

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB133)

Received: 06/9/99

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

May Contact:

Alt. Drafters:

Subject: Mental Health - detent/commit

Extra Copies: DAK
MGD

Pre Topic:

LFB:.....Megna -

Topic:

Sexually violent persons facilities: Escape and use of force

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 06/9/99	chanaman 06/9/99	jfrantze 06/10/99	_____	lrb_docadmin 06/10/99		

FE Sent For:

<END>

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/1	olsenje	cmf /1 6/9	6/6/10	6/10 6/10	Slg		

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<END>

60608

Representative Albers

HEALTH AND FAMILY SERVICE -- DEPARTMENTWIDE AND MANAGEMENT AND TECHNOLOGY

Escape and Use of Force For Facilities for Sexually Violent Persons [LFB Paper 474]

Motion:

Move to authorize staff designated by the director of a unit or facility of a secure mental health facility for sexually violent persons at Brewer Creek, at the Wisconsin Resource Center, and at a facility provided by the Department of Corrections to use that level of force that is necessary and appropriate, as defined by the department by rule, to prevent escapes and capture escapees from the unit or facility.

Note:

Under current law, prison wardens have authority to grant staff the authority and power of peace officers in preventing, pursuing and capturing escaped inmates. However, there is no statutory provision that provides this authority to a director of a secure mental health facility for sexually violent persons. This motion would allow the director of a facility for sexually violent persons to designate staff that would have the authority to use the level of force that is necessary and appropriate, as defined by the Department by rule, to prevent escapes and capture escapees. This would allow the facility to use armed guards around the perimeter of the facility.

Since the Wisconsin Resource Center serves prison inmates as well as sexually violent persons, the Wisconsin Resource Center has authority to use armed guards around its perimeter. However, the new facility at Brewer Creek will only serve sexually violent persons, and could not utilize the authority provided to prison wardens to grant staff the use of proper force.

Albers (Board) 6/16/00

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46.058

46.058 Bonds of employes; police powers; investigation of complaints.

46.058(1)

(1) The steward of each institution under the control of the department shall execute and file an official bond in such sum and with such sureties as the secretary prescribes. The steward shall also require any other officer or other person having the possession or custody of any money or property belonging to the state or any institution under its control or supervision to give an official bond, and from time to time renew the bond. The secretary may require a position bond whenever it appears advisable to him or her. The position bond shall have the same coverage as the official bond.

46.058(2)

(2) The superintendents of all institutions administered by the department and of all county hospitals and county homes, and the employes under them to whom they delegate police power, may arrest any person within or upon the grounds of such institutions whom they have reason to believe is guilty of any offense against the laws or regulations governing the institutions; and for that purpose they shall possess the powers of constables.

46.058(3)

(3) The department shall investigate complaints against any institution under its jurisdiction or against the officers or employes thereof. For that purpose the secretary and such officers and employes as the secretary authorizes may summon and swear witnesses, take testimony and compel the production of books and papers. The department may, on its own initiative, investigate the affairs of any institution. Any written communication or complaint addressed to the secretary by any inmate, employe or subordinate of any such institution shall be forthwith forwarded unopened to the addressee.

51.39

51.39 Resident patients on unauthorized absence. If any patient who is admitted under s. 51.13, 51.15, 51.20, 51.45 (11) (b), (12) or (13) or 55.06 or ch. 971, 975 or 980 or transferred under s. 51.35 (3) or 51.37 is on unauthorized absence from a treatment facility, the sheriff or any other law enforcement agency in the county in which the patient is found or in which it is believed the patient may be present, upon the request of the director, shall take charge of and return the patient to the facility. The costs incident to the return shall be paid out of the facility's ~~operating funds~~ and be charged back to the patient's county of residence.

60.35

60.35 Duties of town constable.

60.35(1)

(1) A town constable shall perform the duties established by the town board under s. 60.22 (4).

60.35(2)

(2) A town constable shall keep his or her office in the town. No constable who keeps his or her office outside the limits of the town may receive fees for any service performed.

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60.351

60.351 Town constable fees.

60.351(1)

(1) Town constables shall collect the fees prescribed for sheriffs in s. 814.70 for similar services, unless a higher fee is applicable under s. 814.705 (1) (d).

60.351(2)

(2) If any person except a party to an action performs the services of a town constable, the person shall collect the fees to which the town constable would be entitled.

60.351(3)

(3) No town constable may serve or execute any summons, writ or process in any action or proceeding in which he or she is agent or attorney for the plaintiff or if he or she is interested in the collection of any claim which is the subject of the action or proceeding. A town constable may not recover any costs, fees or expenses, nor may any costs or fees be taxed for any services rendered in violation of this subsection.

61.29

61.29 Constable.

61.29(1)

(1) (intro.) A constable shall:

61.29(1)(a)

(a) Execute and file an official bond.

61.29(1)(b)

(b) Serve within his or her county any writ, process, order or notice, and execute any order, warrant or execution lawfully directed to or required by any court or officer to be executed by the constable.

61.29(1)(c)

(c) Attend any session of the circuit court in his or her county when required by the sheriff.

61.29(1)(d)

(d) Inform the district attorney of all trespasses on public lands of which the constable has knowledge or information.

61.29(1)(e)

(e) Impound cattle, horses, sheep, swine and other animals at large on the highways in violation of a village ordinance.

61.29(1)(f)

(f) Cause to be prosecuted all violations of law of which the constable has knowledge or

information.

61.29(1)(g)

(g) Perform all other duties required by law.

61.29(1)(h)

(h) Keep his or her office in the village. No constable who keeps his or her office outside the limits of the village may receive fees for any service performed during the period the outside office is maintained.

61.29(2)

(2) Section 60.351 applies to village constables.

301.29

301.29 Bonds of employes; police powers; investigation of complaints.

301.29(2)

(2) The superintendents of all the state correctional institutions, and the employes under them to whom they delegate police power, may arrest any person within or upon the grounds of the institutions whom they have reason to believe guilty of any offense against the laws or regulations governing the institutions; and for that purpose they shall possess the powers of constables.

302.07

302.07 Maintenance of order. The warden or superintendent shall maintain order, enforce obedience, suppress riots and prevent escapes. For such purposes the warden or superintendent may command the aid of the officers of the institution and of persons outside of the prison; and any person who fails to obey such command shall be punished by imprisonment in the county jail not more than one year or by a fine not exceeding \$500. The warden or superintendent may adopt proper means to capture escaped inmates.

302.07 - ANNOT.

Correctional staff have authority of peace officer in pursuing and capturing escaped inmates. 68 Atty. Gen. 352.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0608/1

JEO:.....

Soon

D-Date

cmr

LFB:.....Megna – Sexually violent persons facilities: Escape and use of force

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 579, line 8: after that line insert:

3 "SECTION 1002j. 46.058 (2m) of the statutes is created to read:

4 46.058 (2m) The superintendents of the secure mental health facility
5 established under s. 46.055, the Wisconsin resource center established under s.
6 46.056 and any secure mental health unit or facility provided by the department of
7 corrections under s. 980.065 (2) shall adopt proper means to prevent escapes of
8 persons detained or committed to the facility, center or unit under ch. 980 and may
9 adopt proper means to pursue and capture persons detained or committed to the
10 facility, center or unit under ch. 980 who have escaped. In adopting means under this
11 subsection to prevent escape and pursue and capture persons who have escaped, a
12 superintendent may delegate to designated staff members of the facility, center or

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0608/1dn

JEO:.....

cmh

Richard Megna:

Note that a facility may call upon law enforcement officers to pick up escapees under s. 51.39, stats. This amendment does not change that.

Also, should employees acting to prevent escapes or pursue and capture escapees be included in s. 230.36 (3) (c) 4., stats., dealing with pay for hazardous duty undertaken by certain state employees?

Jefren E. Olsen
Legislative Attorney
Phone: (608) 266-8906
E-mail: Jefren.Olsen@legis.state.wi.us

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FROM THE
LEGISLATIVE REFERENCE BUREAU**

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JEO:cmh:jf

June 10, 1999

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State of Wisconsin
1999 - 2000 LEGISLATURE

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9 adopt proper means to pursue and capture persons detained or committed to the
10 facility, center or unit under ch. 980 who have escaped. In adopting means under this
11 subsection to prevent escape and pursue and capture persons who have escaped, a
12 superintendent may delegate to designated staff members of the facility, center or

1 unit the power to use necessary and appropriate force, as defined by the department
2 by rule, to prevent escapes and capture escaped persons.”.

3 (END)