

**2001 DRAFTING REQUEST**

**Senate Amendment (SA-SSA1-SB55)**

Received: 07/11/2001

Received By: rryan

Wanted: Soon

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Megna

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Mental Health - detent/commit

Extra Copies: MGD

Submit via email: NO

Requester's email:

**Pre Topic:**

LFB:.....Megna -

**Topic:**

Patient's rights of sexually violent persons; operation of Sand Ridge treatment center

**Instructions:**

LFB budget summary for conference committee: page 288, item 5: Assembly version modified to eliminate provision allowing facility staff to open mail to a patient committed under ch. 980 outside the presence of the patient, and to eliminate provision regarding battery

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rryan 07/12/2001	wjackson 07/12/2001	jfrantze 07/12/2001	_____	lrb_docadmin 07/12/2001		
/2	rryan	wjackson	kfollet	_____	lrb_docadmin		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	07/18/2001	07/18/2001	07/18/2001	_____	07/18/2001		

FE Sent For:

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/1	rryan 07/12/2001	wjackson 07/12/2001	jfrantze 07/12/2001		lrb_docadmin 07/12/2001		
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*1/2 WJL 7/18*

*[Signature]*  
7/18

*[Signature]*  
7/18

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/1	rryan	1 wly 7/11	6/12	7/12			

FE Sent For:

**<END>**

2001

Date (time) needed \_\_\_\_\_

LRB b 2053 / 1

# BUDGET AMENDMENT

RLR : WLj : \_\_\_\_\_

See form AMENDMENTS — COMPONENTS & ITEMS.

SENATE AMENDMENT  
TO SENATE SUBSTITUTE AMENDMENT 1  
TO 2001 SENATE BILL 55

DNOTE

At the locations indicated, amend the substitute amendment as follows:

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

62053/1

ARC:.....Hughes – Patient's rights of sexually violent persons; operation of Sand Ridge treatment center

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**CAUCUS ASSEMBLY AMENDMENT**

**TO ASSEMBLY SUBSTITUTE AMENDMENT 1,**

**TO 2001 SENATE BILL 55**

D-Note

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 2, line 25: after that line insert:
- 3 **"SECTION 29n.** 6.10 (7m) of the statutes is created to read:
- 4 **6.10 (7m) (a)** The residence of a person who is detained, or committed and
- 5 institutionalized, under s. 51.20, 971.14, or 971.17 or ch. 980 shall be determined by
- 6 applying the standards under sub. (1) to whichever of the following dates is
- 7 applicable to the circumstances of the person:
- 8 **1.** For a person detained or committed under s. 51.20, the date that the person
- 9 was detained under s. 51.20 (2) or, if the person was not detained under s. 51.20 (2),
- 10 the date that the person was committed under s. 51.20 (13).



1           2. For a person committed under s. 971.14 or 971.17, the date of the offense or  
2 alleged offense that resulted in the person's commitment.

3           3. For a person detained or committed under ch. 980, the date that the person  
4 committed the sexually violent offense that resulted in the sentence, placement, or  
5 commitment that was in effect when the state filed a petition under s. 980.02 against  
6 the person.

7           (b) That the person's habitation was fixed at the place established under par.  
8 (a) before he or she was detained or committed shall be considered prima facie  
9 evidence that the person intends to return to that place. The prima facie evidence  
10 of intent to return to the place determined under par. (a) may be rebutted by  
11 presenting information that indicates that the person is not likely to return to that  
12 place if the person's detention or commitment is terminated.”.

13           **2.** Page 93, line 3: after that line insert:

14           “**SECTION 382wd.** 19.32 (1d) (b) of the statutes is repealed.

15           **SECTION 382we.** 19.32 (1d) (c) of the statutes is amended to read:

16           19.32 (1d) (c) ~~A secure mental health unit or facility established or unit for the~~  
17 institutional care of sexually violent persons specified under s. 980.065 (2).

18           **SECTION 382wf.** 19.35 (1) (am) 2. c. of the statutes is amended to read:

19           19.35 (1) (am) 2. c. Endanger the security, including the security of the  
20 population or staff, of any state prison under s. 302.01, jail, as defined in s. 165.85  
21 (2) (bg), secured correctional facility, as defined in s. 938.02 (15m), secured child  
22 caring institution, as defined in s. 938.02 (15g), secured group home, as defined in  
23 s. 938.02 (15p), mental health institute, as defined in s. 51.01 (12), ~~or~~ center for the

1 developmentally disabled, as defined in s. 51.01 (3), or facility, specified under s.  
2 980.065, for the institutional care of sexually violent persons.”

3 **3.** Page 656, line 10: after that line insert:

4 “**SECTION 1967n.** 51.375 (2) of the statutes is renumbered 51.375 (2) (a).

5 **SECTION 1967p.** 51.375 (2) (b) of the statutes is created to read:

6 51.375 (2) (b) The department may administer a lie detector test to a sex  
7 offender as part of the sex offender’s programming, care, or treatment. A patient may  
8 refuse to submit to a lie detector test under this paragraph. This refusal does not  
9 constitute a general refusal to participate in treatment. A person administering a  
10 lie detector test under this paragraph may not ask the subject of the test any question  
11 that can reasonably be anticipated to elicit information as to whether the subject  
12 committed an offense for which the subject has not been convicted, found not guilty  
13 by reason of mental disease or defect, or adjudicated delinquent. The results of a lie  
14 detector test under this paragraph may be used only in the care, treatment, or  
15 assessment of the subject or in programming for the subject. The results of a test may  
16 be disclosed only to persons employed at the facility at which the subject is placed  
17 who need to know the results for purposes related to care, treatment, or assessment  
18 of the patient, the committing court, the patient’s attorney, or the attorney  
19 representing the state in a proceeding under ch. 980.”

20 **4.** Page 660, line 5: after that line insert:

21 “**SECTION 1993d.** 51.61 (1) (c) of the statutes is renumbered 51.61 (1) (cm) 1.  
22 and amended to read:

23 51.61 (1) (cm) 1. ~~Have~~ Patients have an unrestricted right to send sealed mail  
24 and receive sealed mail to or from legal counsel, the courts, governmental

1 government officials, private physicians, and licensed psychologists, and have  
2 reasonable access to letter writing materials including postage stamps. A patient  
3 shall also have a right to send sealed mail and receive sealed mail to or from other  
4 persons, subject to physical examination in the patient's presence if there is reason  
5 to believe that such communication contains contraband materials or objects ~~which~~  
6 that threaten the security of patients, prisoners, or staff. Such reasons shall be  
7 written in the individual's treatment record. The officers and staff of a facility may  
8 not read any mail covered by this ~~paragraph~~ subdivision.

9 **SECTION 1993e.** 51.61 (1) (cm) (intro.) of the statutes is created to read:

10 51.61 (1) (cm) Have the rights specified under subd. 1. to send and receive  
11 sealed mail, subject to the limitations specified under subd. 2.

12 **SECTION 1993f.** 51.61 (1) (cm) 2. of the statutes is created to read:

13 51.61 (1) (cm) 2. The rights of a patient detained or committed under ch. 980  
14 to send and receive sealed mail are subject to the following limitations:

15 a. If the mail appears to be from legal counsel, a court, a government official,  
16 or a private physician or licensed psychologist, an officer or staff member of the  
17 facility at which the patient is placed may delay delivery of the mail to the patient  
18 for a reasonable period of time to verify whether the person named as the sender  
19 actually sent the mail; may open the mail in the presence of the patient and inspect  
20 it for contraband; or may, if the officer or staff member cannot determine whether the  
21 mail contains contraband, return the mail to the sender along with notice of the  
22 facility mail policy.

23 ~~b. If the mail is to or from a person other than a person specified in subd. 2. a.,~~  
24 ~~an officer or staff member of the facility at which the patient is placed may open the~~

1 mail outside the presence of the patient and inspect it for contraband or other objects  
2 that pose a threat to security at the facility.

3 ~~b. 2.~~ If the mail appears to be from a person other than a person specified in subd.  
4 2. a., the director of the facility or his or her designee may, in accordance with the  
5 standards and the procedure under sub. (2) for denying a right for cause, authorize  
6 a member of the facility treatment staff to read the mail, if the director or his or her  
7 designee has reason to believe that the mail could pose a threat to security at the  
8 facility or seriously interfere with the treatment, rights, or safety of others.

9 **SECTION 1993g.** 51.61 (1) (i) 1. of the statutes is amended to read:

10 51.61 (1) (i) 1. Except as provided in subd. 2., have a right to be free from  
11 physical restraint and isolation except for emergency situations or when isolation or  
12 restraint is a part of a treatment program. Isolation or restraint may be used only  
13 when less restrictive measures are ineffective or not feasible and shall be used for  
14 the shortest time possible. When a patient is placed in isolation or restraint, his or  
15 her status shall be reviewed once every 30 minutes. Each facility shall have a written  
16 policy covering the use of restraint or isolation ~~which~~ that ensures that the dignity  
17 of the individual is protected, that the safety of the individual is ensured, and that  
18 there is regular, frequent monitoring by trained staff to care for bodily needs as may  
19 be required. Isolation or restraint may be used for emergency situations only when  
20 it is likely that the patient may physically harm himself or herself or others. The  
21 treatment director shall specifically designate physicians who are authorized to  
22 order isolation or restraint, and shall specifically designate licensed psychologists  
23 who are authorized to order isolation. ~~In the instance where~~ If the treatment director  
24 is not a physician, the medical director shall make the designation. In the case of a  
25 center for the developmentally disabled, use shall be authorized by the director of the

1 center. The authorization for emergency use of isolation or restraint shall be in  
2 writing, except that isolation or restraint may be authorized in emergencies for not  
3 more than one hour, after which time an appropriate order in writing shall be  
4 obtained from the physician or licensed psychologist designated by the director, in  
5 the case of isolation, or the physician so designated in the case of restraint.  
6 Emergency isolation or restraint may not be continued for more than 24 hours  
7 without a new written order. Isolation may be used as part of a treatment program  
8 if it is part of a written treatment plan, and the rights specified in this subsection are  
9 provided to the patient. The use of isolation as a part of a treatment plan shall be  
10 explained to the patient and to his or her guardian, if any, by the person who  
11 ~~undertakes such~~ provides the treatment. ~~Such~~ A treatment plan that incorporates  
12 isolation shall be evaluated at least once every 2 weeks. Patients who have a recent  
13 history of physical aggression may be restrained during transport to or from the  
14 facility. Persons who are committed or transferred under s. 51.35 (3) or 51.37 or  
15 under ch. 971 or 975, or who are detained or committed under ch. 980, and who, while  
16 under this status, are transferred to a hospital, as defined in s. 50.33 (2), for medical  
17 care may be isolated for security reasons within locked facilities in the hospital.  
18 Patients who are committed or transferred under s. 51.35 (3) or 51.37 or under ch.  
19 971 or 975, or who are detained or committed under ch. 980, may be restrained for  
20 security reasons during transport to or from the facility.

21 **SECTION 1993h.** 51.61 (1) (i) 2. of the statutes is amended to read:

22 51.61 (1) (i) 2. Patients in the maximum security facility at the Mendota Mental  
23 Health Institute may be locked in their rooms during the night shift and for a period  
24 of no longer than one hour and 30 minutes during each change of shift by staff to  
25 permit staff review of patient needs. Patients detained or committed under ch. 980

1 and placed in a facility specified under s. 980.065 may be locked in their rooms during  
2 the night shift, if they reside in a maximum or medium security unit in which each  
3 room is equipped with a toilet and sink, or if they reside in a unit in which each room  
4 is not equipped with a toilet and sink and the number of patients outside their rooms  
5 equals or exceeds the number of toilets in the unit, except that patients who do not  
6 have toilets in their rooms must be given an opportunity to use a toilet at least once  
7 every hour, or more frequently if medically indicated. Patients in the maximum  
8 security facility at the Mendota Mental Health Institute, or patients detained or  
9 committed under ch. 980 and placed in a facility specified under s. 980.065, may also  
10 be locked in their rooms on a unit-wide or facility-wide basis as an emergency  
11 measure as needed for security purposes to deal with an escape or attempted escape,  
12 the discovery of a dangerous weapon in the unit or facility or the receipt of reliable  
13 information that a dangerous weapon is in the unit or facility, or to prevent or control  
14 a riot or the taking of a hostage. A unit-wide or facility-wide emergency isolation  
15 order may only be authorized by the director of the unit or ~~maximum security~~ facility  
16 where the order is applicable or his or her designee ~~and shall.~~ A unit-wide or  
17 facility-wide emergency isolation order affecting the Mendota Mental Health  
18 Institute must be approved within one hour after it is authorized by the director of  
19 the ~~Mendota mental health facility~~ Mental Health Institute or the director's  
20 designee. An emergency order for unit-wide or facility-wide isolation may only be  
21 in effect for the period of time needed to preserve order while dealing with the  
22 situation and may not be used as a substitute for adequate staffing. During a period  
23 of unit-wide or facility-wide isolation, the status of each patient shall be reviewed  
24 every 30 minutes to ensure the safety and comfort of the patient, and each patient  
25 who is locked in a room without a toilet shall be given an opportunity to use a toilet

1 at least once every hour, or more frequently if medically indicated. Each unit in the  
2 maximum security facility at the Mendota Mental Health Institute and each unit in  
3 a facility specified under s. 980.065 shall have a written policy covering the use of  
4 isolation ~~which~~ that ensures that the dignity of the individual is protected, that the  
5 safety of the individual is secured, and that there is regular, frequent monitoring by  
6 trained staff to care for bodily needs as may be required. ~~Each policy~~ The isolation  
7 policies shall be reviewed and approved by the director of the Mendota Mental  
8 Health Institute or the director's designee, or by the director of the facility specified  
9 under s. 980.065 or his or her designee, whichever is applicable.

10 **SECTION 1993i.** 51.61 (1) (o) of the statutes is amended to read:

11 51.61 (1) (o) Except as otherwise provided, have a right not to be filmed or  
12 taped, unless the patient signs an informed and voluntary consent ~~which~~ that  
13 specifically authorizes a named individual or group to film or tape the patient for a  
14 particular purpose or project during a specified time period. The patient may specify  
15 in such consent periods during which, or situations in which, the patient may not be  
16 filmed or taped. If a patient is legally incompetent, such consent shall be granted on  
17 behalf of the patient by the patient's guardian. A patient in Goodland Hall at the  
18 Mendota Mental Health Institute, or a patient detained or committed under ch. 980  
19 and placed in a facility specified under s. 980.065, may be filmed or taped for security  
20 purposes without the patient's consent, except that such a patient may not be filmed  
21 in patient bedrooms or bathrooms for any purpose without the patient's consent.”.

22

~~5. Page 1234, line 24: after that line insert:~~

23

~~“SECTION 3937u. 940.20 (1d) of the statutes is created to read:~~

1 ~~940.20 (1d) BATTERY BY CERTAIN DETAINED OR COMMITTED PERSONS. Any person~~  
2 ~~committed to the custody of the department of health and family services under s.~~  
3 ~~971.17 and placed in a mental health institute under s. 51.05 or any person detained~~  
4 ~~or committed to the department of health and family services under ch. 980 and~~  
5 ~~placed in a facility specified under s. 980.065 who intentionally causes bodily harm~~  
6 ~~to an officer, employee, visitor, or another patient of the institute or facility, without~~  
7 ~~his or her consent, is guilty of a Class D felony.”.~~

8 **6.** Page 1236, line 12: after that line insert:

9 “SECTION 3938r. 942.06 (2m) (b) of the statutes is amended to read:

10 942.06 (2m) (b) An employee or agent of the department of health and family  
11 services who conducts a lie detector test of a person under the rules promulgated  
12 under s. 51.375.

13 SECTION 3938s. 942.06 (2q) (b) (intro.) of the statutes is amended to read:

14 942.06 (2q) (b) (intro.) An employee or agent of the department of health and  
15 family services who discloses, to any of the following, the fact that a person has had  
16 a lie detector test under ~~the rules promulgated under~~ s. 51.375 or the results of such  
17 a lie detector test:

18 SECTION 3938t. 942.06 (2q) (b) 1. of the statutes is amended to read:

19 942.06 (2q) (b) 1. Another employee or agent of the department of health and  
20 family services or another person to whom disclosure is permitted under s. 51.375  
21 (2) (b).”.

22 **7.** Page 1245, line 21: after that line insert:

23 “SECTION 3966qi. 946.42 (3) (h) of the statutes is created to read:





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

LRBb2053/1dn

RLR:.....

WLY

Richard Megna <sup>WLY</sup>

The general provision regarding mail sent to a patient by a person other than legal counsel, a court, a government official, or a private physician or psychologist is that the mail may be opened in the presence of the patient to inspect for contraband. (See s. 51.61 (1) (c), stats., renumbered s. 51.61 (1) (cm) 1. by this amendment.) The prior draft of this amendment (LRBb1544/2) allowed that such mail sent to a patient committed under ch. 980, stats., may be opened outside the presence of the patient. ~~In order to~~ effectuate the conference committee's instruction that such mail to a patient committed under ch. 980, stats., may be opened only in the presence of the patient, this amendment simply eliminates the separate provision regarding ch. 980 patients, so that the general provision also applies ~~also~~ to those patients committed under ch. 980, stats.

x0

Robin Ryan  
Legislative Attorney  
Phone: (608) 261-6927  
E-mail: robin.ryan@legis.state.wi.us

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

LRBb2053/1dn  
RLR:wlj:jf

July 12, 2001

Richard Megna:

The general provision regarding mail sent to a patient by a person other than legal counsel, a court, a government official, or a private physician or psychologist is that the mail may be opened in the presence of the patient to inspect for contraband. (See s. 51.61 (1) (c), stats., renumbered s. 51.61 (1) (cm) 1. by this amendment.) The prior draft of this amendment (LRBb1544/2) allowed that such mail sent to a patient committed under ch. 980, stats., may be opened outside the presence of the patient. To effectuate the conference committee's instruction that such mail to a patient committed under ch. 980, stats., may be opened only in the presence of the patient, this amendment simply eliminates the separate provision regarding ch. 980 patients, so that the general provision also applies to those patients committed under ch. 980, stats.

Robin Ryan  
Legislative Attorney  
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E-mail: robin.ryan@legis.state.wi.us

7/18/01

62053

Richard Meegan

Committee also intended to remove  
escape provision



2  
RMR

LFB:.....Megna – Patient’s rights of sexually violent persons; operation of Sand Ridge treatment center

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

substitute amendment

1  
2  
3  
4  
5  
6  
7  
8  
9  
10

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

1. Page 2, line 25: after that line insert:

“SECTION 29n. 6.10 (7m) of the statutes is created to read:

6.10 (7m) (a) The residence of a person who is detained, or committed and institutionalized, under s. 51.20, 971.14, or 971.17 or ch. 980 shall be determined by applying the standards under sub. (1) to whichever of the following dates is applicable to the circumstances of the person:

- 1. For a person detained or committed under s. 51.20, the date that the person was detained under s. 51.20 (2) or, if the person was not detained under s. 51.20 (2), the date that the person was committed under s. 51.20 (13).

1           2. For a person committed under s. 971.14 or 971.17, the date of the offense or  
2 alleged offense that resulted in the person's commitment.

3           3. For a person detained or committed under ch. 980, the date that the person  
4 committed the sexually violent offense that resulted in the sentence, placement, or  
5 commitment that was in effect when the state filed a petition under s. 980.02 against  
6 the person.

7           (b) That the person's habitation was fixed at the place established under par.  
8 (a) before he or she was detained or committed shall be considered prima facie  
9 evidence that the person intends to return to that place. The prima facie evidence  
10 of intent to return to the place determined under par. (a) may be rebutted by  
11 presenting information that indicates that the person is not likely to return to that  
12 place if the person's detention or commitment is terminated.”.

13           **2.** Page 93, line 3: after that line insert:

14           “**SECTION 382wd.** 19.32 (1d) (b) of the statutes is repealed.

15           **SECTION 382we.** 19.32 (1d) (c) of the statutes is amended to read:

16           19.32 (1d) (c) ~~A secure mental health unit or facility established or unit for the~~  
17 institutional care of sexually violent persons specified under s. 980.065 (2).

18           **SECTION 382wf.** 19.35 (1) (am) 2. c. of the statutes is amended to read:

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21 (2) (bg), secured correctional facility, as defined in s. 938.02 (15m), secured child  
22 caring institution, as defined in s. 938.02 (15g), secured group home, as defined in  
23 s. 938.02 (15p), mental health institute, as defined in s. 51.01 (12), ~~or~~ center for the

1 developmentally disabled, as defined in s. 51.01 (3), or facility, specified under s.  
2 980.065, for the institutional care of sexually violent persons.”.

3 **3.** Page 656, line 10: after that line insert:

4 “**SECTION 1967n.** 51.375 (2) of the statutes is renumbered 51.375 (2) (a).

5 **SECTION 1967p.** 51.375 (2) (b) of the statutes is created to read:

6 51.375 (2) (b) The department may administer a lie detector test to a sex  
7 offender as part of the sex offender’s programming, care, or treatment. A patient may  
8 refuse to submit to a lie detector test under this paragraph. This refusal does not  
9 constitute a general refusal to participate in treatment. A person administering a  
10 lie detector test under this paragraph may not ask the subject of the test any question  
11 that can reasonably be anticipated to elicit information as to whether the subject  
12 committed an offense for which the subject has not been convicted, found not guilty  
13 by reason of mental disease or defect, or adjudicated delinquent. The results of a lie  
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15 assessment of the subject or in programming for the subject. The results of a test may  
16 be disclosed only to persons employed at the facility at which the subject is placed  
17 who need to know the results for purposes related to care, treatment, or assessment  
18 of the patient, the committing court, the patient’s attorney, or the attorney  
19 representing the state in a proceeding under ch. 980.”.

20 **4.** Page 660, line 5: after that line insert:

21 “**SECTION 1993d.** 51.61 (1) (c) of the statutes is renumbered 51.61 (1) (cm) 1.  
22 and amended to read:

23 51.61 (1) (cm) 1. ~~Have~~ Patients have an unrestricted right to send sealed mail  
24 and receive sealed mail to or from legal counsel, the courts, ~~governmental~~

1 government officials, private physicians, and licensed psychologists, and have  
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7 written in the individual's treatment record. The officers and staff of a facility may  
8 not read any mail covered by this ~~paragraph~~ subdivision.

9 **SECTION 1993e.** 51.61 (1) (cm) (intro.) of the statutes is created to read:

10 51.61 (1) (cm) Have the rights specified under subd. 1. to send and receive  
11 sealed mail, subject to the limitations specified under subd. 2.

12 **SECTION 1993f.** 51.61 (1) (cm) 2. of the statutes is created to read:

13 51.61 (1) (cm) 2. The rights of a patient detained or committed under ch. 980  
14 to send and receive sealed mail are subject to the following limitations:

15 a. If the mail appears to be from legal counsel, a court, a government official,  
16 or a private physician or licensed psychologist, an officer or staff member of the  
17 facility at which the patient is placed may delay delivery of the mail to the patient  
18 for a reasonable period of time to verify whether the person named as the sender  
19 actually sent the mail; may open the mail in the presence of the patient and inspect  
20 it for contraband; or may, if the officer or staff member cannot determine whether the  
21 mail contains contraband, return the mail to the sender along with notice of the  
22 facility mail policy.

23 b. If the mail appears to be from a person other than a person specified in subd.  
24 2. a., the director of the facility or his or her designee may, in accordance with the  
25 standards and the procedure under sub. (2) for denying a right for cause, authorize



1 a member of the facility treatment staff to read the mail, if the director or his or her  
2 designee has reason to believe that the mail could pose a threat to security at the  
3 facility or seriously interfere with the treatment, rights, or safety of others.

4 **SECTION 1993g.** 51.61 (1) (i) 1. of the statutes is amended to read:

5 51.61 (1) (i) 1. Except as provided in subd. 2., have a right to be free from  
6 physical restraint and isolation except for emergency situations or when isolation or  
7 restraint is a part of a treatment program. Isolation or restraint may be used only  
8 when less restrictive measures are ineffective or not feasible and shall be used for  
9 the shortest time possible. When a patient is placed in isolation or restraint, his or  
10 her status shall be reviewed once every 30 minutes. Each facility shall have a written  
11 policy covering the use of restraint or isolation ~~which~~ that ensures that the dignity  
12 of the individual is protected, that the safety of the individual is ensured, and that  
13 there is regular, frequent monitoring by trained staff to care for bodily needs as may  
14 be required. Isolation or restraint may be used for emergency situations only when  
15 it is likely that the patient may physically harm himself or herself or others. The  
16 treatment director shall specifically designate physicians who are authorized to  
17 order isolation or restraint, and shall specifically designate licensed psychologists  
18 who are authorized to order isolation. ~~In the instance where~~ If the treatment director  
19 is not a physician, the medical director shall make the designation. In the case of a  
20 center for the developmentally disabled, use shall be authorized by the director of the  
21 center. The authorization for emergency use of isolation or restraint shall be in  
22 writing, except that isolation or restraint may be authorized in emergencies for not  
23 more than one hour, after which time an appropriate order in writing shall be  
24 obtained from the physician or licensed psychologist designated by the director, in  
25 the case of isolation, or the physician so designated in the case of restraint.

1 Emergency isolation or restraint may not be continued for more than 24 hours  
2 without a new written order. Isolation may be used as part of a treatment program  
3 if it is part of a written treatment plan, and the rights specified in this subsection are  
4 provided to the patient. The use of isolation as a part of a treatment plan shall be  
5 explained to the patient and to his or her guardian, if any, by the person who  
6 ~~undertakes such~~ provides the treatment. Such A treatment plan that incorporates  
7 isolation shall be evaluated at least once every 2 weeks. Patients who have a recent  
8 history of physical aggression may be restrained during transport to or from the  
9 facility. Persons who are committed or transferred under s. 51.35 (3) or 51.37 or  
10 under ch. 971 or 975, or who are detained or committed under ch. 980, and who, while  
11 under this status, are transferred to a hospital, as defined in s. 50.33 (2), for medical  
12 care may be isolated for security reasons within locked facilities in the hospital.  
13 Patients who are committed or transferred under s. 51.35 (3) or 51.37 or under ch.  
14 971 or 975, or who are detained or committed under ch. 980, may be restrained for  
15 security reasons during transport to or from the facility.

16 **SECTION 1993h.** 51.61 (1) (i) 2. of the statutes is amended to read:

17 51.61 (1) (i) 2. Patients in the maximum security facility at the Mendota Mental  
18 Health Institute may be locked in their rooms during the night shift and for a period  
19 of no longer than one hour and 30 minutes during each change of shift by staff to  
20 permit staff review of patient needs. Patients detained or committed under ch. 980  
21 and placed in a facility specified under s. 980.065 may be locked in their rooms during  
22 the night shift, if they reside in a maximum or medium security unit in which each  
23 room is equipped with a toilet and sink, or if they reside in a unit in which each room  
24 is not equipped with a toilet and sink and the number of patients outside their rooms  
25 equals or exceeds the number of toilets in the unit, except that patients who do not

1 have toilets in their rooms must be given an opportunity to use a toilet at least once  
2 every hour, or more frequently if medically indicated. Patients in the maximum  
3 security facility at the Mendota Mental Health Institute, or patients detained or  
4 committed under ch. 980 and placed in a facility specified under s. 980.065, may also  
5 be locked in their rooms on a unit-wide or facility-wide basis as an emergency  
6 measure as needed for security purposes to deal with an escape or attempted escape,  
7 the discovery of a dangerous weapon in the unit or facility or the receipt of reliable  
8 information that a dangerous weapon is in the unit or facility, or to prevent or control  
9 a riot or the taking of a hostage. A unit-wide or facility-wide emergency isolation  
10 order may only be authorized by the director of the unit or ~~maximum security~~ facility  
11 where the order is applicable or his or her designee and shall. A unit-wide or  
12 facility-wide emergency isolation order affecting the Mendota Mental Health  
13 Institute must be approved within one hour after it is authorized by the director of  
14 the Mendota ~~mental health facility~~ Mental Health Institute or the director's  
15 designee. An emergency order for unit-wide or facility-wide isolation may only be  
16 in effect for the period of time needed to preserve order while dealing with the  
17 situation and may not be used as a substitute for adequate staffing. During a period  
18 of unit-wide or facility-wide isolation, the status of each patient shall be reviewed  
19 every 30 minutes to ensure the safety and comfort of the patient, and each patient  
20 who is locked in a room without a toilet shall be given an opportunity to use a toilet  
21 at least once every hour, or more frequently if medically indicated. Each unit in the  
22 maximum security facility at the Mendota Mental Health Institute and each unit in  
23 a facility specified under s. 980.065 shall have a written policy covering the use of  
24 isolation ~~which~~ that ensures that the dignity of the individual is protected, that the  
25 safety of the individual is secured, and that there is regular, frequent monitoring by

1 trained staff to care for bodily needs as may be required. ~~Each policy~~ The isolation  
2 policies shall be reviewed and approved by the director of the Mendota Mental  
3 Health Institute or the director's designee, or by the director of the facility specified  
4 under s. 980.065 or his or her designee, whichever is applicable.

5 **SECTION 1993i.** 51.61 (1) (o) of the statutes is amended to read:

6 51.61 (1) (o) Except as otherwise provided, have a right not to be filmed or  
7 taped, unless the patient signs an informed and voluntary consent ~~which~~ that  
8 specifically authorizes a named individual or group to film or tape the patient for a  
9 particular purpose or project during a specified time period. The patient may specify  
10 in such consent periods during which, or situations in which, the patient may not be  
11 filmed or taped. If a patient is legally incompetent, such consent shall be granted on  
12 behalf of the patient by the patient's guardian. A patient in Goodland Hall at the  
13 Mendota Mental Health Institute, or a patient detained or committed under ch. 980  
14 and placed in a facility specified under s. 980.065, may be filmed or taped for security  
15 purposes without the patient's consent, except that such a patient may not be filmed  
16 in patient bedrooms or bathrooms for any purpose without the patient's consent.”.

17 **5.** Page 1236, line 12: after that line insert:

18 “**SECTION 3938r.** 942.06 (2m) (b) of the statutes is amended to read:

19 942.06 (2m) (b) An employee or agent of the department of health and family  
20 services who conducts a lie detector test of a person under the rules promulgated  
21 under s. 51.375.

22 **SECTION 3938s.** 942.06 (2q) (b) (intro.) of the statutes is amended to read:

23 942.06 (2q) (b) (intro.) An employee or agent of the department of health and  
24 family services who discloses, to any of the following, the fact that a person has had

1 a lie detector test under the rules promulgated under s. 51.375 or the results of such  
2 a lie detector test:

3 **SECTION 3938t.** 942.06 (2q) (b) 1. of the statutes is amended to read:

4 942.06 (2q) (b) 1. Another employee or agent of the department of health and  
5 family services or another person to whom disclosure is permitted under s. 51.375  
6 (2) (b)."

7 **6.** Page 1245, line 21: after that line insert:

8 ~~"SECTION 3966qi. 946.42 (3) (h) of the statutes is created to read:~~

9 ~~946.42 (3) (h) Detained under s. 980.04 or committed to the department of~~  
10 ~~health and family services under s. 980.06 and placed in institutional care under s.~~  
11 ~~980.065."~~

12 **7.** Page 1280, line 9: after that line insert:

13 ~~"SECTION 4034yd. 980.065 (1r) of the statutes is created to read:~~

14 ~~980.065 (1r) Notwithstanding sub. (1m), the department may place a female~~  
15 ~~person committed under s. 980.06 at Mendota Mental Health Institute, Winnebago~~  
16 ~~Mental Health Institute, or a privately operated residential facility under contract~~  
17 ~~with the department of health and family services.~~

18 **SECTION 4034ye.** 980.067 of the statutes is created to read:

19 **980.067 Activities off grounds.** (1) The superintendent of the facility at  
20 which a person is placed under s. 980.065 may allow the person to leave the grounds  
21 of the facility under escort. The department of health and family services shall  
22 promulgate rules for the administration of this section. <sup>1)</sup>

23 ~~(2) A person remains placed in institutional care under s. 980.065 for purposes~~  
24 ~~of s. 946.42 (3) (h) while on a leave granted under this section."~~

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2  
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4  
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8. Page 1416, line 16: after that line insert:

~~“(13k) CRIME OF ESCAPE BY A SEXUALLY VIOLENT PERSON. The treatment of section 946.42 (3) (h) of the statutes first applies to offenses committed on the effective date of this subsection.”~~

(END)



LFB:.....Megna – Patient’s rights of sexually violent persons; operation of Sand Ridge treatment center

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**SENATE AMENDMENT**

**TO SENATE SUBSTITUTE AMENDMENT 1,**

**TO 2001 SENATE BILL 55**

1           At the locations indicated, amend the substitute amendment as follows:

2           **1.** Page 2, line 25: after that line insert:

3           “**SECTION 29n.** 6.10 (7m) of the statutes is created to read:

4           6.10 (**7m**) (a) The residence of a person who is detained, or committed and  
5 institutionalized, under s. 51.20, 971.14, or 971.17 or ch. 980 shall be determined by  
6 applying the standards under sub. (1) to whichever of the following dates is  
7 applicable to the circumstances of the person:

8           1. For a person detained or committed under s. 51.20, the date that the person  
9 was detained under s. 51.20 (2) or, if the person was not detained under s. 51.20 (2),  
10 the date that the person was committed under s. 51.20 (13).

1           2. For a person committed under s. 971.14 or 971.17, the date of the offense or  
2 alleged offense that resulted in the person's commitment.

3           3. For a person detained or committed under ch. 980, the date that the person  
4 committed the sexually violent offense that resulted in the sentence, placement, or  
5 commitment that was in effect when the state filed a petition under s. 980.02 against  
6 the person.

7           (b) That the person's habitation was fixed at the place established under par.  
8 (a) before he or she was detained or committed shall be considered prima facie  
9 evidence that the person intends to return to that place. The prima facie evidence  
10 of intent to return to the place determined under par. (a) may be rebutted by  
11 presenting information that indicates that the person is not likely to return to that  
12 place if the person's detention or commitment is terminated.”

13           **2.** Page 93, line 3: after that line insert:

14           “**SECTION 382wd.** 19.32 (1d) (b) of the statutes is repealed.

15           **SECTION 382we.** 19.32 (1d) (c) of the statutes is amended to read:

16           19.32 (1d) (c) ~~A secure mental health unit or facility established or unit for the~~  
17 institutional care of sexually violent persons specified under s. 980.065 (2).

18           **SECTION 382wf.** 19.35 (1) (am) 2. c. of the statutes is amended to read:

19           19.35 (1) (am) 2. c. Endanger the security, including the security of the  
20 population or staff, of any state prison under s. 302.01, jail, as defined in s. 165.85  
21 (2) (bg), secured correctional facility, as defined in s. 938.02 (15m), secured child  
22 caring institution, as defined in s. 938.02 (15g), secured group home, as defined in  
23 s. 938.02 (15p), mental health institute, as defined in s. 51.01 (12), or center for the



1 developmentally disabled, as defined in s. 51.01 (3), or facility, specified under s.  
2 980.065, for the institutional care of sexually violent persons.”

3 **3.** Page 656, line 10: after that line insert:

4 “**SECTION 1967n.** 51.375 (2) of the statutes is renumbered 51.375 (2) (a).

5 **SECTION 1967p.** 51.375 (2) (b) of the statutes is created to read:

6 51.375 (2) (b) The department may administer a lie detector test to a sex  
7 offender as part of the sex offender’s programming, care, or treatment. A patient may  
8 refuse to submit to a lie detector test under this paragraph. This refusal does not  
9 constitute a general refusal to participate in treatment. A person administering a  
10 lie detector test under this paragraph may not ask the subject of the test any question  
11 that can reasonably be anticipated to elicit information as to whether the subject  
12 committed an offense for which the subject has not been convicted, found not guilty  
13 by reason of mental disease or defect, or adjudicated delinquent. The results of a lie  
14 detector test under this paragraph may be used only in the care, treatment, or  
15 assessment of the subject or in programming for the subject. The results of a test may  
16 be disclosed only to persons employed at the facility at which the subject is placed  
17 who need to know the results for purposes related to care, treatment, or assessment  
18 of the patient, the committing court, the patient’s attorney, or the attorney  
19 representing the state in a proceeding under ch. 980.”

20 **4.** Page 660, line 5: after that line insert:

21 “**SECTION 1993d.** 51.61 (1) (c) of the statutes is renumbered 51.61 (1) (cm) 1.  
22 and amended to read:

23 51.61 (1) (cm) 1. ~~Have~~ Patients have an unrestricted right to send sealed mail  
24 and receive sealed mail to or from legal counsel, the courts, governmental

1 government officials, private physicians, and licensed psychologists, and have  
2 reasonable access to letter writing materials including postage stamps. A patient  
3 shall also have a right to send sealed mail and receive sealed mail to or from other  
4 persons, subject to physical examination in the patient's presence if there is reason  
5 to believe that such communication contains contraband materials or objects which  
6 that threaten the security of patients, prisoners, or staff. Such reasons shall be  
7 written in the individual's treatment record. The officers and staff of a facility may  
8 not read any mail covered by this paragraph subdivision.

9 **SECTION 1993e.** 51.61 (1) (cm) (intro.) of the statutes is created to read:

10 51.61 (1) (cm) Have the rights specified under subd. 1. to send and receive  
11 sealed mail, subject to the limitations specified under subd. 2.

12 **SECTION 1993f.** 51.61 (1) (cm) 2. of the statutes is created to read:

13 51.61 (1) (cm) 2. The rights of a patient detained or committed under ch. 980  
14 to send and receive sealed mail are subject to the following limitations:

15 a. If the mail appears to be from legal counsel, a court, a government official,  
16 or a private physician or licensed psychologist, an officer or staff member of the  
17 facility at which the patient is placed may delay delivery of the mail to the patient  
18 for a reasonable period of time to verify whether the person named as the sender  
19 actually sent the mail; may open the mail in the presence of the patient and inspect  
20 it for contraband; or may, if the officer or staff member cannot determine whether the  
21 mail contains contraband, return the mail to the sender along with notice of the  
22 facility mail policy.

23 b. If the mail appears to be from a person other than a person specified in subd.  
24 2. a., the director of the facility or his or her designee may, in accordance with the  
25 standards and the procedure under sub. (2) for denying a right for cause, authorize

1 a member of the facility treatment staff to read the mail, if the director or his or her  
2 designee has reason to believe that the mail could pose a threat to security at the  
3 facility or seriously interfere with the treatment, rights, or safety of others.

4 **SECTION 1993g.** 51.61 (1) (i) 1. of the statutes is amended to read:

5 51.61 (1) (i) 1. Except as provided in subd. 2., have a right to be free from  
6 physical restraint and isolation except for emergency situations or when isolation or  
7 restraint is a part of a treatment program. Isolation or restraint may be used only  
8 when less restrictive measures are ineffective or not feasible and shall be used for  
9 the shortest time possible. When a patient is placed in isolation or restraint, his or  
10 her status shall be reviewed once every 30 minutes. Each facility shall have a written  
11 policy covering the use of restraint or isolation ~~which~~ that ensures that the dignity  
12 of the individual is protected, that the safety of the individual is ensured, and that  
13 there is regular, frequent monitoring by trained staff to care for bodily needs as may  
14 be required. Isolation or restraint may be used for emergency situations only when  
15 it is likely that the patient may physically harm himself or herself or others. The  
16 treatment director shall specifically designate physicians who are authorized to  
17 order isolation or restraint, and shall specifically designate licensed psychologists  
18 who are authorized to order isolation. ~~In the instance where~~ If the treatment director  
19 is not a physician, the medical director shall make the designation. In the case of a  
20 center for the developmentally disabled, use shall be authorized by the director of the  
21 center. The authorization for emergency use of isolation or restraint shall be in  
22 writing, except that isolation or restraint may be authorized in emergencies for not  
23 more than one hour, after which time an appropriate order in writing shall be  
24 obtained from the physician or licensed psychologist designated by the director, in  
25 the case of isolation, or the physician so designated in the case of restraint.

1 Emergency isolation or restraint may not be continued for more than 24 hours  
2 without a new written order. Isolation may be used as part of a treatment program  
3 if it is part of a written treatment plan, and the rights specified in this subsection are  
4 provided to the patient. The use of isolation as a part of a treatment plan shall be  
5 explained to the patient and to his or her guardian, if any, by the person who  
6 ~~undertakes such~~ provides the treatment. ~~Such~~ A treatment plan that incorporates  
7 isolation shall be evaluated at least once every 2 weeks. Patients who have a recent  
8 history of physical aggression may be restrained during transport to or from the  
9 facility. Persons who are committed or transferred under s. 51.35 (3) or 51.37 or  
10 under ch. 971 or 975, or who are detained or committed under ch. 980, and who, while  
11 under this status, are transferred to a hospital, as defined in s. 50.33 (2), for medical  
12 care may be isolated for security reasons within locked facilities in the hospital.  
13 Patients who are committed or transferred under s. 51.35 (3) or 51.37 or under ch.  
14 971 or 975, or who are detained or committed under ch. 980, may be restrained for  
15 security reasons during transport to or from the facility.

16 **SECTION 1993h.** 51.61 (1) (i) 2. of the statutes is amended to read:

17 51.61 (1) (i) 2. Patients in the maximum security facility at the Mendota Mental  
18 Health Institute may be locked in their rooms during the night shift and for a period  
19 of no longer than one hour and 30 minutes during each change of shift by staff to  
20 permit staff review of patient needs. Patients detained or committed under ch. 980  
21 and placed in a facility specified under s. 980.065 may be locked in their rooms during  
22 the night shift, if they reside in a maximum or medium security unit in which each  
23 room is equipped with a toilet and sink, or if they reside in a unit in which each room  
24 is not equipped with a toilet and sink and the number of patients outside their rooms  
25 equals or exceeds the number of toilets in the unit, except that patients who do not

1 have toilets in their rooms must be given an opportunity to use a toilet at least once  
2 every hour, or more frequently if medically indicated. Patients in the maximum  
3 security facility at the Mendota Mental Health Institute, or patients detained or  
4 committed under ch. 980 and placed in a facility specified under s. 980.065, may also  
5 be locked in their rooms on a unit-wide or facility-wide basis as an emergency  
6 measure as needed for security purposes to deal with an escape or attempted escape,  
7 the discovery of a dangerous weapon in the unit or facility or the receipt of reliable  
8 information that a dangerous weapon is in the unit or facility, or to prevent or control  
9 a riot or the taking of a hostage. A unit-wide or facility-wide emergency isolation  
10 order may only be authorized by the director of the unit or ~~maximum security facility~~  
11 where the order is applicable or his or her designee and ~~shall.~~ A unit-wide or  
12 facility-wide emergency isolation order affecting the Mendota Mental Health  
13 Institute must be approved within one hour after it is authorized by the director of  
14 the Mendota ~~mental health facility~~ Mental Health Institute or the director's  
15 designee. An emergency order for unit-wide or facility-wide isolation may only be  
16 in effect for the period of time needed to preserve order while dealing with the  
17 situation and may not be used as a substitute for adequate staffing. During a period  
18 of unit-wide or facility-wide isolation, the status of each patient shall be reviewed  
19 every 30 minutes to ensure the safety and comfort of the patient, and each patient  
20 who is locked in a room without a toilet shall be given an opportunity to use a toilet  
21 at least once every hour, or more frequently if medically indicated. Each unit in the  
22 maximum security facility at the Mendota Mental Health Institute and each unit in  
23 a facility specified under s. 980.065 shall have a written policy covering the use of  
24 isolation ~~which~~ that ensures that the dignity of the individual is protected, that the  
25 safety of the individual is secured, and that there is regular, frequent monitoring by

1 trained staff to care for bodily needs as may be required. ~~Each policy~~ The isolation  
2 policies shall be reviewed and approved by the director of the Mendota Mental  
3 Health Institute or the director's designee, or by the director of the facility specified  
4 under s. 980.065 or his or her designee, whichever is applicable.

5 **SECTION 1993i.** 51.61 (1) (o) of the statutes is amended to read:

6 51.61 (1) (o) Except as otherwise provided, have a right not to be filmed or  
7 taped, unless the patient signs an informed and voluntary consent ~~which~~ that  
8 specifically authorizes a named individual or group to film or tape the patient for a  
9 particular purpose or project during a specified time period. The patient may specify  
10 in such consent periods during which, or situations in which, the patient may not be  
11 filmed or taped. If a patient is legally incompetent, such consent shall be granted on  
12 behalf of the patient by the patient's guardian. A patient in Goodland Hall at the  
13 Mendota Mental Health Institute, or a patient detained or committed under ch. 980  
14 and placed in a facility specified under s. 980.065, may be filmed or taped for security  
15 purposes without the patient's consent, except that such a patient may not be filmed  
16 in patient bedrooms or bathrooms for any purpose without the patient's consent.”.

17 **5.** Page 1236, line 12: after that line insert:

18 **“SECTION 3938r.** 942.06 (2m) (b) of the statutes is amended to read:

19 942.06 (2m) (b) An employee or agent of the department of health and family  
20 services who conducts a lie detector test of a person under ~~the rules promulgated~~  
21 ~~under~~ s. 51.375.

22 **SECTION 3938s.** 942.06 (2q) (b) (intro.) of the statutes is amended to read:

23 942.06 (2q) (b) (intro.) An employee or agent of the department of health and  
24 family services who discloses, to any of the following, the fact that a person has had

1 a lie detector test under ~~the rules promulgated under~~ s. 51.375 or the results of such  
2 a lie detector test:

3 **SECTION 3938t.** 942.06 (2q) (b) 1. of the statutes is amended to read:

4 942.06 (2q) (b) 1. Another employee or agent of the department of health and  
5 family services or another person to whom disclosure is permitted under s. 51.375  
6 (2) (b).”.

7 **6.** Page 1280, line 9: after that line insert:

8 “**SECTION 4034yd.** 980.065 (1r) of the statutes is created to read:

9 980.065 (1r) Notwithstanding sub. (1m), the department may place a female  
10 person committed under s. 980.06 at Mendota Mental Health Institute, Winnebago  
11 Mental Health Institute, or a privately operated residential facility under contract  
12 with the department of health and family services.

13 **SECTION 4034ye.** 980.067 of the statutes is created to read:

14 **980.067 Activities off grounds.** The superintendent of the facility at which  
15 a person is placed under s. 980.065 may allow the person to leave the grounds of the  
16 facility under escort. The department of health and family services shall promulgate  
17 rules for the administration of this section.”.

18

(END)