

2001 DRAFTING REQUEST

Bill

Received: 06/11/2001

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: DuWayne Johnsrud (608) 266-3534

By/Representing: Larry

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Correctional System - ext superv
Correctional System - parole
Correctional System - probation
Criminal Law - sexual assault

Extra Copies: rlr

Submit via email: YES

Requester's email: Rep.Johnsrud@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Placement of sex offenders

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>
/?	mdsida 10/01/2001	gilfokm 10/19/2001		_____			
/P1		gilfokm	jfrantze	_____	lrb_docadmin		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
		11/09/2001	10/22/2001	_____	10/22/2001		
/1			jfrantze	_____	lrb_docadmin	lrb_docadmin	
			11/09/2001	_____	11/09/2001	01/14/2002	

FE Sent For:

<END>

→ At Intro.

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/P1		11-11/9 Kmg	jfrantze 10/11/9		lr_b_docadmin		

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			10/22/2001	_____	10/22/2001		

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1?	mdsida	APL-10/19 Kmg	J 10/22	J 10/22			

FE Sent For:

<END>

B I L L
REQUEST FORM

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

M6D 2

Use of this form is optional. It is often better to talk directly with the LRB attorney who will draft the bill.

Use this form only for **BILL** drafts. Attach more pages if necessary.

Legislator, agency or other body requesting this draft: Rep. Johnson

Date: 6/6/01 Person submitting request (name, phone number): Rep. Johnson ~~6-3534~~ ⁶⁻³⁵³⁴

Persons to contact for questions about this draft (names, phone numbers): Larry Konopacki 6-3534

Describe the problem, including any helpful examples.

How do you want to solve the problem?

please draft legislation which would require corrections to place convicted sex offenders no closer than 1000 feet from a school, school ground, playground, etc. (places where children are to gather) ← suggestions for this language appreciated! Please call to let us know who is assigned to this draft. Please provide PDF files. Thanks.

Please attach a copy of any correspondence or other material that may help us.
If you know of any statute sections that might be affected, list them or provide a marked-up (not re-typed) copy.

You may attach a marked-up (not retyped) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

Requests are confidential unless stated otherwise.

- May we tell others that we are working on this for you? Yes No
- If yes: Anyone who asks? Yes No Any legislator? Yes No Only the following persons: _____

Do you consider this request urgent? Yes No If yes, please indicate why: _____

Should we give this request priority over any other pending request of this legislator, agency or body? Yes No If yes, sign your name here: _____

6/11
Plc to ~~Long~~ ~~Left~~ ~~may~~

Wants as bill, not as budy amdt

Wants to cover
DHFS too
(ch. 980, NGI cars)

1347/2

Dsida, Michael

From: Konopacki, Larry
Sent: Monday, September 24, 2001 2:57 PM
To: Dsida, Michael
Subject: RE: Sex offender placement bill

Mike, for now, let's go with this applying to the entire parole or extended supervision period, and let's go with the list as you wrote below. Let's not do the #3 exemption, but exempt people who's sexual offense(s) did not involve children. Thanks very much.....

-----Original Message-----

From: Dsida, Michael
Sent: Friday, September 21, 2001 4:52 PM
To: Konopacki, Larry
Subject: Sex offender placement bill

*Have it apply to NG1
975
980*

Besides the question regarding having this apply to DHFS, I have a few others:

1. Do you want the restriction to apply for as long as a person is on parole or extended supervision, or only for some shorter period of time?
2. You had asked for suggestions for describing the places that would have the 1,000 foot buffer zone. This list appears in current ss. 961.49 and 961.495. I have deleted the references to correctional facilities and buses.

"...a state, county, city, village or town park, a multiunit public housing project, a swimming pool open to members of the public, a youth center or a community center, while in or on or otherwise within 1,000 feet of any private or public school premises "

Is there anything that you want to add or delete?

3. Do you want an exception for a sex offender who lived within a buffer zone before being convicted if, for example, the offender's family remains in the same residence and the offender is returning to live with the family?

Mike Dsida
Legislative Reference Bureau
608/266-9867
michael.dsida@state.legis.wi.us

6-5344

*Per Larry -
add day care*

Dsida, Michael

From: Dsida, Michael
Sent: Tuesday, September 25, 2001 1:23 PM
To: Konopacki, Larry
Subject: RE: Sex offender placement bill

Here are 2 more questions that we can handle by e-mail. (I still need to talk with you at some point about the one I left you a phone message about.)

1. Chapter 980 covers offenses beyond what I was planning to cover in the bill. Thus, a person can be committed under that chapter based on aggravated battery or kidnapping if the offense was sexually motivated. (Those cases are probably far fewer in number than sexual assault-based cases.) Do you want every child sex offender committed under ch. 980 to be subject to the residency restriction, or just those who are "child sex offenders" under the narrower definition of that term? (Another option would be to use the broader ch. 980 definition throughout the bill, but I didn't think that was what you wanted me to do.)

2. When you are talking about offenses against children, are you thinking of any particular age cutoff? (Chapter 948 covers offenses against children up to 17.)

Wants up to 17

Mike Dsida
Legislative Reference Bureau
608/266-9867
michael.dsida@state.legis.wi.us

2333 4 777 "
DOE -
Stouvenator
608/47-720
by category of crime

Brad Murphy
re 1000 ft map

Keep Have prohib. apply to
all committed under
ch. 980,
but more narrow
def'n for all others

Dsida, Michael

From: Konopacki, Larry
Sent: Thursday, September 27, 2001 9:26 AM
To: Dsida, Michael
Subject: RE: Sex offender placement bill

Thanks again, Mike.

Here are several more questions. (They may be the last ones.)

1. If a school, day care center, or other covered facility is established within 1000 feet of a previously established residence of a child sex offender, and the person's residence is at least 1000 feet away from all other places that are covered by the bill, does the person have to move? Yes

2. I don't have a good enough map of Madison to figure this one out, and I don't have a map of Milwaukee at all, but it may be that in bigger cities -- and especially Milwaukee -- there are few places that are not within 1,000 feet of one of the covered facilities. Is that okay? I expected that this might happen. I think we'll get a lot of feedback as to how to address this potential problem when we turn this out to the world. For now it is OK.

3. I just found out that there is only one person committed under the old sex crimes law (chapter 975), and because of s. 975.01 (1), there will be no more. Do you want a provision in ch. 975 to cover that person? (I've already drafted the provision, so it won't matter in terms of the work I have to do.) I suppose so, if that person is a child sex offender.....

I also have a question regarding the constitutionality of this provision in a couple of contexts, but they would be exceptional cases. But I am still looking into it, so I might just save it for a drafter's note. Great, Thanks!

Mike Dsida
Legislative Reference Bureau
608/266-9867
michael.dsida@state.legis.wi.us

Dsida, Michael

From: Konopacki, Larry
Sent: Friday, September 28, 2001 3:08 PM
To: Dsida, Michael
Subject: RE: Jail sentences

I think that we should not cover those not subject to supervision.....Thank you again for being so thorough

-----Original Message-----

From: Dsida, Michael
Sent: Friday, September 28, 2001 3:06 PM
To: Konopacki, Larry
Subject: Jail sentences

A court may sentence a person convicted of committing a child sex offense to time in jail; it may sentence the person to imprisonment in the state prisons; or it may place the person on probation. But because persons released from jail are not subject to supervision by the department of corrections, this bill does not impose any residency restriction on such persons. Is that okay? If it's not, there are different approaches that you could use to cover those people. For example, you could create a crime that would prohibit such persons from living within the buffer zone for a certain period of time. (You could also have the other people already covered by this bill -- such as parolees -- covered by the new prohibition, but there may be less of a need to do. Since one of the conditions for those people remaining in the community is that they live outside of the buffer zone, if they live within it, they can already be returned to jail.) Let me know how you want to address this.

Mike Dsida
Legislative Reference Bureau
608/266-9867
michael.dsida@state.legis.wi.us

evidence that conditional release of the person would pose a significant risk of bodily harm or serious property damage. Predicting future dangerous conduct cannot be done to a reasonable degree of medical certainty, in his opinion. In the real world, release petitions are refused for vast variety of reasons. It is the rare case when the person poses a significant risk to an identifiable person.

Ms. Greenley responded that "any person" does not mean any specific person. Mr. Longert agreed.

Mr. Yovovich noted that the court should consider, not only the doctor's testimony, but also the factors enumerated on the top of page 3, as well as any other relevant evidence. These factors seem to be things the expert witness should consider, as well. Perhaps the draft should say so expressly.

Chairman Pappas asked Professor Schultz to read the current standard for release. Professor Schultz noted that s. 971.17(2) provides that the person may be released "if the court is satisfied that the defendant may be safely discharged or released without danger to himself or herself or to others." Ms. Greenley suggested that in sub. (3)(a), "any person" be changed to "himself or herself or to others." Chairman Pappas asked if there were objection to that. Hearing none, he so directed.

Professor Schultz observed that the doctor should not be asked whether there is clear and convincing evidence that release would pose a significant risk. Whether there is clear and convincing evidence to support a factual finding is a question for the court, not the expert witness. Chairman Pappas agreed with this analysis, although he predicted that examiners would sometimes be asked whether there is clear and convincing evidence. Even if the doctor refuses to answer that to a reasonable degree of medical certainty, the court can still make the required finding.

Mr. Yovovich emphasized that the release provision is based upon many facts other than the doctor's assessment of the person's mental condition. The statutes direct the court's attention to the arrangements for the person's control and supervision in the community and access to necessary medication and support services. Chairman Pappas agreed. Merely because the person has made a successful adjustment to the controlled environment of a mental health institute does not mean that he or she will adjust successfully to life in the community.

Ms. Greenley pointed out that proposed par. (3)(c) allows the person to be taken into custody if he or she "violates any condition or rule." This does not include the broader language suggested by Judge Frankel earlier in our deliberations, allowing the person to be taken into custody if he or she is becoming dangerous again, notwithstanding no rule or condition of supervision has been violated. Last month, a draft was circulated which includes the concept Judge Frankel suggested (LRB-9701/4). It allows a conditional released person to be taken into custody "if the safety of the person or others requires revocation of conditional release."

Chairman Pappas said that one of our original goals in this committee had been to address that situation. He asked if there were objection to including this alternative standard for revocation. Ms. Greenley said she had no objection. The committee agreed to make this change.

1 denying a petition under this subsection shall not prevent the filing of
2 another petition at least one year after the denial of the previous peti-
3 tion under this subsection.

4 (6) This section governs the commitment, release and discharge of
5 persons adjudicated guilty but not responsible for offences committed on
6 or after January 1, 1989. The commitment, release and discharge of per-
7 sons adjudicated not guilty by reason of mental disease or defect for
8 offenses committed prior to January 1, 1989, shall be governed by s.
9 971.17, 1985 stats.

NOTE: Commitment of a person found not guilty by reason of
mental disease or defect may take either of 2 forms: institutional
placement or supervised conditional release. The burden of
persuading the court that institutional commitment is required for
public protection is placed upon the prosecution and the standard
of proof is that held to govern an analogous procedure in State v.
Hanson, 100 Wis. 2d 549 (1981). Because the person's mental
condition is relevant to the question of whether he or she may be
conditionally released, procedures are provided for independent
examinations in connection with commitment and release proceedings.

Persons on conditional release may be ordered to institutional
placement upon proof that they have violated the rules or condi-
tions of release. Since the conditions must be appropriate to the
protection of the public from dangerous conduct by the person,
violations thereof are prima facie evidence that institutional
placement is warranted.

10 SECTION 14. 971.175 of the statutes is repealed.

NOTE: This section has been replaced by new s. 971.165.

11 SECTION 15. INITIAL APPLICABILITY. This act first applies to prose-
12 cutions for offenses committed on the effective date of this SECTION.

13 SECTION 16. EFFECTIVE DATE. This act takes effect on January 1,
14 1989.

15 (End)



[Handwritten signature]

[Handwritten mark]

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

[Handwritten: 9/10/10/01]

[Handwritten: Egon]

[Handwritten: renum Hen. Cat.]

1 AN ACT to renumber 302.115; to renumber and amend 304.06 (2m) (a); to
2 amend 302.11 (1), 302.11 (4m), 302.113 (7), 302.114 (8), 304.02 (4m), 304.06
3 (2m) (b), 304.06 (2m) (c), 304.06 (2m) (d) and 950.04 (1v) (v); and to create
4 301.03 (19), 302.11 (1g) (b) 3., 302.116, 304.01 (3), 304.06 (2m) (a) 2., 304.06 (2m)
5 (af), 304.06 (2m) (ak), 304.06 (2m) (ap) and 304.06 (2m) (at) of the statutes;
6 relating to: the residence of a ^{child} sex offender ^(S) on parole or extended supervision.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

~~SECTION 1. 301.03 (19) of the statutes is created to read:~~

~~301.03 (19) Work with the parole commission to minimize, to the greatest extent possible, the residential population density of sex offenders, as defined in s. 302.116 (1) (b), who are on probation, parole, or extended supervision or placed on supervised release under s. 980.06 (2) (c) 1997 stats., or 980.08 (5).~~

(Insert
2/0

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

2 302.11 (1) The warden or superintendent shall keep a record of the conduct of
3 each inmate, specifying each infraction of the rules. Except as provided in subs. (1g),
4 (1m), (1q), (1z), (4m), (7), and (10), each inmate is entitled to mandatory release on
5 parole by the department. The mandatory release date is established at two-thirds
6 of the sentence. Any calculations under this subsection or sub. (1q) (b) or (2) (b)
7 resulting in fractions of a day shall be rounded in the inmate's favor to a whole day.

8 SECTION 3. 302.11 (1g) (b) 3. of the statutes is created to read:
9 *child*
10 *if the inmate is a sex offender, as defined in s. 302.116 (1) (af)*

11 302.11 (1g) (b) 3. Refusal by the inmate to live in a residence that the parole
12 commission has approved under s. 304.06 (2m) (ak), if applicable, relating to
13 the counties to which inmates may be paroled.

14 SECTION 4. 302.11 (4m) of the statutes is amended to read:
15 *child*
16 *A sex offender, as defined in s. 304.06 (2m) (a) 1,*

17 302.11 (4m) An inmate may not be paroled under this section is subject to the
18 restriction unless he or she agrees to live in a residence that the parole commission
19 or the department has approved under s. 304.06 (2m) (ak), if applicable, relating to
20 the counties to which inmates may be paroled.

21 SECTION 5. 302.113 (7) of the statutes is amended to read:

22 302.113 (7) Any inmate released to extended supervision under this section is
23 subject to all conditions and rules of extended supervision until the expiration of the
24 term of extended supervision portion of the bifurcated sentence. The department
may set conditions of extended supervision in addition to any conditions of extended
supervision required under s. 302.116, if applicable, or set by the court under s.
973.01 (5) if the conditions set by the department do not conflict with the court's
conditions.

SECTION 6. 302.114 (8) of the statutes is amended to read:

comply with

to reside
as a condition of
parole

insert 2/9

1 302.114 (8) Any inmate released to extended supervision under this section is
 2 subject to all conditions and rules of extended supervision. The department may set
 3 conditions of extended supervision in addition to any conditions of extended
 4 supervision required under s. 302.116, if applicable, or set by the court under sub.
 5 (5) (d) if the conditions set by the department do not conflict with the court's
 6 conditions.

7 ~~SECTION 7. 302.115 of the statutes is renumbered 302.105.~~

8 ⁽³⁾
 SECTION 8. 302.116 of the statutes is created to read:

9 **302.116 Extended supervision conditions for sex offenders.** (1) In this
 10 section:

11 (a) "Serious sex offense" means a violation of s. 940.225 (1) or (2), 948.02 (1) or
 12 (2), 948.025, 948.06, or 948.07 or a solicitation, conspiracy, or attempt to commit a
 13 violation of s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.06, or 948.07.

14 ~~(b) "Sex offender" means a person serving a sentence for a serious sex offense.~~

15 ^{302.116 (3) (B)}
 (b) As a condition of extended supervision, a ^{child} sex offender shall ~~agree to~~ live in
 16 a residence that ~~the department has approved under sub. 13.~~ ^{(A) insert 3/16}

17 ~~(3) Subject to the requirements of subs. (4) to (6) and s. 301.03 (19), before~~
 18 releasing a sex offender to extended supervision, the department shall assess the
 19 appropriateness of the sex offender's prospective residence by doing at least all of the
 20 following:

21 (a) Considering the sex offender's access to potential victims if he or she lives
 22 there. If the victim of the serious sex offense that the sex offender committed was
 23 a child, the department, in meeting this requirement, shall contact the department
 24 of health and family services, the local county department responsible for
 25 certification of child care providers under s. 48.651, and the local school board to

Act 16

Act 16

1 determine whether there are any day care providers located near the sex offender's
2 prospective residence.

3 (b) Ensuring that others living in the prospective residence are aware of the sex
4 offender's offense history.

5 (4) The department shall use its best efforts to select a residence under sub.
6 (3) that is in the sex offender's county of residence.

7 (5) If the victim of the serious sex offense that the sex offender committed was
8 a child who resided with the sex offender at the time of the offense, the department
9 may not permit the sex offender to return home, unless the extended supervision
10 officer and any person providing sex offender treatment to the sex offender
11 determines that the sex offender's return will not jeopardize the safety of anyone
12 residing in the home.

13 (6) The department may not approve a residence under sub. (3) if it is located
14 in a county where there is a correctional institution that has a specialized sex
15 offender treatment program, unless that county is also the sex offender's county of
16 residence.

17 (7) The department shall determine a sex offender's county of residence under
18 this section by doing all of the following:

19 (a) Considering residence as the voluntary concurrence of physical presence
20 with intent to remain in a place of fixed habitation and considering physical presence
21 as prima facie evidence of intent to remain.

22 (b) Applying the criteria for consideration of residence and physical presence
23 under par. (a) to the facts that existed on the date on which the sex offender
24 committed the serious sex offense that resulted in the sentence that the sex offender
25 is serving.

1 SECTION 9. 304.01 (3) of the statutes is created to read:

2 304.01 (3) The parole commission shall work with the department to minimize,
3 to the greatest extent possible, the residential population density of sex offenders,
4 as defined in s. 304.06 (2m) (a) 2., who are on probation, parole, or extended
5 supervision or placed on supervised release under s. 980.06 (2) (c), 1997 stats., or s.
6 ~~980.08 (5).~~

7 SECTION 10. 304.02 (4m) of the statutes is amended to read:

8 304.02 (4m) A prisoner ^{child} may not be paroled under this section is subject to the
9 restriction ^{sex offender as defined in s. 304.06(2m)(a) 1.,} unless he or she agrees ^{as a condition of parole,} to ~~live in a residence that the department has~~
10 ~~approved under s. 304.06 (2m) (ak),~~ if applicable, relating to the counties to which
11 prisoners may be paroled. comply with

12 SECTION 11. 304.06 (2m) (a) of the statutes is renumbered 304.06 (2m) (a)
13 (intro.) and amended to read:

14 304.06 (2m) (a) (intro.) In this subsection, "serious:

15 ³ 1. "Serious sex offense" means a violation of s. 940.225 (1) or (2), 948.02 (1) or
16 (2), 948.025, 948.06 or 948.07 or a solicitation, conspiracy or attempt to commit a
17 violation of s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.06 or 948.07.

18 SECTION #. (R) 304.06(2m)(a)1. "Child care facility" has the meaning given in s. 302.116(1)(ad).

18 SECTION 12. 304.06 (2m) (a) 2) of the statutes is created to read:

19 304.06 (2m) (a) 2. "Sex offender" means a person serving a sentence for ^{any of the following:}
20 ~~serious sex offense.~~ child

21 SECTION 13. 304.06 (2m) (af) of the statutes is created to read:

22 304.06 (2m) (af) Neither the parole commission nor the department may parole
23 a ^{child} sex offender ^{as defined in s. 302.116(1)(af),} unless he or she agrees ^{as a condition of parole,} to ~~live in a residence that the parole~~
24 ~~commission or the department has approved under par. (ak).~~

25 SECTION 14. 304.06 (2m) (ak) of the statutes is created to read:

Insert 5/24

IN sent 6/11

1 304.06 (2m) (ak) ~~Subject to the requirements of pars (at), and (b) and ss.~~
2 ~~301.03 (19) and 304.01 (3), before releasing a sex offender on parole, the parole~~
3 ~~commission or the department shall assess the appropriateness of the sex offender's~~
4 ~~prospective residence by doing at least all of the following:~~

5 1. ~~Considering the sex offender's access to potential victims if he or she lives~~
6 ~~there. If the victim of the serious sex offense that the sex offender committed was~~
7 ~~a child, the parole commission or the department, in meeting this requirement, shall~~
8 ~~contact the department of health and family services, the local county department~~
9 ~~responsible for certification of child care providers under s. 48.651, and the local~~
10 ~~school board to determine whether there are any day care providers located near the~~
11 ~~sex offender's prospective residence.~~

12 2. ~~Ensuring that others living in the prospective residence are aware of the sex~~
13 ~~offender's offense history.~~

14 SECTION 15. 304.06 (2m) (ap) of the statutes is created to read:

15 304.06 (2m) (ap) The parole commission or the department shall use its best
16 efforts to select a residence under par. (ak) that is in the sex offender's county of
17 residence.

18 ~~SECTION 16. 304.06 (2m) (at) of the statutes is created to read:~~

19 ~~2. 304.06 (2m) (at) If the victim of the serious sex offense that the sex offender~~
20 ~~committed was a child who resided with the sex offender at the time of the offense,~~
21 ~~neither the parole commission nor the department may permit the sex offender to~~
22 ~~return home, unless the parole officer and any person providing sex offender~~
23 ~~treatment to the sex offender determines that the sex offender's return will not~~
24 ~~jeopardize the safety of anyone residing in the home.~~ *School park...*

25 SECTION 17. 304.06 (2m) (b) of the statutes is amended to read:

1 304.06 (2m) (b) ~~Except as provided in par. (c), no prisoner who is serving a~~
2 ~~sentence for a serious sex offense~~ offender may be paroled to any county where there
3 is a correctional institution that has a specialized sex offender treatment program.

4 **SECTION 18.** 304.06 (2m) (c) of the statutes is amended to read:

5 304.06 (2m) (c) ~~A prisoner who is serving a sentence for a serious sex offense~~
6 offender may be paroled to a county where there is a correctional institution that has
7 a specialized sex offender treatment program if that county is also the prisoner's sex
8 offender's county of residence.

9 **SECTION 19.** 304.06 (2m) (d) of the statutes is amended to read:

10 304.06 (2m) (d) The parole commission or the department shall determine a
11 ~~prisoner's sex offender's~~ sex offender's county of residence for the purposes of this subsection by
12 doing all of the following:

13 1. ~~The parole commission or the department shall consider~~ Considering
14 residence as the voluntary concurrence of physical presence with intent to remain
15 in a place of fixed habitation and ~~shall consider~~ considering physical presence as
16 prima facie evidence of intent to remain.

17 2. ~~The parole commission or the department shall apply~~ Applying the criteria
18 for consideration of residence and physical presence under subd. 1. to the facts that
19 existed on the date ~~that the prisoner on which the sex offender~~ that the sex offender committed the serious
20 ~~sex offense that resulted in the sentence that the prisoner sex offender is serving.~~

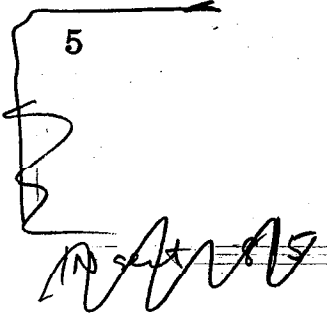
21 **SECTION 20.** 950.04 (1v) (v) of the statutes is amended to read:

22 950.04 (1v) (v) ~~To have the department of corrections make a reasonable~~
23 attempt to notify the victim under s. 301.046 (4) regarding community residential
24 confinements, under s. 301.048 (4m) regarding participation in the intensive
25 sanctions program, under s. 301.38 regarding escapes from a Type I prison, under

1 ~~s. 301.46 (3) regarding persons registered under s. 301.45, under s. ~~302.115~~ 302.105~~
2 ~~regarding release upon expiration of certain sentences, under s. 304.063 regarding~~
3 ~~extended supervision and parole releases, and under s. ~~938.51~~ regarding release or~~
4 ~~escape of a juvenile from correctional custody.~~

5

(END)



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

3 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
4 including but not limited to a person admitted, committed, or placed under s. 975.01,
5 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 51.10, 51.13,
6 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12), and (13), 55.05, 55.06, 971.14
7 (2) and (5), 971.17 (1), 975.06, and 980.06, receiving care, maintenance, services, and
8 supplies provided by any institution in this state including University of Wisconsin
9 Hospitals and Clinics, in which the state is chargeable with all or part of the person's
10 care, maintenance, services, and supplies, any person receiving care and services
11 from a county department established under s. 51.42 or 51.437 or from a facility
12 established under s. 49.73, and any person receiving treatment and services from a
13 public or private agency under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d) or (4)
14 (c) or 980.08 (5) (c) and the person's property and estate, including the homestead,
15 and the spouse of the person, and the spouse's property and estate, including the
16 homestead, and, in the case of a minor child, the parents of the person, and their
17 property and estates, including their homestead, and, in the case of a foreign child
18 described in s. 48.839 (1) who became dependent on public funds for his or her
19 primary support before an order granting his or her adoption, the resident of this
20 state appointed guardian of the child by a foreign court who brought the child into
21 this state for the purpose of adoption, and his or her property and estate, including
22 his or her homestead, shall be liable for the cost of the care, maintenance, services,
23 and supplies in accordance with the fee schedule established by the department

1 under s. 46.03 (18). If a spouse, widow, or minor, or an incapacitated person may be
2 lawfully dependent upon the property for their support, the court shall release all or
3 such part of the property and estate from the charges that may be necessary to
4 provide for those persons. The department shall make every reasonable effort to
5 notify the liable persons as soon as possible after the beginning of the maintenance,
6 but the notice or the receipt thereof is not a condition of liability.

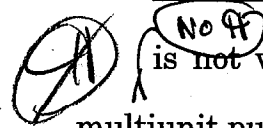
History: 1971 c. 125; 1971 c. 213 s. 5; 1973 c. 90 ss. 223, 223m, 560 (3); 1973 c. 198, 333; 1975 c. 39 ss. 347 to 350, 734; 1975 c. 41, 94; 1975 c. 189 s. 99 (2); 1975 c. 198, 199, 224; 1975 c. 413 s. 18; 1975 c. 428; 1975 c. 430 ss. 6, 80; 1977 c. 29, 203; 1977 c. 418 ss. 294 to 295, 924 (50), 929 (18); 1977 c. 428; 1977 c. 447 s. 206; 1977 c. 449 ss. 75, 497; 1979 c. 34; 1979 c. 102 ss. 236 (4), 237; 1979 c. 117, 221, 331; 1981 c. 20 ss. 755 to 758, 2202 (20) (i), (m); 1981 c. 81; 1983 a. 27 ss. 955m, 2202 (20); 1985 a. 29, 176, 281, 332; 1987 a. 307; 1989 a. 31, 56, 96, 212; 1991 a. 39, 221, 315, 316; 1993 a. 16, 27, 385, 437, 446, 479, 481; 1995 a. 27 ss. 2054, 2055, 9130 (4); 1995 a. 77, 224, 404; 1997 a. 3, 27, 35, 237, 308; 1999 a. 9, 103.

7 **SECTION 2. 51.42 (3) (aw) 1. d. of the statutes is amended to read:**

8 51.42 (3) (aw) 1. d. Provide treatment and services that are specified in a
9 conditional release plan approved by a court for a person who is a county resident and
10 is conditionally released under s. 971.17 (3) or (4) or that are specified in a supervised
11 release plan approved by a court under s. 980.06 (2) (c), 1997 stats., or s. 980.08 (5)
12 (d). If the county department provides treatment and services under this
13 subdivision, the department of health and family services shall, from the
14 appropriation under s. 20.435 (2) (bj), pay the county department for the costs of the
15 treatment and services.

History: 1971 c. 125; 1973 c. 90, 198, 333, 336; 1975 c. 39, 198, 199, 224, 422; 1975 c. 428 s. 16; 1975 c. 430 ss. 24 to 31, 80; 1977 c. 26 ss. 37, 38, 75; 1977 c. 29 ss. 612 to 623p, 1656 (18); 1977 c. 193; 1977 c. 203 s. 106; 1977 c. 272; 1977 c. 354 s. 101; 1977 c. 418, 428, 447; 1979 c. 34, 117, 177, 221, 330, 355; 1981 c. 20 ss. 923 to 942, 2202 (20) (d), (n), (q); 1981 c. 93 ss. 105 to 122, 186; 1981 c. 329; 1983 a. 27 ss. 1106 to 1112, 2202 (20); 1983 a. 189 ss. 44, 329 (5); 1983 a. 192, 239, 365, 375, 524; 1985 a. 29, 120, 176; 1987 a. 3, 27, 199, 339, 366; 1989 a. 31, 122; 1991 a. 39, 274, 315; 1993 a. 16, 437, 445; 1995 a. 27 ss. 3260 to 3262, 9126 (19), 9145 (1); 1995 a. 64, 77, 92, 201, 224, 276, 352, 417; 1997 a. 27, 164, 237, 268; 1999 a. 9; 2001 a. 10.

16 **INSERT 2/9** ✓

17 

17 is not within 1,000 feet of any state, county, city, village, or town park, a
18 multiunit public housing project, a swimming pool open to members of the public, a
19 child care facility, as defined in s. ~~304.06 (2m) (a) (ii)~~ ^{302.116 (1) (ad) ✓} a youth center, a community
20 center, or any private or public school premises.

21 **INSERT B/7** ✓

22 **SECTION 3. 302.11 (4m) of the statutes is renumbered 302.11 (4m) (a).**

entitled to mandatory release on

1 SECTION 4. 302.11 (4m) (b) of the statutes is created to read:

2 302.11 (4m) (b) A child sex offender, as defined in s. ~~304.06(2m)(2)~~ ^{302.116(1)(af)} *is* not
3 ~~paroled~~ ^{*under this section*} unless he or she agrees, as a condition of parole, not to reside within 1,000
4 feet of any state, county, city, village, or town park, a multiunit public housing
5 project, a swimming pool open to members of the public, a child care facility, as
6 defined in s. ~~302.06(2m)(2)~~ ^{302.116(1)(ad)}, a youth center, a community center, or any private
7 or public school premises.

8 SECTION 5. 302.116 (1) (a) of the statutes, as ~~302.116(1)(a)~~ ^{created} by 2001 Wisconsin Act 16,
9 is renumbered 302.116 (1) (at).

10 SECTION 6. 302.116 (1) (ad) of the statutes is created to read:

11 302.116 (1) (ad) "Child care facility" means a child care facility that is operated
12 by a person licensed under s. 48.65 or 48.69 or certified under s. 48.651 or that is
13 established or contracted for under s. 120.13 (14).

14 SECTION 7. 302.116 (1) (af) of the statutes is created to read:

15 302.116 (1) (af) "Child sex offender" means a person serving a sentence for any
16 of the following:

- 17 1. A violation of s. 948.07 or a solicitation or conspiracy to commit a violation
- 18 of s. 948.07.
- 19 2. Any other serious sex offense, if the victim or the intended victim of the
- 20 serious sex offense was a person who had not attained the age of 18 years at the time
- 21 of the offense.

22 **INSERT 3/16**

23 ~~(A)~~ ^(No A) is not within 1,000 feet of any state, county, city, village, or town park, a
24 multiunit public housing project, a swimming pool open to members of the public, a

Notwithstanding subs. (1) to (3), a

1 child care facility, a youth center, a community center, or any private or public school
2 premises.

3 ~~SECTION 8. 304.02 (4m) of the statutes is renumbered 304.02 (4m) (a).~~

4 SECTION 9. 304.02 (4m) ^(4t) of the statutes is created to read:

5 304.02 (4m) ~~is~~ ^{under this section} child sex offender, as defined in s. ~~304.02 (2m) (b) (2)~~ ^{302.116(1)(af) ✓} may not
6 be paroled unless he or she agrees, as a condition of parole, not to reside within 1,000
7 feet of any state, county, city, village, or town park, a multiunit public housing
8 project, a swimming pool open to members of the public, a child care facility, as
9 defined in s. ~~304.02 (2m) (a) (1)~~ ^{302.116(1)(af)}, a youth center, a community center, or any private
10 or public school premises.

11 ~~INSERT 5/20~~

- 12 1. A violation of s. 948.07 or a solicitation or conspiracy to commit a violation
13 of s. 948.07.
- 14 2. Any other serious sex offense, if the victim or the intended victim of the
15 serious sex offense was a person who had not attained the age of 18 years at the time
16 of the offense.

17 ~~INSERT 5/24~~

18 ~~(A)~~ ^(No fr) not to reside within 1,000 feet of any state, county, city, village, or town park,
19 a multiunit public housing project, a swimming pool open to members of the public,
20 a child care facility, ^{as defined in s. 302.116(1)(af),} a youth center, a community center, or any private or public
21 school premises.

22 ~~INSERT 6/5~~

23 SECTION 10. 971.17 (3) (a) of the statutes is amended to read:

24 971.17 (3) (a) An order for commitment under this section shall specify either
25 institutional care or conditional release. The court shall order institutional care if

1 it finds by clear and convincing evidence that conditional release of the person would
 2 pose a significant risk of bodily harm to himself or herself or to others or of serious
 3 property damage ^{that} or if the person is a child sex offender, as defined in s. 302.116 (1)
 4 (af), ^{who} and refuses to comply with sub. (4f) ~~If~~ Otherwise, the court does not make this
 5 finding, it shall order conditional release. In determining whether ~~commitment~~
 6 shall be for institutional care or conditional release the person would pose a
 7 significant risk of bodily harm to himself or herself or to others or of serious property
 8 damage, the court may consider, without limitation because of enumeration, the
 9 nature and circumstances of the crime, the person's mental history and present
 10 mental condition, where the person will live, how the person will support himself or
 11 herself, what arrangements are available to ensure that the person has access to and
 12 will take necessary medication, and what arrangements are possible for treatment
 13 beyond medication.

History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275; 1999 a. 82.

SECTION 11. 971.17 (3) (e) of the statutes is amended to read:

15 971.17 (3) (e) An order for conditional release places the person in the custody
 16 and control of the department of health and family services. A conditionally released
 17 person is subject to the conditions set by the court and, to the rules of the department
 18 of health and family services, and, if applicable, to sub. (4f). Before a person is
 19 conditionally released by the court under this subsection, the court shall so notify the
 20 municipal police department and county sheriff for the area where the person will
 21 be residing. The notification requirement under this paragraph does not apply if a
 22 municipal department or county sheriff submits to the court a written statement
 23 waiving the right to be notified. If the department of health and family services
 24 alleges that a released person has violated any condition or rule, or that the safety

1 of the person or others requires that conditional release be revoked, he or she may
 2 be taken into custody under the rules of the department. The department of health
 3 and family services shall submit a statement showing probable cause of the
 4 detention and a petition to revoke the order for conditional release to the committing
 5 court and the regional office of the state public defender responsible for handling
 6 cases in the county where the committing court is located within 48 hours after the
 7 detention. The court shall hear the petition within 30 days, unless the hearing or
 8 time deadline is waived by the detained person. Pending the revocation hearing, the
 9 department of health and family services may detain the person in a jail or in a
 10 hospital, center or facility specified by s. 51.15 (2). The state has the burden of
 11 proving by clear and convincing evidence that any rule or condition of release has
 12 been violated, or that the safety of the person or others requires that conditional
 13 release be revoked. If the court determines after hearing that any rule or condition
 14 of release has been violated, or that the safety of the person or others requires that
 15 conditional release be revoked, it may revoke the order for conditional release and
 16 order that the released person be placed in an appropriate institution under s. 51.37
 17 (3) until the expiration of the commitment or until again conditionally released
 18 under this section.

History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275; 1999 a. 89.

Fix COMP

SECTION 12. 971.17 (4) (d) of the statutes is renumbered ~~971.17 (4) (d)~~ ^{971.17 (4) (d)} ~~intro~~

~~and~~ amended to read:

971.17 (4) (d) ~~intro~~ The court, without a jury, shall hear the petition within 30 days after the report of the court-appointed examiner is filed with the court, unless the petitioner waives this time limit. Expenses of proceedings under this

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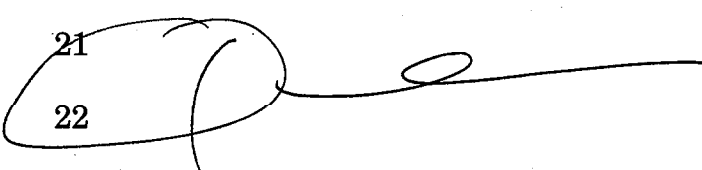
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1 petition unless it finds by clear and convincing evidence that the person would pose
 2 a significant risk of bodily harm to himself or herself or to others or of serious
 3 property damage if conditionally released or that the person is a child sex offender,
 4 as defined in s. 302.116 (1) (af), who refuses to comply with sub. (4f). In making this
 5 determination determining whether the person would pose a significant risk of
 6 bodily harm to himself or herself or to others or of serious property damage, the court
 7 may consider, without limitation because of enumeration, the nature and
 8 circumstances of the crime, the person's mental history and present mental
 9 condition, where the person will live, how the person will support himself or herself,
 10 what arrangements are available to ensure that the person has access to and will
 11 take necessary medication, and what arrangements are possible for treatment
 12 beyond medication.

History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275; 1999 a. 89.

13 **SECTION 13.** 971.17 (4f) of the statutes is created to read:

14 **971.17 (4f) RESIDENCY OF CHILD SEX OFFENDERS ON CONDITIONAL RELEASE.** A child
 15 sex offender, as defined in s. 302.116 (1) (af), who is conditionally released under sub.
 16 (3) or (4) (e) may not, as a condition of the person's release, reside within 1,000 feet
 17 of any state, county, city, village, or town park, a multiunit public housing project,
 18 a swimming pool open to members of the public, a child care facility, as defined in s.
 19 302.116 (1) (ad), a youth center, a community center, or any private or public school
 20 premises.

21 
 22
 23 **SECTION 14.** 973.09 (8) of the statutes is created to read:

1 973.09 (8) If the court places a child sex offender, as defined in s. 302.116 (1)
 2 (af), on probation, the court shall prohibit the probationer, as a condition of
 3 probation, from residing within 1,000 feet of any state, county, city, village, or town
 4 park, a multiunit public housing project, a swimming pool open to members of the
 5 public, a child care facility, as defined in s. 302.116 (1) (ad), a youth center, a
 6 community center, or any private or public school premises.

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

8 975.10 (1m) A person may not be released on parole under sub. (1) unless he
 9 or she agrees, as a condition of parole, not to reside within 1,000 feet of any state,
 10 county, city, village, or town park, a multiunit public housing project, a swimming
 11 pool open to members of the public, a child care facility, as defined in s. ~~304.08(2)(a)~~^{302.116(1)(ad)}
 12 ~~(a)~~ a youth center, a community center, or any private or public school premises.

13 **SECTION 17.** 980.08 (3) of the statutes is amended to read:

14 980.08 (3) Within 20 days after receipt of the petition, the court shall appoint
 15 one or more examiners having the specialized knowledge determined by the court to
 16 be appropriate, who shall examine the person and furnish a written report of the
 17 examination to the court within 30 days after appointment. The examiners shall
 18 have reasonable access to the person for purposes of examination and to the person's
 19 past and present treatment records, as defined in s. 51.30 (1) (b), and patient health
 20 care records, as provided under s. 146.82 (2) (c). If any such examiner believes that
 21 the person is appropriate for supervised release under the ~~criteria~~^{criteria} specified in sub.
 22 (4) ~~(a)~~^(a) the examiner shall report on the type of treatment and services that the
 23 person may need while in the community on supervised release. The county shall

1 pay the costs of an examiner appointed under this subsection as provided under s.
2 51.20 (18) (a).

History: 1993 a. 479; 1995 a. 276; 1997 a. 27, 275, 284; 1999 a. 9 ss. 3223L, 3232p to 3238d; 1999 a. 32.

3 **SECTION 18. 980.08 (4) of the statutes is renumbered 980.08 (4) (a) 1. (intro.)**
4 and amended to read:

5 980.08 (4) (a) 1. (intro.) The court, without a jury, shall hear the petition within
6 30 days after the report of the court-appointed examiner is filed with the court,
7 unless the petitioner waives this time limit. Expenses of proceedings under this
8 subsection shall be paid as provided under s. 51.20 (18) (b), (c) and (d). The court shall
9 grant the petition unless the state proves one of the following by clear and convincing
10 evidence that:

11 a. That the person is still a sexually violent person and that it is still
12 substantially probable that the person will engage in acts of sexual violence if the
13 person is not continued in institutional care. ~~In making a decision under this~~
14 ~~subsection~~

15 2. In deciding whether to make a finding under subd. 1. a., the court may
16 consider, without limitation because of enumeration, the nature and circumstances
17 of the behavior that was the basis of the allegation in the petition under s. 980.02 (2)
18 (a), the person's mental history and present mental condition, where the person will
19 live, how the person will support himself or herself and what arrangements are
20 available to ensure that the person has access to and will participate in necessary
21 treatment, including pharmacological treatment using an antiandrogen or the
22 chemical equivalent of an antiandrogen if the person is a serious child sex offender.

23 A decision under ~~this subsection~~ ^{subd. 1.a.} on a petition filed by a person who is a serious child
24 sex offender may not be made based on the fact that the person is a proper subject

1 for pharmacological treatment using an antiandrogen or the chemical equivalent of
2 an antiandrogen or on the fact that the person is willing to participate in
3 pharmacological treatment using an antiandrogen or the chemical equivalent of an
4 antiandrogen.

History: 1993 a. 479; 1995 a. 276; 1997 a. 27, 275, 284; 1999 a. 9 ss. 3223L, 3232p to 3238d; 1999 a. 32.

5 **SECTION 19.** 980.08 (4) (a) 1. b. of the statutes is created to read:

6 980.08 (4) (a) 1. b. That the person who is the subject of the petition refuses to
7 comply with ~~s. 980.08 (5) (a) 2.~~ ^{sub.}

8 **SECTION 20.** 980.08 (5) of the statutes, as affected by 2001 Wisconsin Act 16,
9 is renumbered 980.08 (5) (a) 1. and amended to read:

10 980.08 (5) (a) 1. If the court finds that the person is appropriate for supervised
11 release, the court shall notify the department. The Subject to subd. 2., the
12 department shall make its best effort to arrange for placement of the person in a
13 residential facility or dwelling that is in the person's county of residence, as
14 determined by the department under s. 980.105. ~~The department and the county~~
15 ~~department under s. 51.42 in the county of residence of the person shall prepare a~~
16 ~~plan that identifies the treatment and services, if any, that the person will receive~~
17 ~~in the community. The plan shall address the person's need, if any, for supervision,~~
18 ~~counseling, medication, community support services, residential services, vocational~~
19 ~~services, and alcohol or other drug abuse treatment. In developing a plan for where~~
20 the person may reside while on supervised release, the department shall consider the
21 proximity of any potential placement to the residence of other persons on supervised
22 release and to the residence of persons who are in the custody of the department of
23 corrections and regarding whom a sex offender notification bulletin has been issued
24 to law enforcement agencies under s. 301.46 (2m) (a) or (am).

1 (c) The plan prepared under par. (b) shall address the person's need, if any, for
2 supervision, counseling, medication, community support services, residential
3 services, vocational services, and alcohol or other drug abuse treatment. If the
4 person is a serious child sex offender, the plan shall address the person's need for
5 pharmacological treatment using an antiandrogen or the chemical equivalent of an
6 antiandrogen. The department may contract with a county department, under s.
7 51.42 (3) (aw) 1. d., with another public agency or with a private agency to provide
8 the treatment and services identified in the plan. The plan shall specify who will be
9 responsible for providing the treatment and services identified in the plan.

10 (d) The plan prepared under ~~par. (b)~~ ^{par.} shall be presented to the court for its
11 approval within 60 days after the court finding that the person is appropriate for
12 supervised release, unless the department, county department, and person to be
13 released request additional time to develop the plan. ~~If the county department of the~~
14 ~~person's county of residence declines to prepare a plan, the department may arrange~~
15 ~~for another county to prepare the plan if that county agrees to prepare the plan and~~
16 ~~if the person will be living in that county. If the department is unable to arrange for~~
17 ~~another county to prepare a plan, the court shall designate a county department to~~
18 ~~prepare the plan, order the county department to prepare the plan and place the~~
19 ~~person on supervised release in that county, except that the court may not so~~
20 ~~designate the county department in any county where there is a facility in which~~
21 ~~persons committed to institutional care under this chapter are placed unless that~~
22 ~~county is also the person's county of residence.~~

History: 2001 a. 16.

23 **SECTION 21. 980.08 (5) (a) 2. of the statutes is created to read:**

1 980.08 (5) (a) 2. A person committed under s. 980.06 may not, as a condition
2 of supervised release, reside within 1,000 feet of any state, county, city, village, or
3 town park, a multiunit public housing project, a swimming pool open to members of
4 the public, a child care facility, as defined in s. 302.116 (1) (ad), a youth center, a
5 community center, or any private or public school premises.

6 **SECTION 22.** 980.08 (5) (b) of the statutes is created to read:

7 980.08 (5) (b) If the person will be living in his or her county of residence, the
8 department and the county department under s. 51.42 in that county shall prepare
9 a plan that identifies the treatment and services, if any, that the person will receive
10 in the community. If the county department of the person's county of residence
11 declines to prepare a plan, the department may arrange for another county to
12 prepare the plan if that county agrees to prepare the plan and if the person will be
13 living in that county. If the department is unable to arrange for another county to
14 prepare a plan, the court shall designate a county department to prepare the plan,
15 order the county department to prepare the plan, and place the person on supervised
16 release in that county, except that the court may not so designate the county
17 department in any county where there is a facility in which persons committed to
18 institutional care under this chapter are placed unless that county is also the
19 person's county of residence.

20 **SECTION 23.** 980.08 (6m) of the statutes is amended to read:

21 980.08 (6m) An order for supervised release places the person in the custody
22 and control of the department. The department shall arrange for control, care, and
23 treatment of the person in the least restrictive manner consistent with the
24 requirements of the person and in accordance with the plan for supervised release
25 approved by the court under sub. (5) (d). A person on supervised release is subject

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

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SECTION 24. Initial applicability.

(1) The treatment of section 302.11 (1) (d) and (4m) (b) of the statutes first applies to persons reaching their mandatory release date on the effective date of this subsection.

(2) The treatment of section 302.11 (1g) (b) 3. of the statutes first applies to persons whose cases are considered by the parole commission under section 302.11 (1g) (b) (intro.) of the statutes on the effective date of this subsection.

(3) The treatment of sections 302.116 (3) of the statutes first applies to persons released to extended supervision on the effective date of this subsection.

(4) The treatment of section 304.06 (2m) (af) of the statutes first applies to persons in whose cases the department of corrections or the parole commission conducts an interview or a hearing regarding whether to grant the person parole under section 304.06 of the statutes on the effective date of this subsection.

(5) The treatment of section 971.17 (3) (a) and (e) and (4f) of the statutes, the renumbering and amendment of section 971.17 (4) (d) of the statutes, and the creation of section 971.17 (4) (d) 1. b. of the statutes first applies to persons released on conditions under section 971.17 of the statutes on the effective date of this subsection.

(6) The treatment of section 973.09 (8) of the statutes first applies to persons placed on probation on the effective date of this subsection.

(7) The treatment of section 975.10 (1m) of the statutes first applies to persons released on parole under section 975.10 of the statutes on the effective date of this subsection.

(8) The renumbering of 980.08 (4) and (5) of the statutes and the creation of 980.08 (4) (a) 1. b. and (5) (a) 2. and (b) of the statutes first applies to persons placed

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of section 980.08 (3) of the statutes, the
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1 on supervised release under section 980.08 of the statutes on the effective date of this
2 subsection.

3 (9) The treatment of sections 304.02 (4t) of the statutes first applies to persons
4 serving the confinement portion of any sentence on the effective date of this
5 subsection.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3423/PJ

MGD:kmg:jf

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 AN ACT to renumber 302.11 (4m) and 302.116 (1) (a); to renumber and amend
 2 980.08 (4) and 980.08 (5); to amend 46.10 (2), 51.42 (3) (aw) 1. d., 302.11 (1),
 3 971.17 (3) (a), 971.17 (3) (e), 971.17 (4) (d), 980.08 (3) and 980.08 (6m); and to
 4 create 302.11 (1g) (b) 3., 302.11 (4m) (b), 302.116 (1) (ad), 302.116 (1) (af),
 5 302.116 (3), 304.02 (4t), 304.06 (2m) (af), 971.17 (4f), 973.09 (8), 975.10 (1m),
 6 980.08 (4) (a) 1. b., 980.08 (5) (a) 2. and 980.08 (5) (b) of the statutes; relating
 7 to: the residence of child sex offenders.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

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

8 SECTION 1. 46.10 (2) of the statutes is amended to read:
 9 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
 10 including but not limited to a person admitted, committed, or placed under s. 975.01,

Analysis
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1 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 51.10, 51.13,
2 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12), and (13), 55.05, 55.06, 971.14
3 (2) and (5), 971.17 ~~(1)~~ ^(1a), 975.06, and 980.06, receiving care, maintenance, services, and
4 supplies provided by any institution in this state including University of Wisconsin
5 Hospitals and Clinics, in which the state is chargeable with all or part of the person's
6 care, maintenance, services, and supplies, any person receiving care and services
7 from a county department established under s. 51.42 or 51.437 or from a facility
8 established under s. 49.73, and any person receiving treatment and services from a
9 public or private agency under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d) or (4)
10 (e) or 980.08 (5) (c) and the person's property and estate, including the homestead,
11 and the spouse of the person, and the spouse's property and estate, including the
12 homestead, and, in the case of a minor child, the parents of the person, and their
13 property and estates, including their homestead, and, in the case of a foreign child
14 described in s. 48.839 (1) who became dependent on public funds for his or her
15 primary support before an order granting his or her adoption, the resident of this
16 state appointed guardian of the child by a foreign court who brought the child into
17 this state for the purpose of adoption, and his or her property and estate, including
18 his or her homestead, shall be liable for the cost of the care, maintenance, services,
19 and supplies in accordance with the fee schedule established by the department
20 under s. 46.03 (18). If a spouse, widow, or minor, or an incapacitated person may be
21 lawfully dependent upon the property for their support, the court shall release all or
22 such part of the property and estate from the charges that may be necessary to
23 provide for those persons. The department shall make every reasonable effort to
24 notify the liable persons as soon as possible after the beginning of the maintenance,
25 but the notice or the receipt thereof is not a condition of liability.

1 **SECTION 2.** 51.42 (3) (aw) 1. d. of the statutes is amended to read:

2 51.42 (3) (aw) 1. d. Provide treatment and services that are specified in a
3 conditional release plan approved by a court for a person who is a county resident and
4 is conditionally released under s. 971.17 (3) or (4) or that are specified in a supervised
5 release plan approved by a court under s. 980.06 (2) (c), 1997 stats., or s. 980.08 (5)
6 (d). If the county department provides treatment and services under this
7 subdivision, the department of health and family services shall, from the
8 appropriation under s. 20.435 (2) (bj), pay the county department for the costs of the
9 treatment and services.

10 **SECTION 3.** 302.11 (1) of the statutes is amended to read:

11 302.11 (1) The warden or superintendent shall keep a record of the conduct of
12 each inmate, specifying each infraction of the rules. Except as provided in subs. (1g),
13 (1m), (1q), (1z), (4m) (b), (7), and (10), each inmate is entitled to mandatory release
14 on parole by the department. The mandatory release date is established at
15 two-thirds of the sentence. Any calculations under this subsection or sub. (1q) (b)
16 or (2) (b) resulting in fractions of a day shall be rounded in the inmate's favor to a
17 whole day.

18 **SECTION 4.** 302.11 (1g) (b) 3. of the statutes is created to read:

19 302.11 (1g) (b) 3. Refusal by the inmate, if the inmate is a child sex offender,
20 as defined in s. 302.116 (1) (af), to reside, as a condition of parole, in a residence that
21 is not within 1,000 feet of any state, county, city, village, or town park, a multiunit
22 public housing project, a swimming pool open to members of the public, a child care
23 facility, as defined in s. 302.116 (1) (ad), a youth center, a community center, or any
24 private or public school premises.

25 **SECTION 5.** 302.11 (4m) of the statutes is renumbered 302.11 (4m) (a).

1 **SECTION 6.** 302.11 (4m) (b) of the statutes is created to read:

2 302.11 (4m) (b) A child sex offender, as defined in s. 302.116 (1) (af), is not
3 entitled to mandatory release on parole[✓] under this section unless he or she agrees,
4 as a condition of parole, not to reside within 1,000 feet of any state, county, city,
5 village, or town park, a multiunit public housing project, a swimming pool open to
6 members of the public, a child care facility, as defined in s. 302.116 (1) (ad), a youth
7 center, a community center, or any private or public school premises.

8 **SECTION 7.** 302.116 (1) (a) of the statutes, as created by 2001 Wisconsin Act 16,
9 is renumbered 302.116 (1) (at).

10 **SECTION 8.** 302.116 (1) (ad) of the statutes is created to read:

11 302.116 (1) (ad) "Child care facility" means a child care facility that is operated
12 by a person licensed under s. 48.65 or 48.69 or certified under s. 48.651 or that is
13 established or contracted for under s. 120.13 (14).

14 **SECTION 9.** 302.116 (1) (af) of the statutes is created to read:

15 302.116 (1) (af) "Child sex offender" means a person serving a sentence for any
16 of the following:

17 1. A violation of s. 948.07 or a solicitation or conspiracy to commit a violation
18 of s. 948.07.

19 2. Any other serious sex offense, if the victim or the intended victim of the
20 serious sex offense was a person who had not attained the age of 18 years at the time
21 of the offense.

22 **SECTION 10.** 302.116 (3) of the statutes is created to read:

23 302.116 (3) As a condition of extended supervision, a child sex offender shall
24 live in a residence that is not within 1,000 feet of any state, county, city, village, or
25 town park, a multiunit public housing project, a swimming pool open to members of

1 the public, a child care facility, a youth center, a community center, or any private or
2 public school premises.

3 SECTION 11. 304.02 (4t) of the statutes is created to read:

4 304.02 (4t) Notwithstanding subs. (1) to (3), a child sex offender, as defined in
5 s. 302.116 (1) (af), may not be paroled under this section unless he or she agrees, as
6 a condition of parole, not to reside within 1,000 feet of any state, county, city, village,
7 or town park, a multiunit public housing project, a swimming pool open to members
8 of the public, a child care facility, as defined in s. 302.116 (1) (ad), a youth center, a
9 community center, or any private or public school premises.

10 SECTION 12. 304.06 (2m) (af) of the statutes is created to read:

11 304.06 (2m) (af) Neither the parole commission nor the department may parole
12 a child sex offender, as defined in s. 302.116 (1) (af), unless he or she agrees, as a
13 condition of parole, not to reside within 1,000 feet of any state, county, city, village,
14 or town park, a multiunit public housing project, a swimming pool open to members
15 of the public, a child care facility, as defined in s. 302.116 (1) (ad), a youth center, a
16 community center, or any private or public school premises.

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17 SECTION 13. 971.17 (3) (a) of the statutes is amended to read:

18 971.17 (3) (a) An order for commitment under this section shall specify either
19 institutional care or conditional release. The court shall order institutional care if
20 it finds by clear and convincing evidence that conditional release of the person would
21 pose a significant risk of bodily harm to himself or herself or to others or of serious
22 property damage. If or that the person is a child sex offender, as defined in s. 302.116

23 (1) (af), who refuses to comply with sub. (4f). Otherwise, the court does not make this
24 finding, it shall order conditional release. In determining whether commitment
25 shall be for institutional care or conditional release the person would pose a

1 significant risk of bodily harm to himself or herself or to others or of serious property
2 damage, the court may consider, without limitation because of enumeration, the
3 nature and circumstances of the crime, the person's mental history and present
4 mental condition, where the person will live, how the person will support himself or
5 herself, what arrangements are available to ensure that the person has access to and
6 will take necessary medication, and what arrangements are possible for treatment
7 beyond medication.

8 **SECTION 14.** 971.17 (3) (e) of the statutes is amended to read:

9 971.17 (3) (e) An order for conditional release places the person in the custody
10 and control of the department of health and family services. A conditionally released
11 person is subject to the conditions set by the court and, to the rules of the department
12 of health and family services, and, if applicable, to sub. (4f). Before a person is
13 conditionally released by the court under this subsection, the court shall so notify the
14 municipal police department and county sheriff for the area where the person will
15 be residing. The notification requirement under this paragraph does not apply if a
16 municipal department or county sheriff submits to the court a written statement
17 waiving the right to be notified. If the department of health and family services
18 alleges that a released person has violated any condition or rule, or that the safety
19 of the person or others requires that conditional release be revoked, he or she may
20 be taken into custody under the rules of the department. The department of health
21 and family services shall submit a statement showing probable cause of the
22 detention and a petition to revoke the order for conditional release to the committing
23 court and the regional office of the state public defender responsible for handling
24 cases in the county where the committing court is located within 48 hours after the
25 detention. The court shall hear the petition within 30 days, unless the hearing or

1 time deadline is waived by the detained person. Pending the revocation hearing, the
2 department of health and family services may detain the person in a jail or in a
3 hospital, center or facility specified by s. 51.15 (2). The state has the burden of
4 proving by clear and convincing evidence that any rule or condition of release has
5 been violated, or that the safety of the person or others requires that conditional
6 release be revoked. If the court determines after hearing that any rule or condition
7 of release has been violated, or that the safety of the person or others requires that
8 conditional release be revoked, it may revoke the order for conditional release and
9 order that the released person be placed in an appropriate institution under s. 51.37
10 (3) until the expiration of the commitment or until again conditionally released
11 under this section.

12 SECTION 15. 971.17 (4) (d) of the statutes is amended to read:

13 971.17 (4) (d) The court, without a jury, shall hear the petition within 30 days
14 after the report of the court-appointed examiner is filed with the court, unless the
15 petitioner waives this time limit. Expenses of proceedings under this subsection
16 shall be paid as provided under s. 51.20 (18). The court shall grant the petition unless
17 it finds by clear and convincing evidence that the person would pose a significant risk
18 of bodily harm to himself or herself or to others or of serious property damage if
19 conditionally released. In making this determination or that the person is a child sex
20 offender, as defined in s. 302.116 (1) (af), who refuses to comply with sub. (4f). In
21 determining whether the person would pose a significant risk of bodily harm to
22 himself or herself or to others or of serious property damage, the court may consider,
23 without limitation because of enumeration, the nature and circumstances of the
24 crime, the person's mental history and present mental condition, where the person
25 will live, how the person will support himself or herself, what arrangements are

1 available to ensure that the person has access to and will take necessary medication,
2 and what arrangements are possible for treatment beyond medication.

3 SECTION 16. 971.17 (4f) of the statutes is created to read:

4 971.17 (4f) RESIDENCY OF CHILD SEX OFFENDERS ON CONDITIONAL RELEASE. A child
5 sex offender, as defined in s. 302.116 (1) (af), who is conditionally released under sub.
6 (3) or (4) (e) may not, as a condition of the person's release, reside within 1,000 feet
7 of any state, county, city, village, or town park, a multiunit public housing project,
8 a swimming pool open to members of the public, a child care facility, as defined in s.
9 302.116 (1) (ad), a youth center, a community center, or any private or public school
10 premises.

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11 SECTION 17. 973.09 (8) of the statutes is created to read:

12 973.09 (8) If the court places a child sex offender, as defined in s. 302.116 (1)
13 (af), on probation, the court shall prohibit the probationer, as a condition of
14 probation, from residing within 1,000 feet of any state, county, city, village, or town
15 park, a multiunit public housing project, a swimming pool open to members of the
16 public, a child care facility, as defined in s. 302.116 (1) (ad), a youth center, a
17 community center, or any private or public school premises.

18 SECTION 18. 975.10 (1m) of the statutes is created to read:

19 975.10 (1m) A person may not be released on parole under sub. (1) unless he
20 or she agrees, as a condition of parole, not to reside within 1,000 feet of any state,
21 county, city, village, or town park, a multiunit public housing project, a swimming
22 pool open to members of the public, a child care facility, as defined in s. 302.116 (1)
23 (ad), a youth center, a community center, or any private or public school premises.

24 SECTION 19. 980.08 (3) of the statutes is amended to read:

1 980.08 (3) Within 20 days after receipt of the petition, the court shall appoint
2 one or more examiners having the specialized knowledge determined by the court to
3 be appropriate, who shall examine the person and furnish a written report of the
4 examination to the court within 30 days after appointment. The examiners shall
5 have reasonable access to the person for purposes of examination and to the person's
6 past and present treatment records, as defined in s. 51.30 (1) (b), and patient health
7 care records, as provided under s. 146.82 (2) (c). If any such examiner believes that
8 the person is appropriate for supervised release under the ~~eriterion~~ criteria specified
9 in sub. (4) (a) 1., the examiner shall report on the type of treatment and services that
10 the person may need while in the community on supervised release. The county shall
11 pay the costs of an examiner appointed under this subsection as provided under s.
12 51.20 (18) (a).

13 **SECTION 20.** 980.08 (4) of the statutes is renumbered 980.08 (4) (a) 1. (intro.)
14 and amended to read:

15 980.08 (4) (a) 1. (intro.) The court, without a jury, shall hear the petition within
16 30 days after the report of the court-appointed examiner is filed with the court,
17 unless the petitioner waives this time limit. Expenses of proceedings under this
18 subsection shall be paid as provided under s. 51.20 (18) (b), (c) and (d). The court shall
19 grant the petition unless the state proves one of the following by clear and convincing
20 evidence that:

21 a. That the person is still a sexually violent person and that it is still
22 substantially probable that the person will engage in acts of sexual violence if the
23 person is not continued in institutional care. ~~In making a decision under this~~
24 ~~subsection~~

1 2. In deciding whether to make a finding under subd. 1. a., the court may
2 consider, without limitation because of enumeration, the nature and circumstances
3 of the behavior that was the basis of the allegation in the petition under s. 980.02 (2)
4 (a), the person's mental history and present mental condition, where the person will
5 live, how the person will support himself or herself and what arrangements are
6 available to ensure that the person has access to and will participate in necessary
7 treatment, including pharmacological treatment using an antiandrogen or the
8 chemical equivalent of an antiandrogen if the person is a serious child sex offender.
9 A decision under ~~this subsection~~ subd. 1. a. on a petition filed by a person who is a
10 serious child sex offender may not be made based on the fact that the person is a
11 proper subject for pharmacological treatment using an antiandrogen or the chemical
12 equivalent of an antiandrogen or on the fact that the person is willing to participate
13 in pharmacological treatment using an antiandrogen or the chemical equivalent of
14 an antiandrogen.

15 **SECTION 21.** 980.08 (4) (a) 1. b. of the statutes is created to read:

16 980.08 (4) (a) 1. b. That the person who is the subject of the petition refuses to
17 comply with sub. (5) (a) 2.

18 **SECTION 22.** 980.08 (5) of the statutes, as affected by 2001 Wisconsin Act 16,
19 is renumbered 980.08 (5) (a) 1. and amended to read:

20 980.08 (5) (a) 1. If the court finds that the person is appropriate for supervised
21 release, the court shall notify the department. The Subject to subd. 2., the
22 department shall make its best effort to arrange for placement of the person in a
23 residential facility or dwelling that is in the person's county of residence, as
24 determined by the department under s. 980.105. ~~The department and the county~~
25 ~~department under s. 51.42 in the county of residence of the person shall prepare a~~

1 plan that identifies the treatment and services, if any, that the person will receive
2 in the community. The plan shall address the person's need, if any, for supervision,
3 counseling, medication, community support services, residential services, vocational
4 services, and alcohol or other drug abuse treatment. In developing a plan for where
5 the person may reside while on supervised release, the department shall consider the
6 proximity of any potential placement to the residence of other persons on supervised
7 release and to the residence of persons who are in the custody of the department of
8 corrections and regarding whom a sex offender notification bulletin has been issued
9 to law enforcement agencies under s. 301.46 (2m) (a) or (am).

10 (c) The plan prepared under par. (b) shall address the person's need, if any, for
11 supervision, counseling, medication, community support services, residential
12 services, vocational services, and alcohol or other drug abuse treatment. If the
13 person is a serious child sex offender, the plan shall address the person's need for
14 pharmacological treatment using an antiandrogen or the chemical equivalent of an
15 antiandrogen. The department may contract with a county department, under s.
16 51.42 (3) (aw) 1. d., with another public agency or with a private agency to provide
17 the treatment and services identified in the plan. The plan shall specify who will be
18 responsible for providing the treatment and services identified in the plan.

19 (d) The plan prepared under par. (b) shall be presented to the court for its
20 approval within 60 days after the court finding that the person is appropriate for
21 supervised release, unless the department, county department, and person to be
22 released request additional time to develop the plan. If the county department of the
23 person's county of residence declines to prepare a plan, the department may arrange
24 for another county to prepare the plan if that county agrees to prepare the plan and
25 if the person will be living in that county. If the department is unable to arrange for

1 ~~another county to prepare a plan, the court shall designate a county department to~~
2 ~~prepare the plan, order the county department to prepare the plan and place the~~
3 ~~person on supervised release in that county, except that the court may not so~~
4 ~~designate the county department in any county where there is a facility in which~~
5 ~~persons committed to institutional care under this chapter are placed unless that~~
6 ~~county is also the person's county of residence.~~

7 **SECTION 23.** 980.08 (5) (a) 2. of the statutes is created to read:

8 980.08 (5) (a) 2. A person committed under s. 980.06 may not, as a condition
9 of supervised release, reside within 1,000 feet of any state, county, city, village, or
10 town park, a multiunit public housing project, a swimming pool open to members of
11 the public, a child care facility, as defined in s. 302.116 (1) (ad), a youth center, a
12 community center, or any private or public school premises.

13 **SECTION 24.** 980.08 (5) (b) of the statutes is created to read:

14 980.08 (5) (b) If the person will be living in his or her county of residence, the
15 department and the county department under s. 51.42 in that county shall prepare
16 a plan that identifies the treatment and services, if any, that the person will receive
17 in the community. If the county department of the person's county of residence
18 declines to prepare a plan, the department may arrange for another county to
19 prepare the plan if that county agrees to prepare the plan and if the person will be
20 living in that county. If the department is unable to arrange for another county to
21 prepare a plan, the court shall designate a county department to prepare the plan,
22 order the county department to prepare the plan, and place the person on supervised
23 release in that county, except that the court may not so designate the county
24 department in any county where there is a facility in which persons committed to

1 institutional care under this chapter are placed unless that county is also the
2 person's county of residence.

3 **SECTION 25.** 980.08 (6m) of the statutes is amended to read:

4 980.08 (6m) An order for supervised release places the person in the custody
5 and control of the department. The department shall arrange for control, care, and
6 treatment of the person in the least restrictive manner consistent with the
7 requirements of the person and in accordance with the plan for supervised release
8 approved by the court under sub. (5) (d). A person on supervised release is subject
9 to the conditions set by the court and to the rules of the department. Before a person
10 is placed on supervised release by the court under this section, the court shall so
11 notify the municipal police department and county sheriff for the municipality and
12 county in which the person will be residing. The notification requirement under this
13 subsection does not apply if a municipal police department or county sheriff submits
14 to the court a written statement waiving the right to be notified. If the department
15 alleges that a released person has violated any condition or rule, or that the safety
16 of others requires that supervised release be revoked, he or she may be taken into
17 custody under the rules of the department. The department shall submit a
18 statement showing probable cause of the detention and a petition to revoke the order
19 for supervised release to the committing court and the regional office of the state
20 public defender responsible for handling cases in the county where the committing
21 court is located within 72 hours after the detention, excluding Saturdays, Sundays,
22 and legal holidays. The court shall hear the petition within 30 days, unless the
23 hearing or time deadline is waived by the detained person. Pending the revocation
24 hearing, the department may detain the person in a jail or in a hospital, center, or
25 facility specified by s. 51.15 (2). The state has the burden of proving by clear and

1 convincing evidence that any rule or condition of release has been violated, or that
2 the safety of others requires that supervised 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 others requires that supervised release be revoked, it may revoke
5 the order for supervised release and order that the released person be placed in an
6 appropriate institution until the person is discharged from the commitment under
7 s. 980.09 or until again placed on supervised release under this section.

8 **SECTION 26. Initial applicability.**

9 (1) The treatment of section 302.11 (1) and (4m) (b) of the statutes first applies
10 to persons reaching their mandatory release date on the effective date of this
11 subsection.

12 (2) The treatment of section 302.11 (1g) (b) 3. of the statutes first applies to
13 persons whose cases are considered by the parole commission under section 302.11
14 (1g) (b) (intro.) of the statutes on the effective date of this subsection.

15 (3) The treatment of sections 302.116 (3) of the statutes first applies to persons
16 released to extended supervision on the effective date of this subsection.

17 (4) The treatment of section 304.02 (4t) of the statutes first applies to persons
18 serving the confinement portion of any sentence on the effective date of this
19 subsection.

20 (5) The treatment of section 304.06 (2m) (af) of the statutes first applies to
21 persons in whose cases the department of corrections or the parole commission
22 conducts an interview or a hearing regarding whether to grant the person parole
23 under section 304.06 of the statutes on the effective date of this subsection.

1 (6) The treatment of section 971.17 (3) (a) and (e), (4) (d), and (4f) of the statutes
2 first applies to persons released on conditions under section 971.17 of the statutes
3 on the effective date of this subsection.

4 (7) The treatment of section 973.09 (8) of the statutes first applies to persons
5 placed on probation on the effective date of this subsection.

6 (8) The treatment of section 975.10 (1m) of the statutes first applies to persons
7 released on parole under section 975.10 of the statutes on the effective date of this
8 subsection.

9 (9) The treatment of section 980.08 (3) and (6m) of the statutes, the
10 renumbering and amendment of section 980.08 (4) and (5) of the statutes, and the
11 creation of section 980.08 (4) (a) 1. b. and (5) (a) 2. and (b) of the statutes first apply
12 to persons placed on supervised release under section 980.08 of the statutes on the
13 effective date of this subsection.

14

(END)

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Current law restricts where certain persons who have been convicted of first or second degree sexual assault, first or second degree sexual assault of a child, repeated sexual assault of a child, incest with a child, or child enticement (a "serious sex offense") may reside if they are living in the community. First, no person who has been convicted of a serious sex offense (a "sex offender") may be paroled to any county where there is a correctional institution that has a specialized sex offender treatment program, unless that county was the person's county of residence at the time of the person's offense. (Presently, this provision only applies to Winnebago ~~county~~.)
Second, any sex offender who is released to extended supervision must agree, as a condition of extended supervision, to live in a residence that the department of corrections (DOC) has approved. Current law also imposes certain obligations on DOC with respect to where sex offenders reside. It must work to minimize, to the greatest extent possible, the residential population density of sex offenders who are on probation, parole, or extended supervision or who are placed on supervised release after having been committed for treatment as sexually violent persons.

This bill places additional restrictions on where child sex offenders — defined as a person who has been convicted of child enticement, attempted child enticement, or, if the victim or the intended victim was under 18, any other serious sex offense — may reside. Under the bill, a child sex offender who is being placed in the community under the supervision of DOC (through parole, extended supervision, or probation) may not reside within 1,000 feet of any of the following places: 1) a state, county, city, village, or town park; 2) a multiunit public housing project; 3) a public swimming pool; 4) a child care facility; 5) a youth center; 6) a community center; or 7) any private or public school premises. The bill imposes the same restriction on: 1) any person being placed in the community on conditional release after having been found not guilty by reason of mental disease or defect of child enticement, attempted child enticement, or, if the victim or the intended victim was under 18, any other serious sex offense; and 2) any person placed on supervised release after having been committed for treatment as sexually violent person, regardless of the offense or offenses that provided a basis for his or her commitment.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

2

INSERT 5/16

3

SECTION 1. 971.17 (1b) of the statutes is created to read:

4

971.17 (1b) In this section, "child sex offender" means a person who has been

5

found not guilty by reason of mental disease or defect of any of the following:

(a)

1 A violation of s. 948.07 or a solicitation or conspiracy to commit a violation
2 of s. 948.07.

(b)

3 Any other serious sex offense, if the victim or the intended victim of the
4 serious sex offense was a person who had not attained the age of 18 years at the time
5 of the offense.

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6 SECTION 2. 971.17 (1) of the statutes is renumbered 971.17 (1d).

7 SECTION 3. 971.17 (1g) of the statutes is amended to read:

8 971.17 (1g) If the defendant under sub. (1) (1d) is found not guilty of a felony
9 by reason of mental disease or defect, the court shall inform the defendant of the
10 requirements and penalties under s. 941.29.

History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275; 1999 a. 89.

11 SECTION 4. 971.17 (1j) (b) of the statutes is amended to read:

12 971.17 (1j) (b) If a person is found not guilty by reason of mental disease or
13 defect of a serious sex offense, the court may, in addition to committing the person
14 to the department of health and family services under sub. (1) (1d), place the person
15 on lifetime supervision under s. 939.615 if notice concerning lifetime supervision was
16 given to the person under s. 973.125 and if the court determines that lifetime
17 supervision of the person is necessary to protect the public.

History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275; 1999 a. 89.

18 SECTION 5. 971.17 (1m) (a) of the statutes is amended to read:

19 971.17 (1m) (a) If the defendant under sub. (1) (1d) is found not guilty by reason
20 of mental disease or defect for a violation of s. 940.225 (1) or (2), 948.02 (1) or (2), or
21 948.025, the court shall require the person to provide a biological specimen to the
22 state crime laboratories for deoxyribonucleic acid analysis.

History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275; 1999 a. 89.

23 SECTION 6. 971.17 (1m) (b) 1m. of the statutes is amended to read:

1 971.17 (1m) (b) 1m. Except as provided in subd.2m., if the defendant under sub.
 2 ~~(1)~~ (1d) is found not guilty by reason of mental disease or defect for any violation, or
 3 for the solicitation, conspiracy, or attempt to commit any violation, of ch. 940, 944, or
 4 948 or ss. 943.01 to 943.15, the court may require the defendant to comply with the
 5 reporting requirements under s. 301.45 if the court determines that the underlying
 6 conduct was sexually motivated, as defined in s. 980.01 (5), and that it would be in
 7 the interest of public protection to have the defendant report under s. 301.45.

History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275; 1999 a. 89.

8 **SECTION 7. 971.17 (1m) (b) 2m. of the statutes is amended to read:**

9 971.17 (1m) (b) 2m. If the defendant under sub. ~~(1)~~ (1d) is found not guilty by
 10 reason of mental disease or defect for a violation, or for the solicitation, conspiracy,
 11 or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02
 12 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.095, 948.11 (2) (a) or
 13 (am), 948.12, 948.13, or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and
 14 the defendant was not the victim's parent, the court shall require the defendant to
 15 comply with the reporting requirements under s. 301.45 unless the court determines,
 16 after a hearing on a motion made by the defendant, that the defendant is not required
 17 to comply under s. 301.45 (1m).

History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275; 1999 a. 89.

18 **INSERT 8/10**

19 **SECTION 8. 971.17 (6) (a) (intro.) of the statutes is amended to read:**

20 971.17 (6) (a) (intro.) At least 60 days prior to the expiration of a commitment
 21 order under sub. ~~(1)~~ (1d), the department of health and family services shall notify
 22 all of the following:

History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275; 1999 a. 89.

23 **SECTION 9. 971.17 (6) (b) of the statutes is amended to read:**

1 971.17 (6) (b) Upon the expiration of a commitment order under sub. ~~(1)~~ [✓] (1d),
2 the court shall discharge the person, subject to the right of the department of health
3 and family services or the appropriate county department under s. 51.42 or 51.437
4 to proceed against the person under ch. 51 or 55. If none of those departments
5 proceeds against the person under ch. 51 or 55, the court may order the proceeding.

History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275; 1999 a. 89.

Emery, Lynn

From: Dsida, Michael
Sent: Monday, January 14, 2002 2:12 PM
To: LRB.Legal
Subject: Please jacket 3423/1 for the assembly for rep. Johnsrud

thanks.

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