

2003 DRAFTING REQUEST

Bill

Received: 02/04/2003

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: DuWayne Johnsrud (608) 266-3534

By/Representing: Julie

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Criminal Law - sex offenses
Criminal Law - crimes agnst kids
Correctional System - probation
Correctional System - parole
Correctional System - ext superv

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:

Residence of child sex offenders

Instructions:

See Attached

Drafting History:

Table with 8 columns: Vers., Drafted, Reviewed, Typed, Proofed, Submitted, Jacketed, Required. Row 1: /?, mdsida, kgilfoy, S&L. Row 2: /1, jfrantze, lemery, sbasford.

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			03/14/2003	_____	03/14/2003	03/18/2003	
				_____		sbasford	
				_____		03/18/2003	

FE Sent For:

at who

<END>

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/?	mdsida 02/12/2003	kgilfoy 03/14/2003					S&L
/1			jfrantze		lemery		

for Assm per Julie

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1?	mdsida	1 - 3/13 Kung	3/14	3/14			

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B I L L
REQUEST FORM

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

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. DuWayne Johnson

Date: 1/31/03 Person submitting request (name, phone number): Julie Pendleton
266-3534

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

Describe the problem, including any helpful examples.

How do you want to solve the problem?

Re-draft of 2001 AB 738

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): 2001 AB - 738

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? No Yes If yes, sign your name here: _____

Yes No

3 4
Tues 3/18

2001 ASSEMBLY BILL 738

PWF: all amended
stats.

January 16, 2002 - Introduced by Representatives ~~JOHNSRUD, HINES, LOEFFELHOLZ, GUNDRUM, GRONEMUS, OLSEN, RYBA, LEIBHAM, KAUFERT, STONE, TURNER, D. MEYER, MCCORMICK, STARZYK, HOVEN, HUEBSCH, MUSSER, OTT, KRAWCZYK, PETTIS, NASS, FREESE, GUNDERSON, SERATTI, VRAKAS, GROTHMAN, LASSA, TOWNSEND, WASSERMAN, PETROWSKI and PLALE,~~ cosponsored by Senators M. MEYER, BURKE, KANAVAS, S. FITZGERALD, DARLING, COWLES, SCHULTZ and HANSEN. Referred to Committee on Corrections and the Courts.

Gen. Cat

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

Analysis by the Legislative Reference Bureau

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

ASSEMBLY BILL 738

*; using a computer to facilitate
having sex with a child; attempting to commit either
of these crimes;*

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. DOC 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 ²child 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 a 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.

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

- 1 SECTION 1. 46.10 (2) of the statutes is amended to read:
- 2 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
- 3 including but not limited to a person admitted, committed, or placed under s. 975.01,
- 4 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 51.10, 51.13,
- 5 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12), and (13), 55.05, 55.06, 971.14
- 6 (2) and (5), 971.17 ~~(1)~~ (1d), 975.06, and 980.06, receiving care, maintenance, services,
- 7 and supplies provided by any institution in this state including University of
- 8 Wisconsin Hospitals and Clinics, in which the state is chargeable with all or part of

ASSEMBLY BILL 738

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

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

22 51.42 (3) (aw) 1. d. Provide treatment and services that are specified in a
23 conditional release plan approved by a court for a person who is a county resident and
24 is conditionally released under s. 971.17 (3) or (4) or that are specified in a supervised
25 release plan approved by a court under s. 980.06 (2) (c), 1997 stats., or s. 980.08 (5)

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1 (d). If the county department provides treatment and services under this
2 subdivision, the department of health and family services shall, from the
3 appropriation under s. 20.435 (2) (bj), pay the county department for the costs of the
4 treatment and services.

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

6 302.11 (1) The warden or superintendent shall keep a record of the conduct of
7 each inmate, specifying each infraction of the rules. Except as provided in subs. (1g),
8 (1m), (1q), (1z), ~~(4m) (b)~~, (7), and (10), each inmate is entitled to mandatory release
9 on parole by the department. The mandatory release date is established at
10 two-thirds of the sentence. Any calculations under this subsection or sub. (1q) (b)
11 or (2) (b) resulting in fractions of a day shall be rounded in the inmate's favor to a
12 whole day.

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

14 302.11 (1g) (b) 3. Refusal by the inmate, if the inmate is a child sex offender,
15 as defined in s. 302.116 (1) (af), to reside, as a condition of parole, in a residence that
16 is not within 1,000 feet of any state, county, city, village, or town park, a multiunit
17 public housing project, a swimming pool open to members of the public, a child care
18 facility, as defined in s. 302.116 (1) (ad), a youth center, a community center, or any
19 private or public school premises.

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

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

22 302.11 (4m) (b) A child sex offender, as defined in s. 302.116 (1) (af), is not
23 entitled to mandatory release on parole under this section unless he or she agrees,
24 as a condition of parole, not to reside within 1,000 feet of any state, county, city,
25 village, or town park, a multiunit public housing project, a swimming pool open to

ASSEMBLY BILL 738

1 members of the public, a child care facility, as defined in s. 302.116 (1) (ad), a youth
2 center, a community center, or any private or public school premises.

3 **SECTION 7.** 302.116 (1) (a) of the statutes, *as created by 2001 Wisconsin Act 161*
4 is renumbered 302.116 (1) (at).

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

6 302.116 (1) (ad) "Child care facility" means a child care facility that is operated
7 by a person licensed under s. 48.65[✓] or 48.69[✓] or certified under s. 48.651 or that is
8 established or contracted for under s. 120.13 (14).

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

10 302.116 (1) (af) "Child sex offender" means a person serving a sentence for any
11 of the following:

12 1. A violation of s. 948.07[✓] or a solicitation or conspiracy to commit a violation
13 of s. 948.07[✓]. *or 948.075 ✓*

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

18 302.116 (3) As a condition of extended supervision, a child sex offender shall
19 live in a residence that is not within 1,000 feet of any state, county, city, village, or
20 town park, a multiunit public housing project, a swimming pool open to members of
21 the public, a child care facility, a youth center, a community center, or any private or
22 public school premises.

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

24 304.02 (4t) Notwithstanding subs. (1) to (3), a child sex offender, as defined in
25 s. 302.116 (1) (af), may not be paroled under this section unless he or she agrees, as

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

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

6 304.06 (2m) (af) Neither the parole commission nor the department may parole
7 a child sex offender, as defined in s. 302.116 (1) (af), unless he or she agrees, as a
8 condition of parole, not to reside within 1,000 feet of any state, county, city, village,
9 or town park, a multiunit public housing project, a swimming pool open to members
10 of the public, a child care facility, as defined in s. 302.116 (1) (ad), a youth center, a
11 community center, or any private or public school premises.

12 **SECTION 13.** 971.17 (1) of the statutes is renumbered 971.17 (1d).

13 **SECTION 14.** 971.17 (1b) of the statutes is created to read:

14 971.17 (1b) In this section, "child sex offender" means a person who has been
15 found not guilty by reason of mental disease or defect of any of the following:

16 (a) A violation of s. 948.07[✓] or a solicitation or conspiracy to commit a violation
17 of s. 948.07[✓] or 948.075

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

21 **SECTION 15.** 971.17 (1g) of the statutes is amended to read:

22 971.17 (1g) If the defendant under sub. (1) (1d)^{✓✓} is found not guilty of a felony
23 by reason of mental disease or defect, the court shall inform the defendant of the
24 requirements and penalties under s. 941.29.

25 **SECTION 16.** 971.17 (1j) (b) of the statutes is amended to read:

Ins. 6-24

ASSEMBLY BILL 738

1 971.17 (1j) (b) If a person is found not guilty by reason of mental disease or
2 defect of a serious sex offense, the court may, in addition to committing the person
3 to the department of health and family services under sub. ~~(1)~~ [✓](1d), place the person
4 on lifetime supervision under s. 939.615 if notice concerning lifetime supervision was
5 given to the person under s. 973.125 and if the court determines that lifetime
6 supervision of the person is necessary to protect the public.

7 **SECTION 17.** 971.17 (1m) (a) of the statutes is amended to read:

8 971.17 (1m) (a) If the defendant under sub. ~~(1)~~ [✓](1d) is found not guilty by reason
9 of mental disease or defect for a violation of s. 940.225 (1) or (2), 948.02 (1) or (2), or
10 948.025, the court shall require the person to provide a biological specimen to the
11 state crime laboratories for deoxyribonucleic acid analysis.

12 **SECTION 18.** 971.17 (1m) (b) 1m. of the statutes is amended to read:

13 971.17 (1m) (b) 1m. Except as provided in subd.2m., if the defendant under sub.
14 [✓]~~(1)~~ (1d) is found not guilty by reason of mental disease or defect for any violation, or
15 for the solicitation, conspiracy, or attempt to commit any violation, of ch. 940, 944,
16 or 948 or ss. 943.01 to 943.15, the court may require the defendant to comply with
17 the reporting requirements under s. 301.45 if the court determines that the
18 underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that it
19 would be in the interest of public protection to have the defendant report under s.
20 301.45.

21 **SECTION 19.** 971.17 (1m) (b) 2m. of the statutes is amended to read:

22 971.17 (1m) (b) 2m. If the defendant under sub. ~~(1)~~ [✓](1d) is found not guilty by
23 reason of mental disease or defect for a violation, or for the solicitation, conspiracy,
24 or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02
25 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.095, 948.11 (2) (a) or

*plain
comma*

948.075, ✓

Act 109

place comma

1 (am), 948.12, 948.13, or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and
2 the defendant was not the victim's parent, the court shall require the defendant to
3 comply with the reporting requirements under s. 301.45 unless the court determines,
4 after a hearing on a motion made by the defendant, that the defendant is not required
5 to comply under s. 301.45 (1m).

6 SECTION 20. 971.17 (3) (a) of the statutes is amended to read:

7 971.17 (3) (a) An order for commitment under this section shall specify either
8 institutional care or conditional release. The court shall order institutional care if
9 it finds by clear and convincing evidence that conditional release of the person would
10 pose a significant risk of bodily harm to himself or herself or to others or of serious
11 property damage. If or that the person is a child sex offender who refuses to comply
12 with sub. (4f). Otherwise, the court does not make this finding, it shall order
13 conditional release. In determining whether ~~commitment shall be for institutional~~
14 ~~care or conditional release~~ the person would pose a significant risk of bodily harm to
15 himself or herself or to others or of serious property damage, the court may consider,
16 without limitation because of enumeration, the nature and circumstances of the
17 crime, the person's mental history and present mental condition, where the person
18 will live, how the person will support himself or herself, what arrangements are
19 available to ensure that the person has access to and will take necessary medication,
20 and what arrangements are possible for treatment beyond medication.

21 SECTION 21. 971.17 (3) (e) of the statutes is amended to read:

22 971.17 (3) (e) An order for conditional release places the person in the custody
23 and control of the department of health and family services. A conditionally released
24 person is subject to the conditions set by the court and, to the rules of the department
25 of health and family services, and, if applicable, to sub. (4f). Before a person is

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1 conditionally released by the court under this subsection, the court shall so notify the
2 municipal police department and county sheriff for the area where the person will
3 be residing. The notification requirement under this paragraph does not apply if a
4 municipal department or county sheriff submits to the court a written statement
5 waiving the right to be notified. If the department of health and family services
6 alleges that a released person has violated any condition or rule, or that the safety
7 of the person or others requires that conditional release be revoked, he or she may
8 be taken into custody under the rules of the department. The department of health
9 and family services shall submit a statement showing probable cause of the
10 detention and a petition to revoke the order for conditional release to the committing
11 court and the regional office of the state public defender responsible for handling
12 cases in the county where the committing court is located within 48 hours after the
13 detention. The court shall hear the petition within 30 days, unless the hearing or
14 time deadline is waived by the detained person. Pending the revocation hearing, the
15 department of health and family services may detain the person in a jail or in a
16 hospital, center or facility specified by s. 51.15 (2). The state has the burden of
17 proving by clear and convincing evidence that any rule or condition of release has
18 been violated, or that the safety of the person or others requires that conditional
19 release be revoked. If the court determines after hearing that any rule or condition
20 of release has been violated, or that the safety of the person or others requires that
21 conditional release be revoked, it may revoke the order for conditional release and
22 order that the released person be placed in an appropriate institution under s. 51.37
23 (3) until the expiration of the commitment or until again conditionally released
24 under this section.

25 **SECTION 22.** 971.17 (4) (d) of the statutes is amended to read:

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1 971.17 (4) (d) The court, without a jury, shall hear the petition within 30 days
2 after the report of the court-appointed examiner is filed with the court, unless the
3 petitioner waives this time limit. Expenses of proceedings under this subsection
4 shall be paid as provided under s. 51.20 (18). The court shall grant the petition unless
5 it finds by clear and convincing evidence that the person would pose a significant risk
6 of bodily harm to himself or herself or to others or of serious property damage if
7 conditionally released. ~~In making this determination or that the person is a child sex~~
8 ~~offender who refuses to comply with sub. (4f). In determining whether the person~~
9 ~~would pose a significant risk of bodily harm to himself or herself or to others or of~~
10 ~~serious property damage,~~ the court may consider, without limitation because of
11 enumeration, the nature and circumstances of the crime, the person's mental history
12 and present mental condition, where the person will live, how the person will support
13 himself or herself, what arrangements are available to ensure that the person has
14 access to and will take necessary medication, and what arrangements are possible
15 for treatment beyond medication.

16 **SECTION 23.** 971.17 (4f) of the statutes is created to read:

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

23 **SECTION 24.** 971.17 (6) (a) (intro.) of the statutes is amended to read:

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

4 **SECTION 25.** 971.17 (6) (b) of the statutes is amended to read:

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

10 **SECTION 26.** 973.09 (8) of the statutes is created to read:

11 973.09 (8) If the court places a child sex offender, as defined in s. 302.116 (1)
12 (af), on probation, the court shall prohibit the probationer, as a condition of
13 probation, from residing within 1,000 feet of any state, county, city, village, or town
14 park, a multiunit public housing project, a swimming pool open to members of the
15 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.

17 **SECTION 27.** 975.10 (1m) of the statutes is created to read:

18 975.10 (1m) A person may not be released on parole under sub. (1) unless he
19 or she agrees, as a condition of parole, not to reside within 1,000 feet of any state,
20 county, city, village, or town park, a multiunit public housing project, a swimming
21 pool open to members of the public, a child care facility, as defined in s. 302.116 (1)
22 (ad), a youth center, a community center, or any private or public school premises.

23 **SECTION 28.** 980.08 (3) of the statutes is amended to read:

24 980.08 (3) Within 20 days after receipt of the petition, the court shall appoint
25 one or more examiners having the specialized knowledge determined by the court to

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SECTION 28

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

11 **SECTION 29.** 980.08 (4) of the statutes is renumbered 980.08 (4) (a) 1. (intro.)
12 and amended to read:

13 980.08 **(4)** (a) 1. (intro.) The court, without a jury, shall hear the petition within
14 30 days after the report of the court-appointed examiner is filed with the court,
15 unless the petitioner waives this time limit. Expenses of proceedings under this
16 subsection shall be paid as provided under s. 51.20 (18) (b), (c) and (d). The court shall
17 grant the petition unless the state proves one of the following by clear and convincing
18 evidence ~~that:~~

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

23 2. In deciding whether to make a finding under subd. 1. a., the court may
24 consider, without limitation because of enumeration, the nature and circumstances
25 of the behavior that was the basis of the allegation in the petition under s. 980.02 (2)

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

12 SECTION 30. 980.08 (4) (a) 1. b. of the statutes is created to read:

13 980.08 (4) (a) 1. b. That the person who is the subject of the petition refuses to
14 comply with sub. (5) (a) 2. ✓

✓ 15 SECTION 31. 980.08 (5) of the statutes, as affected by 2001 Wisconsin Act 16,
16 is renumbered 980.08 (5) (a) 1. and amended to read:

17 980.08 (5) (a) 1. If the court finds that the person is appropriate for supervised
18 release, the court shall notify the department. The Subject to subd. 2., the
19 department shall make its best effort to arrange for placement of the person in a
20 residential facility or dwelling that is in the person's county of residence, as
21 determined by the department under s. 980.105. ~~The department and the county~~
22 ~~department under s. 51.42 in the county of residence of the person shall prepare a~~
23 ~~plan that identifies the treatment and services, if any, that the person will receive~~
24 ~~in the community. The plan shall address the person's need, if any, for supervision,~~
25 ~~counseling, medication, community support services, residential services, vocational~~

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1 ~~services, and alcohol or other drug abuse treatment.~~ In developing a plan for where
2 the person may reside while on supervised release, the department shall consider the
3 proximity of any potential placement to the residence of other persons on supervised
4 release and to the residence of persons who are in the custody of the department of
5 corrections and regarding whom a sex offender notification bulletin has been issued
6 to law enforcement agencies under s. 301.46 (2m) (a) or (am).

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

16 (d) The plan prepared under par. (b) shall be presented to the court for its
17 approval within 60 days after the court finding that the person is appropriate for
18 supervised release, unless the department, county department, and person to be
19 released request additional time to develop the plan. If the county department of the
20 person's county of residence declines to prepare a plan, the department may arrange
21 for another county to prepare the plan if that county agrees to prepare the plan and
22 if the person will be living in that county. If the department is unable to arrange for
23 another county to prepare a plan, the court shall designate a county department to
24 prepare the plan, order the county department to prepare the plan and place the
25 person on supervised release in that county, except that the court may not so

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1 ~~designate the county department in any county where there is a facility in which~~
2 ~~persons committed to institutional care under this chapter are placed unless that~~
3 ~~county is also the person's county of residence.~~

4 **SECTION 32.** 980.08 (5) (a) 2. of the statutes is created to read:

5 980.08 (5) (a) 2. A person committed under s. 980.06 may not, as a condition
6 of supervised release, reside within 1,000 feet of any state, county, city, village, or
7 town park, a multiunit public housing project, a swimming pool open to members of
8 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 33.** 980.08 (5) (b) of the statutes is created to read:

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

24 **SECTION 34.** 980.08 (6m) of the statutes is amended to read:

ASSEMBLY BILL 738**SECTION 34**

1 980.08 (6m) An order for supervised release places the person in the custody
2 and control of the department. The department shall arrange for control, care, and
3 treatment of the person in the least restrictive manner consistent with the
4 requirements of the person and in accordance with the plan for supervised release
5 approved by the court under sub. (5) (d). A person on supervised release is subject
6 to the conditions set by the court and to the rules of the department. Before a person
7 is placed on supervised release by the court under this section, the court shall so
8 notify the municipal police department and county sheriff for the municipality and
9 county in which the person will be residing. The notification requirement under this
10 subsection does not apply if a municipal police department or county sheriff submits
11 to the court a written statement waiving the right to be notified. If the department
12 alleges that a released person has violated any condition or rule, or that the safety
13 of others requires that supervised release be revoked, he or she may be taken into
14 custody under the rules of the department. The department shall submit a
15 statement showing probable cause of the detention and a petition to revoke the order
16 for supervised release to the committing court and the regional office of the state
17 public defender responsible for handling cases in the county where the committing
18 court is located within 72 hours after the detention, excluding Saturdays, Sundays,
19 and legal holidays. The court shall hear the petition within 30 days, unless the
20 hearing or time deadline is waived by the detained person. Pending the revocation
21 hearing, the department may detain the person in a jail or in a hospital, center, or
22 facility specified by s. 51.15 (2). The state has the burden of proving by clear and
23 convincing evidence that any rule or condition of release has been violated, or that
24 the safety of others requires that supervised release be revoked. If the court
25 determines after hearing that any rule or condition of release has been violated, or

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1 that the safety of others requires that supervised release be revoked, it may revoke
2 the order for supervised release and order that the released person be placed in an
3 appropriate institution until the person is discharged from the commitment under
4 s. 980.09 or until again placed on supervised release under this section.

SECTION 35. Initial applicability.

5
6 (1) The treatment of section 302.11 (1) and (4m) (b) of the statutes first applies
7 to persons reaching their mandatory release date on the effective date of this
8 subsection.

9 (2) The treatment of section 302.11 (1g) (b) 3. of the statutes first applies to
10 persons whose cases are considered by the parole commission under section 302.11
11 (1g) (b) (intro.) of the statutes on the effective date of this subsection.

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

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

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

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

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

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...kmg:...

Insert 6-24 ✓

SECTION 1. 971.17 (1h) of the statutes is amended to read:

971.17 (1h) NOTICE OF RESTRICTIONS ON POSSESSION OF BODY ARMOR. If the defendant under sub. ~~(1)~~ (1d) is found not guilty of a violent felony, as defined in s. 941.291 (1) (b), by reason of mental disease or defect, the court shall inform the defendant of the requirements and penalties under s. 941.291.

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; 2001 a. 95, 109.