
19 using the criterion specified in s. 980.08 (4), whether to modify the petitioner's  
20 existing commitment order by authorizing supervised release.

21 **SECTION 3238j.** 980.09 (2) (c) of the statutes is amended to read:

22 980.09 (2) (c) If the court is satisfied that the state has not met its burden of  
23 proof under par. (b), the person shall be discharged from the custody or supervision  
24 of the department. If the court is satisfied that the state has met its burden of proof  
25 under par. (b), the court may proceed ~~under s. 980.06~~ to determine, using the

1 criterion specified in s. 980.08 (4), whether to modify the person's existing  
2 commitment order by authorizing supervised release.

3 **SECTION 3238t.** 980.11 (2) (intro.) of the statutes is amended to read:

4 980.11 (2) (intro.) If the court places a person on supervised release under s.  
5 ~~980.06~~ 980.08 or discharges a person under s. 980.09 or 980.10, the department shall  
6 do all of the following:".

7 **14.** Page 1380, line 16: after that line insert:

8 **"SECTION 3239d.** 980.12 (2) of the statutes is amended to read:

9 980.12 (2) By February 1, 2002, the department shall submit a report to the  
10 legislature under s. 13.172 (2) concerning the extent to which pharmacological  
11 treatment using an antiandrogen or the chemical equivalent of an antiandrogen has  
12 been required as a condition of supervised release under s. 980.06, 1997 stats., or s.  
13 980.08 and the effectiveness of the treatment in the cases in which its use has been  
14 required."

15 **15.** Page 1451, line 16: delete lines 16 to 18 and substitute:

16 "(ag) *Initial commitment orders.* The treatment of sections 980.06 (1) and (2)  
17 (a), (b) and (c) and 980.065 (1m) of the statutes first applies to initial commitment".

18 **16.** Page 1451, line 20: after that line insert:

19 "(ah) *Interlocutory appeals.* The treatment of section 980.05 (6) of the statutes  
20 first applies to cases in which judgment is entered under section 980.05 (5) of the  
21 statutes on the effective date of this paragraph."

22 **17.** Page 1452, line 1: delete lines 1 to 6 and substitute:

23 "(bg) *Petitions for supervised release.* The treatment of section 980.08 (1) of the  
24 statutes first applies to persons committed under section 980.06 of the statutes, as

1 affected by this act, in cases in which judgment is entered under section 980.05 (5)  
2 of the statutes on the effective date of this paragraph.

3 (bh) *Orders for supervised release.* The treatment of section 980.06 (2) (d) of the  
4 statutes (with respect to the duties of the department of health and family services  
5 under a supervised release order) first applies to orders for supervised release issued  
6 under section 980.08 of the statutes, as affected by this act, on the effective date of  
7 this paragraph.

8 (cg) *Revocation of supervised release.* The treatment of section 980.06 (2) (d)  
9 of the statutes (with respect to time for submitting a statement showing probable  
10 cause for a detention and a petition for revocation of supervised release) first applies  
11 to detentions commencing on the effective date of this paragraph.

12 (ch) *Victim notification.* The treatment of sections 950.04 (1v) (xm) and 980.11  
13 (2) (intro.) of the statutes first applies to the placement of a person on supervised  
14 release under section 980.08 of the statutes, as affected by this act, on the effective  
15 date of this paragraph.”

16

(END)