



State of Wisconsin
2003 - 2004 LEGISLATURE

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen. Cat.

1 AN ACT *to repeal* 51.30 (4) (b) 10m., 980.02 (2) (ag), 980.03 (5), 980.05 (1m),
2 980.09 (1) (title), 980.09 (2) and 980.10; *to renumber* 46.055 and 980.01 (1); *to*
3 *renumber and amend* 938.396 (2) (e), 980.015 (1), 980.015 (4), 980.03 (4),
4 980.04 (2), 980.07 (1), 980.09 (1) (a), 980.09 (1) (b) and 980.09 (1) (c); *to amend*
5 20.435 (2) (bm), 46.03 (1), 46.055 (title), 46.058 (2m), 48.396 (1), 48.396 (5) (a)
6 (intro.), 51.30 (3) (a), 51.30 (3) (b), 51.30 (4) (b) 8m., 51.30 (4) (b) 11., 51.375 (1)
7 (a), 146.82 (2) (c), 301.45 (1g) (dt), 301.45 (3) (a) 3r., 301.45 (3) (b) 3., 301.45 (5)
8 (b) 2., 756.06 (2) (b), 801.52, 808.04 (3), 808.04 (4), 808.075 (4) (h), 905.04 (4) (a),
9 911.01 (4) (c), 938.396 (1), 938.396 (5) (a) (intro.), 938.78 (2) (e), 946.42 (1) (a),
10 950.04 (1v) (xm), 967.03, 972.15 (4), 978.045 (1r) (intro.), 978.05 (6) (a), 980.01
11 (5), 980.01 (6) (a), 980.01 (6) (b), 980.01 (6) (c), 980.01 (7), 980.015 (2) (intro.),
12 980.015 (2) (a), 980.015 (2) (b), 980.015 (2) (c), 980.02 (1) (a), 980.02 (2) (c),
13 980.02 (4) (intro.), 980.03 (2) (intro.), 980.03 (3), 980.04 (1), 980.04 (3), 980.05
14 (1), 980.05 (3) (a), 980.05 (3) (b), 980.065 (1m), 980.07 (2), 980.07 (3), 980.09
15 (title), 980.101 (2) (a), 980.11 (2) (intro.) and 980.12 (1); *to repeal and recreate*

1 809.10 (1) (d), 809.30 (1) (c), 809.30 (1) (f) and 980.08; and **to create** 46.055 (2),
2 48.396 (6), 48.78 (2) (e), 48.981 (7) (a) 8s., 51.30 (3) (bm), 51.30 (4) (b) 8s., 118.125
3 (2) (ck), 146.82 (2) (cm), 756.06 (2) (cm), 814.61 (1) (c) 6., 938.35 (1) (e), 946.42
4 (3m), 972.15 (6), 973.155 (1) (c), 980.01 (1g), 980.01 (1m), 980.01 (6) (am), 980.01
5 (6) (bm), 980.015 (1) (b), 980.015 (2) (d), 980.02 (1) (b) 3., 980.02 (1m), 980.02
6 (6), 980.031 (title), 980.031 (1) and (2), 980.034, 980.036, 980.038, 980.04 (2) (b),
7 980.05 (2m), 980.07 (1) (b), 980.07 (1m), 980.07 (4) to (7), 980.093, 980.095,
8 980.14 (title) and 980.14 (1) of the statutes; **relating to:** the definition of
9 sexually violent person, sexually violent person commitment proceedings,
10 criteria for supervised release, escape from custody by a person who is subject
11 to a sexually violent person commitment proceeding, creating a committee to
12 make recommendations regarding the location of a facility for the treatment of
13 sexual predators, payments in lieu of taxes and grants for a municipality in
14 which such a facility is located, making an appropriation, and providing
15 penalties.

Analysis by the Legislative Reference Bureau

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

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

16 SECTION 1. 20.435 (2) (bm) of the statutes is amended to read:

17 20.435 (2) (bm) Secure mental health units or facilities; payments relating to
18 transitional facilities. The amounts in the schedule for the general program
19 operations of secure mental health units or facilities under s. 980.065 for persons
20 committed under s. 980.06 and placed in a secure mental health unit or facility and

1 for making payments to municipalities under s. 46.055 (2) (b) and grants to
2 municipalities under s. 46.055 (2) (c).

3 **SECTION 2.** 46.03 (1) of the statutes is amended to read:

4 46.03 (1) INSTITUTIONS GOVERNED. Maintain and govern the Mendota and the
5 Winnebago mental health institutes; the secure mental health facility established
6 under s. 46.055 (1); and the centers for the developmentally disabled.

7 **SECTION 3.** 46.055 (title) of the statutes is amended to read:

8 **46.055** (title) ~~Secure mental health facility~~ **Facilities for sexually**
9 **violent persons.**

10 **SECTION 4.** 46.055 of the statutes is renumbered 46.055 (1).

11 **SECTION 5.** 46.055 (2) of the statutes is created to read:

12 46.055 (2) (a) In this subsection, “transitional facility” means the facility that
13 is enumerated in 2001 Wisconsin Act 16, section 9107 (1) (d) 1., and that will be a
14 transitional facility for the housing of persons committed to the custody of the
15 department under ch. 980.

16 (b) Annually, from the appropriation under s. 20.435 (2) (bm), the department
17 shall pay a municipality in which a transitional facility is located a sum in lieu of
18 taxes for the services, improvements, or facilities that the municipality furnishes to
19 the transitional facility. The municipality shall determine the amount that the
20 department shall pay, but it may not exceed the amount that would be levied as the
21 annual property tax of the municipality upon the transitional facility.

22 (c) Annually, from the appropriation under s. 20.435 (2) (bm), the department
23 shall make a grant of \$100,000 to a municipality in which a transitional facility is
24 located to reimburse the municipality for the cost of providing additional security for
25 the area in which the transitional facility is located.

1 **SECTION 6.** 46.058 (2m) of the statutes is amended to read:

2 46.058 (2m) The superintendents of the secure mental health facility
3 established under s. 46.055 (1), the Wisconsin resource center established under s.
4 46.056 and any secure mental health unit or facility provided by the department of
5 corrections under s. 980.065 (2) shall adopt proper means to prevent escapes of
6 persons detained or committed to the facility, center or unit under ch. 980 and may
7 adopt proper means to pursue and capture persons detained or committed to the
8 facility, center or unit under ch. 980 who have escaped. In adopting means under this
9 subsection to prevent escape and pursue and capture persons who have escaped, a
10 superintendent may delegate to designated staff members of the facility, center or
11 unit the power to use necessary and appropriate force, as defined by the department
12 by rule, to prevent escapes and capture escaped persons.

13 **SECTION 7.** 48.396 (1) of the statutes is amended to read:

14 48.396 (1) Law enforcement officers' records of children shall be kept separate
15 from records of adults. Law enforcement officers' records of the adult expectant
16 mothers of unborn children shall be kept separate from records of other adults. Law
17 enforcement officers' records of children and the adult expectant mothers of unborn
18 children shall not be open to inspection or their contents disclosed except under sub.
19 (1b), (1d) ~~or~~, (5), or (6) or s. 48.293 or by order of the court. This subsection does not
20 apply to the representatives of newspapers or other reporters of news who wish to
21 obtain information for the purpose of reporting news without revealing the identity
22 of the child or expectant mother involved, to the confidential exchange of information
23 between the police and officials of the school attended by the child or other law
24 enforcement or social welfare agencies or to children 10 years of age or older who are
25 subject to the jurisdiction of the court of criminal jurisdiction. A public school official

1 who obtains information under this subsection shall keep the information
2 confidential as required under s. 118.125 and a private school official who obtains
3 information under this subsection shall keep the information confidential in the
4 same manner as is required of a public school official under s. 118.125. A law
5 enforcement agency that obtains information under this subsection shall keep the
6 information confidential as required under this subsection and s. 938.396 (1). A
7 social welfare agency that obtains information under this subsection shall keep the
8 information confidential as required under ss. 48.78 and 938.78.

9 **SECTION 8.** 48.396 (5) (a) (intro.) of the statutes is amended to read:

10 48.396 (5) (a) (intro.) Any person who is denied access to a record under sub.
11 (1), (1b) ~~or~~, (1d), or (6) may petition the court to order the disclosure of the records
12 governed by the applicable subsection. The petition shall be in writing and shall
13 describe as specifically as possible all of the following:

14 **SECTION 9.** 48.396 (6) of the statutes is created to read:

15 48.396 (6) Records of law enforcement officers and of the court assigned to
16 exercise jurisdiction under this chapter and ch. 938 shall be open for inspection by
17 and production to authorized representatives of the department of corrections, the
18 department of health and family services, the department of justice, or a district
19 attorney for use in the evaluation or prosecution of any proceeding under ch. 980, if
20 the records involve or relate to an individual who is the subject of or who is being
21 evaluated for a proceeding under ch. 980. The court in which the proceeding under
22 ch. 980 is pending may issue any protective orders that it determines are appropriate
23 concerning information made available or disclosed under this subsection. Any
24 representative of the department of corrections, the department of health and family
25 services, the department of justice, or a district attorney may disclose information

1 obtained under this subsection for any purpose consistent with any proceeding under
2 ch. 980.

3 **SECTION 10.** 48.78 (2) (e) of the statutes is created to read:

4 48.78 (2) (e) Notwithstanding par. (a), an agency shall, upon request, disclose
5 information to authorized representatives of the department of corrections, the
6 department of health and family services, the department of justice, or a district
7 attorney for use in the evaluation or prosecution of any proceeding under ch. 980, if
8 the information involves or relates to an individual who is the subject of or who is
9 being evaluated for a proceeding under ch. 980. The court in which the proceeding
10 under ch. 980 is pending may issue any protective orders that it determines are
11 appropriate concerning information made available or disclosed under this
12 paragraph. Any representative of the department of corrections, the department of
13 health and family services, the department of justice, or a district attorney may
14 disclose information obtained under this paragraph for any purpose consistent with
15 any proceeding under ch. 980.

16 **SECTION 11.** 48.981 (7) (a) 8s. of the statutes is created to read:

17 48.981 (7) (a) 8s. Authorized representatives of the department of corrections,
18 the department of health and family services, the department of justice, or a district
19 attorney for use in the evaluation or prosecution of any proceeding under ch. 980, if
20 the reports or records involve or relate to an individual who is the subject of or who
21 is being evaluated for a proceeding under ch. 980. The court in which the proceeding
22 under ch. 980 is pending may issue any protective orders that it determines are
23 appropriate concerning information made available or disclosed under this
24 subdivision. Any representative of the department of corrections, the department
25 of health and family services, the department of justice, or a district attorney may

1 disclose information obtained under this subdivision for any purpose consistent with
2 any proceeding under ch. 980.

3 **SECTION 12.** 51.30 (3) (a) of the statutes is amended to read:

4 51.30 (3) (a) Except as provided in pars. (b) ~~and~~, (bm), (c), and (d), the files and
5 records of the court proceedings under this chapter shall be closed but shall be
6 accessible to any individual who is the subject of a petition filed under this chapter.

7 **SECTION 13.** 51.30 (3) (b) of the statutes is amended to read:

8 51.30 (3) (b) An individual's attorney or guardian ad litem and the corporation
9 counsel shall have access to the files and records of the court proceedings under this
10 chapter without the individual's consent and without modification of the records in
11 order to prepare for involuntary commitment or recommitment proceedings,
12 reexaminations, appeals, or other actions relating to detention, admission, or
13 commitment under this chapter or ch. 971 ~~or~~, 975, or 980.

14 **SECTION 14.** 51.30 (3) (bm) of the statutes is created to read:

15 51.30 (3) (bm) The files and records of court proceedings under this chapter
16 shall be released to authorized representatives of the department of corrections, the
17 department of health and family services, the department of justice, or a district
18 attorney for use in the evaluation or prosecution of any proceeding under ch. 980, if
19 the files or records involve or relate to an individual who is the subject of or who is
20 being evaluated for a proceeding under ch. 980. The court in which the proceeding
21 under ch. 980 is pending may issue any protective orders that it determines are
22 appropriate concerning information made available or disclosed under this
23 paragraph. Any representative of the department of corrections, the department of
24 health and family services, the department of justice, or a district attorney may

1 disclose information obtained under this paragraph for any purpose consistent with
2 any proceeding under ch. 980.

3 **SECTION 15.** 51.30 (4) (b) 8m. of the statutes is amended to read:

4 51.30 (4) (b) 8m. To appropriate examiners and facilities in accordance with s.
5 971.17 (2) (e), (4) (c), and (7) (c), ~~980.03 (4) or 980.08 (3)~~. The recipient of any
6 information from the records shall keep the information confidential except as
7 necessary to comply with s. 971.17 ~~or ch. 980~~.

8 **SECTION 16.** 51.30 (4) (b) 8s. of the statutes is created to read:

9 51.30 (4) (b) 8s. To appropriate persons in accordance with s. 980.031 (4) and
10 to authorized representatives of the department of corrections, the department of
11 health and family services, the department of justice, or a district attorney for use
12 in the evaluation or prosecution of any proceeding under ch. 980, if the treatment
13 records involve or relate to an individual who is the subject of or who is being
14 evaluated for a proceeding under ch. 980. The court in which the proceeding under
15 ch. 980 is pending may issue any protective orders that it determines are appropriate
16 concerning information made available or disclosed under this subdivision. Any
17 representative of the department of corrections, the department of health and family
18 services, the department of justice, or a district attorney may disclose information
19 obtained under this subdivision for any purpose consistent with any proceeding
20 under ch. 980.

21 **SECTION 17.** 51.30 (4) (b) 10m. of the statutes is repealed.

22 **SECTION 18.** 51.30 (4) (b) 11. of the statutes is amended to read:

23 51.30 (4) (b) 11. To the subject individual's counsel or guardian ad litem and
24 the corporation counsel, without modification, at any time in order to prepare for
25 involuntary commitment or recommitment proceedings, reexaminations, appeals, or

1 other actions relating to detention, admission, commitment, or patients' rights under
2 this chapter or ch. 48, 971, ~~or 975,~~ or 980.

3 **SECTION 19.** 51.375 (1) (a) of the statutes is amended to read:

4 51.375 (1) (a) "Community placement" means conditional transfer into the
5 community under s. 51.35 (1), conditional release under s. 971.17, parole from a
6 commitment for specialized treatment under ch. 975, or conditional supervised
7 release under ch. 980.

8 **SECTION 20.** 118.125 (2) (ck) of the statutes is created to read:

9 118.125 (2) (ck) The school district clerk or his or her designee shall make pupil
10 records available for inspection or disclose the contents of pupil records to authorized
11 representatives of the department of corrections, the department of health and
12 family services, the department of justice, or a district attorney for use in the
13 evaluation or prosecution of any proceeding under ch. 980, if the pupil records involve
14 or relate to an individual who is the subject of or who is being evaluated for a
15 proceeding under ch. 980. The court in which the proceeding under ch. 980 is pending
16 may issue any protective orders that it determines are appropriate concerning pupil
17 records made available or disclosed under this paragraph. Any representative of the
18 department of corrections, the department of health and family services, the
19 department of justice, or a district attorney may disclose information obtained under
20 this paragraph for any purpose consistent with any proceeding under ch. 980.

21 **SECTION 21.** 146.82 (2) (c) of the statutes is amended to read:

22 146.82 (2) (c) Notwithstanding sub. (1), patient health care records shall be
23 released to appropriate examiners and facilities in accordance with ~~ss. s.~~ s. 971.17 (2)
24 (e), (4) (c) and (7) (c), ~~980.03 (4) and 980.08 (3).~~ The recipient of any information from

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1 the records shall keep the information confidential except as necessary to comply
2 with s. 971.17 ~~or ch. 980~~.

3 **SECTION 22.** 146.82 (2) (cm) of the statutes is created to read:

4 146.82 (2) (cm) Notwithstanding sub. (1), patient health care records shall be
5 released to appropriate persons in accordance with s. 980.031 (4) and to authorized
6 representatives of the department of corrections, the department of health and
7 family services, the department of justice, or a district attorney for use in the
8 evaluation or prosecution of any proceeding under ch. 980, if the treatment records
9 involve or relate to an individual who is the subject of or who is being evaluated for
10 a proceeding under ch. 980. The court in which the proceeding under ch. 980 is
11 pending may issue any protective orders that it determines are appropriate
12 concerning records made available or disclosed under this paragraph. Any
13 representative of the department of corrections, the department of health and family
14 services, the department of justice, or a district attorney may disclose information
15 obtained under this paragraph for any purpose consistent with any proceeding under
16 ch. 980.

17 **SECTION 23.** 301.45 (1g) (dt) of the statutes is amended to read:

18 301.45 (1g) (dt) Is in institutional care or on ~~conditional~~ supervised release
19 under ch. 980 on or after June 2, 1994.

20 **SECTION 24.** 301.45 (3) (a) 3r. of the statutes is amended to read:

21 301.45 (3) (a) 3r. If the person has been committed under ch. 980, he or she is
22 subject to this subsection upon being placed on supervised release under s. 980.06
23 (2), 1997 stats., or s. 980.08 or, if he or she was not placed on supervised release,
24 before being discharged under s. 980.09 or ~~980.10~~ 980.093.

25 **SECTION 25.** 301.45 (3) (b) 3. of the statutes is amended to read:

1 301.45 (3) (b) 3. The department of health and family services shall notify a
2 person who is being placed on conditional release, supervised release, conditional
3 transfer or parole, or is being terminated or discharged from a commitment, under
4 s. 51.20, 51.35 or 971.17 or ch. 975 or 980 and who is covered under sub. (1g) of the
5 need to comply with the requirements of this section.

6 **SECTION 26.** 301.45 (5) (b) 2. of the statutes is amended to read:

7 301.45 (5) (b) 2. The person has been found to be a sexually violent person under
8 ch. 980, regardless of whether the person is has been discharged under s. 980.10,
9 2001 stats., s. 980.09 or ~~980.10~~ 980.093 from the sexually violent person
10 commitment, except that the person no longer has to comply with this section if the
11 finding that the person is a sexually violent person has been reversed, set aside or
12 vacated.

13 **SECTION 27.** 756.06 (2) (b) of the statutes is amended to read:

14 756.06 (2) (b) Except as provided in ~~par.~~ pars. (c) and (cm), a jury in a civil case
15 shall consist of 6 persons unless a party requests a greater number, not to exceed 12.
16 The court, on its own motion, may require a greater number, not to exceed 12.

17 **SECTION 28.** 756.06 (2) (cm) of the statutes is created to read:

18 756.06 (2) (cm) A jury in a trial under s. 980.05 shall consist of the number of
19 persons specified in s. 980.05 (2) unless a lesser number has been stipulated to and
20 approved under s. 980.05 (2m) (c). A jury in a hearing under s. 980.09 (2m) or 980.093
21 (3) shall consist of the number of persons specified in s. 980.09 (2m) or 980.093 (3),
22 whichever is applicable, unless a lesser number has been stipulated to and approved
23 under s. 980.095 (3).

24 **SECTION 29.** 801.52 of the statutes is amended to read:

1 **801.52 Discretionary change of venue.** The court may at any time, upon
2 its own motion, the motion of a party or the stipulation of the parties, change the
3 venue to any county in the interest of justice or for the convenience of the parties or
4 witnesses. This section does not apply to proceedings under ch. 980.

5 **SECTION 30.** 808.04 (3) of the statutes is amended to read:

6 808.04 (3) Except as provided in subs. (4) and (7), an appeal in a criminal case
7 or a case under ch. 48, 51, 55 ~~or~~, 938, or 980 shall be initiated within the time period
8 specified in s. 809.30.

9 **SECTION 31.** 808.04 (4) of the statutes is amended to read:

10 808.04 (4) Except as provided in sub. (7m), an appeal by the state in either a
11 criminal case under s. 974.05 or a case under ch. 48 ~~or~~, 938, or 980 shall be initiated
12 within 45 days of entry of the judgment or order appealed from.

13 **SECTION 32.** 808.075 (4) (h) of the statutes is amended to read:

14 808.075 (4) (h) Commitment, supervised release, recommitment, discharge,
15 and postcommitment relief under ss. 980.06, 980.08, 980.09, ~~980.10~~ 980.093, and
16 980.101 of a person found to be a sexually violent person under ch. 980.

17 **SECTION 33.** 809.10 (1) (d) of the statutes, as affected by Supreme Court Order
18 02-01, is repealed and recreated to read:

19 809.10 (1) (d) *Docketing statement.* The person shall send the court of appeals
20 an original and one copy of a completed docketing statement on a form prescribed by
21 the court of appeals. The docketing statement shall accompany the court of appeals'
22 copy of the notice of appeal. The person shall send a copy of the completed docketing
23 statement to the other parties to the appeal. Docketing statements need not be filed
24 in appeals brought under s. 809.105, 809.107, 809.32, or 974.06 (7), in cases under
25 ch. 980, or in cases in which a party represents himself or herself. Docketing

1 statements need not be filed in appeals brought under s. 809.30 or 974.05, or by the
2 state or defendant in permissive appeals in criminal cases pursuant to s. 809.50,
3 except that docketing statements shall be filed in cases arising under chs. 48, 51, 55,
4 or 938.

5 **SECTION 34.** 809.30 (1) (c) of the statutes, as affected by Supreme Court 02–01,
6 is repealed and recreated to read:

7 809.30 (1) (c) “Postconviction relief” means an appeal or a motion for
8 postconviction relief in a criminal case, other than an appeal, motion, or petition
9 under ss. 302.113 (7m), 302.113 (9g), 973.19, 973.195, 974.06, or 974.07 (2). In a ch.
10 980 case, the term means an appeal or a motion for postcommitment relief under s.
11 980.038 (4).

12 **SECTION 35.** 809.30 (1) (f) of the statutes, as affected by Supreme Court 02–01,
13 is repealed and recreated to read:

14 809.30 (1) (f) “Sentencing” means the imposition of a sentence, a fine, or
15 probation in a criminal case. In a ch. 980 case, the term means the entry of an order
16 under s. 980.06.

17 **SECTION 36.** 814.61 (1) (c) 6. of the statutes is created to read:

18 814.61 (1) (c) 6. An action for civil commitment under ch. 51, 55, or 980.

19 **SECTION 37.** 905.04 (4) (a) of the statutes is amended to read:

20 905.04 (4) (a) *Proceedings for hospitalization, control, care, and treatment of*
21 *a sexually violent person, guardianship, protective services, or protective placement.*

22 There is no privilege under this rule as to communications and information relevant
23 to an issue in proceedings to hospitalize the patient for mental illness, to appoint a
24 guardian under s. 880.33, for control, care, and treatment of a sexually violent person
25 under ch. 980, for court-ordered protective services or protective placement, or for

1 review of guardianship, protective services, or protective placement orders, if the
2 physician, registered nurse, chiropractor, psychologist, social worker, marriage and
3 family therapist, or professional counselor in the course of diagnosis or treatment
4 has determined that the patient is in need of hospitalization, control, care, and
5 treatment as a sexually violent person, guardianship, protective services, or
6 protective placement.

7 **SECTION 38.** 911.01 (4) (c) of the statutes is amended to read:

8 911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or
9 rendition; sentencing, granting or revoking probation, modification of a bifurcated
10 sentence under s. 302.113 (9g), adjustment of a bifurcated sentence under s. 973.195
11 (1r), issuance of arrest warrants, criminal summonses and search warrants;
12 hearings under s. 980.093 (2); proceedings under s. 971.14 (1) (c); proceedings with
13 respect to pretrial release under ch. 969 except where habeas corpus is utilized with
14 respect to release on bail or as otherwise provided in ch. 969.

15 **SECTION 39.** 938.35 (1) (e) of the statutes is created to read:

16 938.35 (1) (e) In a hearing, trial, or other proceeding under ch. 980 relating to
17 a juvenile.

18 **SECTION 40.** 938.396 (1) of the statutes is amended to read:

19 938.396 (1) Law enforcement officers' records of juveniles shall be kept
20 separate from records of adults. Law enforcement officers' records of juveniles shall
21 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),
22 (1m), (1r), (1t), (1x) ~~or~~, (5), or (10) or s. 938.293 or by order of the court. This
23 subsection does not apply to representatives of the news media who wish to obtain
24 information for the purpose of reporting news without revealing the identity of the
25 juvenile involved, to the confidential exchange of information between the police and

1 officials of the school attended by the juvenile or other law enforcement or social
2 welfare agencies, or to juveniles 10 years of age or older who are subject to the
3 jurisdiction of the court of criminal jurisdiction. A public school official who obtains
4 information under this subsection shall keep the information confidential as
5 required under s. 118.125 and a private school official who obtains information under
6 this subsection shall keep the information confidential in the same manner as is
7 required of a public school official under s. 118.125. A law enforcement agency that
8 obtains information under this subsection shall keep the information confidential as
9 required under this subsection and s. 48.396 (1). A social welfare agency that obtains
10 information under this subsection shall keep the information confidential as
11 required under ss. 48.78 and 938.78.

12 SECTION 41. 938.396 (2) (e) of the statutes is renumbered 938.396 (10) and
13 amended to read:

14 938.396 (10) ~~Upon request of the department of corrections to review court A~~
15 ~~law enforcement agency's records and records for the purpose of providing, under s.~~
16 ~~980.015 (3) (a), of the court assigned to exercise jurisdiction under this chapter and~~
17 ~~ch. 48 shall be open for inspection by authorized representatives of the department~~
18 ~~of corrections, the department of health and family services, the department of~~
19 ~~justice, or a district attorney with a person's offense history, the court shall open for~~
20 ~~inspection by authorized representatives of the department of corrections the~~
21 ~~records of the court relating to any juvenile who has been adjudicated delinquent for~~
22 ~~a sexually violent offense, as defined in s. 980.01 (6) for use in the evaluation or~~
23 ~~prosecution of any proceeding under ch. 980, if the records involve or relate to an~~
24 ~~individual who is the subject of or who is being evaluated for a proceeding under ch.~~
25 ~~980. The court in which the proceeding under ch. 980 is pending may issue any~~

1 protective orders that it determines are appropriate concerning information made
2 available or disclosed under this subsection. Any representative of the department
3 of corrections, the department of health and family services, the department of
4 justice, or a district attorney may disclose information obtained under this
5 subsection for any purpose consistent with any proceeding under ch. 980.

6 SECTION 42. 938.396 (5) (a) (intro.) of the statutes is amended to read:

7 938.396 (5) (a) (intro.) Any person who is denied access to a record under sub.
8 (1), (1b), (1d), (1g), (1m), (1r) ~~or~~, (1t), or (10) may petition the court to order the
9 disclosure of the records governed by the applicable subsection. The petition shall
10 be in writing and shall describe as specifically as possible all of the following:

11 SECTION 43. 938.78 (2) (e) of the statutes is amended to read:

12 938.78 (2) (e) ~~Paragraph (a) does not prohibit the department from disclosing~~
13 Notwithstanding par. (a), an agency shall, upon request, disclose information about
14 an individual adjudged delinquent under s. 938.183 or 938.34 for a sexually violent
15 offense, as defined in s. 980.01 (6), to authorized representatives of the department
16 of corrections, the department of health and family services, the department of
17 justice, or a district attorney or a judge acting under ch. 980 or to an attorney who
18 represents a person subject to a petition for use in the evaluation or prosecution of
19 any proceeding under ch. 980, if the information involves or relates to an individual
20 who is the subject of or who is being evaluated for a proceeding under ch. 980. The
21 court in which the petition proceeding under s. 980.02 is filed ch. 980 is pending may
22 issue any protective orders that it determines are appropriate concerning
23 information disclosed under this paragraph. Any representative of the department
24 of corrections, the department of health and family services, the department of

1 justice, or a district attorney may disclose information obtained under this
2 paragraph for any purpose consistent with any proceeding under ch. 980.

3 **SECTION 44.** 946.42 (1) (a) of the statutes is amended to read:

4 946.42 (1) (a) “Custody” includes without limitation actual custody of an
5 institution, including a secured correctional facility, as defined in s. 938.02 (15m), a
6 secured child caring institution, as defined in s. 938.02 (15g), a secured group home,
7 as defined in s. 938.02 (15p), a secure detention facility, as defined in s. 938.02 (16),
8 a Type 2 child caring institution, as defined in s. 938.02 (19r), a facility used for the
9 detention of persons detained under s. 980.04 (1), a facility specified in s. 980.065,
10 or a juvenile portion of a county jail, or actual custody of a peace officer or institution
11 guard. “Custody” also includes without limitation the constructive custody of
12 persons placed on supervised release under a commitment order issued under ch. 980
13 and constructive custody of prisoners and juveniles subject to an order under s.
14 48.366, 938.183, 938.34 (4d), (4h) or (4m) or 938.357 (4) or (5) (e) temporarily outside
15 the institution whether for the purpose of work, school, medical care, a leave granted
16 under s. 303.068, a temporary leave or furlough granted to a juvenile or otherwise.
17 Under s. 303.08 (6) it means, without limitation, that of the sheriff of the county to
18 which the prisoner was transferred after conviction. It does not include the custody
19 of a probationer, parolee or person on extended supervision by the department of
20 corrections or a probation, extended supervision or parole officer or the custody of a
21 person who has been released to aftercare supervision under ch. 938 unless the
22 person is in actual custody or is subject to a confinement order under s. 973.09 (4).

23 **SECTION 45.** 946.42 (3m) of the statutes is created to read:

24 946.42 (3m) A person who intentionally escapes from custody under any of the
25 following circumstances is guilty of a Class F felony:

1 (a) While subject to a detention order under s. 980.04 (1) or a custody order
2 under s. 980.04 (3).

3 (b) While subject to an order issued under s. 980.06 committing the person to
4 custody of the department of health and family services, regardless of whether the
5 person is placed in institutional care or on supervised release.

6 **SECTION 46.** 950.04 (1v) (xm) of the statutes is amended to read:

7 950.04 (1v) (xm) To have the department of health and family services make
8 a reasonable attempt to notify the victim under s. 980.11 regarding supervised
9 release under s. 980.08 and discharge under s. 980.09 or ~~980.10~~ 980.093.

10 **SECTION 47.** 967.03 of the statutes is amended to read:

11 **967.03 District attorneys.** Wherever in chs. 967 to ~~979~~ 980 powers or duties
12 are imposed upon district attorneys, the same powers and duties may be discharged
13 by any of their duly qualified deputies or assistants.

14 **SECTION 48.** 972.15 (4) of the statutes is amended to read:

15 972.15 (4) After sentencing, unless otherwise authorized under sub. (5) or (6)
16 or ordered by the court, the presentence investigation report shall be confidential
17 and shall not be made available to any person except upon specific authorization of
18 the court.

19 **SECTION 49.** 972.15 (6) of the statutes is created to read:

20 972.15 (6) The presentence investigation report and any information contained
21 in it or upon which it is based may be used by any of the following persons in any
22 evaluation, examination, referral, hearing, trial, postcommitment relief proceeding,
23 appeal, or other proceeding under ch. 980:

24 (a) The department of corrections.

25 (b) The department of health and family services.

1 (c) The person who is the subject of the presentence investigation report, his
2 or her attorney, or an agent or employee of the attorney.

3 (d) The attorney representing the state or an agent or employee of the attorney.

4 (e) A licensed physician, licensed psychologist, or other mental health
5 professional who is examining the subject of the presentence investigation report.

6 (f) The court and, if applicable, the jury hearing the case.

7 **SECTION 50.** 973.155 (1) (c) of the statutes is created to read:

8 973.155 (1) (c) The categories in par. (a) include time during which the
9 convicted offender was in the custody of the department of health and family services
10 under ch. 980 only if the offender was confined during that time and the confinement
11 and the offender's conviction resulted from the same course of conduct.

12 **SECTION 51.** 978.045 (1r) (intro.) of the statutes is amended to read:

13 978.045 (1r) (intro.) Any judge of a court of record, by an order entered in the
14 record stating the cause ~~therefor~~ for it, may appoint an attorney as a special
15 prosecutor to perform, for the time being, or for the trial of the accused person, the
16 duties of the district attorney. An attorney appointed under this subsection shall
17 have all of the powers of the district attorney. The judge may appoint an attorney
18 as a special prosecutor at the request of a district attorney to assist the district
19 attorney in the prosecution of persons charged with a crime, in grand jury or John
20 Doe proceedings, in proceedings under ch. 980, or in investigations. The judge may
21 appoint an attorney as a special prosecutor if any of the following conditions exists:

22 **SECTION 52.** 978.05 (6) (a) of the statutes is amended to read:

23 978.05 (6) (a) Institute, commence or appear in all civil actions or special
24 proceedings under and perform the duties set forth for the district attorney under ch.
25 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, 103.50 (8), 103.92

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1 (4), 109.09, 343.305 (9) (a), 453.08, 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),
2 946.86, 946.87, 961.55 (5), 971.14 and 973.075 to 973.077, perform any duties in
3 connection with court proceedings in a court assigned to exercise jurisdiction under
4 chs. 48 and 938 as the judge may request and perform all appropriate duties and
5 appear if the district attorney is designated in specific statutes, including matters
6 within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits
7 the authority of the county board to designate, under s. 48.09 (5), that the corporation
8 counsel provide representation as specified in s. 48.09 (5) or to designate, under s.
9 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the
10 interests of the public under s. 48.14 or 938.14.

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11 **SECTION 53.** 980.01 (1) of the statutes is renumbered 980.01 (1m).

12 **SECTION 54.** 980.01 (1g) of the statutes is created to read:

13 980.01 (1g) “Act of sexual violence” means conduct that constitutes the
14 commission of a sexually violent offense.

15 **SECTION 55.** 980.01 (1m) of the statutes is created to read:

16 980.01 (1m) “Likely” means more likely than not.

17 **SECTION 56.** 980.01 (5) of the statutes is amended to read:

18 980.01 (5) “Sexually motivated” means that one of the purposes for an act is
19 for the actor’s sexual arousal or gratification or for the sexual humiliation or
20 degradation of the victim.

21 **SECTION 57.** 980.01 (6) (a) of the statutes is amended to read:

22 980.01 (6) (a) Any crime specified in s. 940.225 (1) ~~or~~, (2), or (3), 948.02 (1) or
23 (2), 948.025, 948.06, or 948.07.

24 **SECTION 58.** 980.01 (6) (am) of the statutes is created to read:

1 980.01 (6) (am) An offense that, prior to June 2, 1994, was a crime under the
2 law of this state and that is comparable to any crime specified in par. (a).

3 **SECTION 59.** 980.01 (6) (b) of the statutes is amended to read:

4 980.01 (6) (b) Any crime specified in s. 940.01, 940.02, 940.03, 940.05, 940.06,
5 940.19 (4) or (5), 940.195 (4) or (5), 940.30, 940.305, 940.31 ~~or~~, 941.32, 943.10, 943.32,
6 or 948.03 that is determined, in a proceeding under s. 980.05 (3) (b), to have been
7 sexually motivated.

8 **SECTION 60.** 980.01 (6) (bm) of the statutes is created to read:

9 980.01 (6) (bm) An offense that, prior to June 2, 1994, was a crime under the
10 law of this state, that is comparable to any crime specified in par. (b) and that is
11 determined, in a proceeding under s. 980.05 (3) (b), to have been sexually motivated.

12 **SECTION 61.** 980.01 (6) (c) of the statutes is amended to read:

13 980.01 (6) (c) Any solicitation, conspiracy, or attempt to commit a crime under
14 par. (a) ~~or~~, (am), (b), or (bm).

15 **SECTION 62.** 980.01 (7) of the statutes is amended to read:

16 980.01 (7) “Sexually violent person” means a person who has been convicted
17 of a sexually violent offense, has been adjudicated delinquent for a sexually violent
18 offense, or has been found not guilty of or not responsible for a sexually violent
19 offense by reason of insanity or mental disease, defect, or illness, and who is
20 dangerous because he or she suffers from a mental disorder that makes it
21 ~~substantially probable~~ likely that the person will engage in one or more acts of sexual
22 violence.

23 **SECTION 63.** 980.015 (1) of the statutes is renumbered 980.015 (1) (intro.) and
24 amended to read:

25 980.015 (1) (intro.) In this section, ~~“agency:~~

1 (a) "Agency with jurisdiction" means the agency with the authority or duty to
2 release or discharge the person.

3 SECTION 64. 980.015 (1) (b) of the statutes is created to read:

4 980.015 (1) (b) "Continuous term of incarceration, any part of which was
5 imposed for a sexually violent offense, includes confinement in a secured correctional
6 facility, as defined in s. 938.02 (15m), or a secured child caring institution, as defined
7 in s. 938.02 (15g), or a secured group home, as defined in s. 938.02 (15p), if the person
8 was placed in the facility for being adjudicated delinquent under s. 48.34, 1993 stats.,
9 or under s. 938.183 or 938.34 on the basis of a sexually violent offense.

10 SECTION 65. 980.015 (2) (intro.) of the statutes is amended to read:

11 980.015 (2) (intro.) If an agency with jurisdiction has control or custody over
12 a person who may meet the criteria for commitment as a sexually violent person, the
13 agency with jurisdiction shall inform each appropriate district attorney and the
14 department of justice regarding the person as soon as possible beginning ~~3 months~~
15 90 days prior to the applicable date of the following:

16 SECTION 66. 980.015 (2) (a) of the statutes is amended to read:

17 980.015 (2) (a) The anticipated discharge ~~from a sentence, anticipated or~~
18 ~~release, on parole or, extended supervision, or anticipated release otherwise, from a~~
19 sentence of imprisonment of a person who has been convicted of or term of
20 confinement in prison that was imposed for a conviction for a sexually violent offense,
21 from a continuous term of incarceration, any part of which was imposed for a sexually
22 violent offense, or from a placement in a Type 1 prison under s. 301.048 (3) (a) 1., any
23 part of which was imposed for a sexually violent offense.

24 SECTION 67. 980.015 (2) (b) of the statutes is amended to read:

1 980.015 (2) (b) The anticipated release from a secured correctional facility, as
2 defined in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02
3 (15g), or a secured group home, as defined in s. 938.02 (15p), ~~of a~~ if the person was
4 placed in the facility ~~for~~ being adjudicated delinquent under s. 48.34, 1993 stats., or
5 under s. 938.183 or 938.34 on the basis of a sexually violent offense.

6 **SECTION 68.** 980.015 (2) (c) of the statutes is amended to read:

7 980.015 (2) (c) The anticipated release on conditional release under s. 971.17
8 or the anticipated termination of or discharge of a ~~from a commitment order under~~
9 s. 971.17, if the person who has been found not guilty of a sexually violent offense by
10 reason of mental disease or defect ~~under s. 971.17.~~

11 **SECTION 69.** 980.015 (2) (d) of the statutes is created to read:

12 980.015 (2) (d) The anticipated release on parole or discharge of a person
13 committed under ch. 975 for a sexually violent offense.

14 **SECTION 70.** 980.015 (4) of the statutes is renumbered 980.14 (2) and amended
15 to read:

16 980.14 (2) Any agency or officer, employee, or agent of an agency is immune
17 from criminal or civil liability for any acts or omissions as the result of a good faith
18 effort to comply with any provision of this section chapter.

19 **SECTION 71.** 980.02 (1) (a) of the statutes is amended to read:

20 980.02 (1) (a) The department of justice at the request of the agency with
21 jurisdiction, as defined in s. 980.015 (1), over the person. ~~If the department of justice~~
22 ~~decides to file a petition under this paragraph, it shall file the petition before the date~~
23 ~~of the release or discharge of the person.~~

24 **SECTION 72.** 980.02 (1) (b) 3. of the statutes is created to read:

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1 980.02 (1) (b) 3. The county in which the person is in custody under a sentence,
2 a placement to a secured correctional facility, as defined in s. 938.02 (15m), a secured
3 child caring institution, as defined in s. 938.02 (15g), or a secured group home, as
4 defined in s. 938.02 (15p), or a commitment order.

5 **SECTION 73.** 980.02 (1m) of the statutes is created to read:

6 980.02 (1m) A petition filed under this section shall be filed before the person
7 is released or discharged.

8 **SECTION 74.** 980.02 (2) (ag) of the statutes is repealed.

9 **SECTION 75.** 980.02 (2) (c) of the statutes is amended to read:

10 980.02 (2) (c) The person is dangerous to others because the person's mental
11 disorder ~~creates a substantial probability~~ makes it likely that he or she will engage
12 in acts of sexual violence.

13 **SECTION 76.** 980.02 (4) (intro.) of the statutes is amended to read:

14 980.02 (4) (intro.) A petition under this section shall be filed in ~~any~~ one of the
15 following:

16 **SECTION 77.** 980.02 (6) of the statutes is created to read:

17 980.02 (6) A court assigned to exercise jurisdiction under chs. 48 and 938 does
18 not have jurisdiction over a petition filed under this section alleging that a child is
19 a sexually violent person.

20 **SECTION 78.** 980.03 (2) (intro.) of the statutes is amended to read:

21 980.03 (2) (intro.) Except as provided in ss. ~~980.09 (2) (a)~~ 980.038 (2) and
22 ~~980.10 980.093~~ and without limitation by enumeration, at any hearing under this
23 chapter, the person who is the subject of the petition has the right to:

24 **SECTION 79.** 980.03 (3) of the statutes is amended to read:

1 980.03 (3) The person who is the subject of the petition, the person's attorney,
2 the department of justice or the district attorney may request that a trial under s.
3 980.05 be to a jury of 12. A request for a jury trial shall be made as provided under
4 s. 980.05 (2). Notwithstanding s. 980.05 (2), if the person, the person's attorney, the
5 department of justice or the district attorney does not request a jury trial, the court
6 may on its own motion require that the trial be to a jury of 12. The jury shall be
7 selected as provided under s. 980.05 (2m). A verdict of a jury under this chapter is
8 not valid unless it is unanimous.

9 **SECTION 80.** 980.03 (4) of the statutes is renumbered 980.031 (3) and amended
10 to read:

11 980.031 (3) Whenever a person who is the subject of a petition filed under s.
12 980.02 or who has been committed under s. 980.06 is required to submit to an
13 examination of his or her mental condition under this chapter, he or she may retain
14 ~~experts or~~ a licensed physician, licensed psychologist, or other mental health
15 ~~professional persons~~ to perform an examination. If the person is indigent, the court
16 shall, upon the person's request, appoint a qualified and available licensed
17 physician, licensed psychologist, or other mental health professional to perform an
18 examination of the person's mental condition and participate on the person's behalf
19 in a trial or other proceeding under this chapter at which testimony is authorized.
20 Upon the order of the circuit court, the county shall pay, as part of the costs of the
21 action, the costs of a licensed physician, licensed psychologist, or other mental health
22 professional appointed by a court under this subsection to perform an examination
23 and participate in the trial or other proceeding on behalf of an indigent person.

24 (4) If the person a party retains ~~a qualified expert or~~ the court appoints a
25 licensed physician, licensed psychologist, or other mental health professional person

1 ~~of his or her own choice to conduct an examination under this chapter of the person's~~
2 ~~mental condition, the examiner shall have reasonable access to the person for the~~
3 ~~purpose of the examination, as well as to the person's past and present treatment~~
4 ~~records, as defined in s. 51.30 (1) (b), and patient health care records as provided~~
5 ~~under s. 146.82 (2) (e). If the person is indigent, the court shall, upon the person's~~
6 ~~request, appoint a qualified and available expert or professional person to perform~~
7 ~~an examination and participate in the trial or other proceeding on the person's~~
8 ~~behalf. Upon the order of the circuit court, the county shall pay, as part of the costs~~
9 ~~of the action, the costs of an expert or professional person appointed by a court under~~
10 ~~this subsection to perform an examination and participate in the trial or other~~
11 ~~proceeding on behalf of an indigent person. An expert (cm), past and present juvenile~~
12 ~~records, as provided under ss. 48.396 (6), 48.78 (2) (e), 938.396 (10), and 938.78 (2)~~
13 ~~(e), and the person's past and present correctional records, including presentence~~
14 ~~investigation reports under s. 972.15 (6).~~

15 (5) A licensed physician, licensed psychologist, or other mental health
16 professional person appointed to assist an indigent person who is subject to a petition
17 who is expected to be called as a witness by one of the parties or by the court may not
18 be subject to any order by the court for the sequestration of witnesses at any
19 proceeding under this chapter. No licensed physician, licensed psychologist, or other
20 mental health professional who is expected to be called as a witness by one of the
21 parties or by the court may be permitted to testify at any proceeding under this
22 chapter unless a written report of his or her examination has been submitted to the
23 court and to both parties at least 10 days before the proceeding.

24 SECTION 81. 980.03 (5) of the statutes is repealed.

25 SECTION 82. 980.031 (title) of the statutes is created to read:

1 **980.031 (title) Examinations.**

2 **SECTION 83.** 980.031 (1) and (2) of the statutes are created to read:

3 980.031 (1) If a person who is the subject of a petition filed under s. 980.02
4 denies the facts alleged in the petition, the court may appoint at least one qualified
5 licensed physician, licensed psychologist, or other mental health professional to
6 conduct an examination of the person's mental condition and testify at trial.

7 (2) The state may retain a licensed physician, licensed psychologist, or other
8 mental health professional to examine the mental condition of a person who is the
9 subject of a petition under s. 980.02 or who has been committed under s. 980.06 and
10 to testify at trial or at any other proceeding under this chapter at which testimony
11 is authorized.

12 **SECTION 84.** 980.034 of the statutes is created to read:

13 **980.034 Change of place of trial or jury from another county.** (1) The
14 person who is the subject of a petition filed under s. 980.02 or who has been
15 committed under this chapter may move for a change of the place of a jury trial under
16 s. 980.05 on the ground that an impartial trial cannot be had in the county in which
17 the trial is set to be held. The motion shall be made within 20 days after the
18 completion or waiver of the probable cause hearing under s. 980.04 (2), whichever is
19 applicable, except that it may be made after that time for cause.

20 (2) The motion shall be in writing and supported by affidavit which shall state
21 evidentiary facts showing the nature of the prejudice alleged. The department of
22 justice or the district attorney, whichever filed the petition under s. 980.02, may file
23 counter⁻ affidavits.

24 (3) If the court determines that there exists in the county where the action is
25 pending such prejudice that a fair trial cannot be had, it shall, except as provided in

1 sub. (4), order that the trial be held in any county where an impartial trial can be had.
2 Only one change may be granted under this subsection. The judge who orders the
3 change in the place of trial shall preside at the trial. Preliminary matters prior to
4 trial may be conducted in either county at the discretion of the court.

5 (4) (a) Instead of changing the place of trial under sub. (3), the court may
6 require the selection of a jury under par. (b) if all of the following apply:

7 1. The court has decided to sequester the jurors after the commencement of the
8 trial.

9 2. There are grounds for changing the place of trial under sub. (1).

10 3. The estimated costs to the county appear to be less using the procedure under
11 this subsection than using the procedure for holding the trial in another county.

12 (b) If the court decides to proceed under this subsection it shall follow the
13 procedure under sub. (3) until the jury is chosen in the 2nd county. At that time, the
14 proceedings shall return to the original county using the jurors selected in the 2nd
15 county. The original county shall reimburse the 2nd county for all applicable costs
16 under s. 814.22.

17 **SECTION 85.** 980.036 of the statutes is created to read:

18 **980.036 Discovery and inspection.** (1) DEFINITIONS. In this section:

19 (a) “Person subject to this chapter” means a person who is subject to a petition
20 filed under s. 980.02 or a person who has been committed under s. 980.06.

21 (b) “Prosecuting attorney” means an attorney representing the state in a
22 proceeding under this chapter.

23 (2) **WHAT A PROSECUTING ATTORNEY MUST DISCLOSE TO A PERSON SUBJECT TO THIS**
24 **CHAPTER.** Upon demand, a prosecuting attorney shall, within a reasonable time after
25 the probable cause hearing and before a trial under s. 980.05 or other proceeding

1 under s. 980.07 (7), 980.09 (2m), or 980.093 (3), disclose to a person subject to this
2 chapter or the person's attorney, and permit the person or the person's attorney to
3 inspect and copy or photograph, all of the following materials and information, if the
4 material or information is within the possession, custody, or control of the state:

5 (a) Any written or recorded statement made by the person concerning the
6 allegations in the petition filed under s. 980.02 or concerning other matters at issue
7 in the trial or proceeding and the names of witnesses to the person's written
8 statements.

9 (b) A written summary of all oral statements of the person that the prosecuting
10 attorney plans to use in the course of the trial or proceeding and the names of
11 witnesses to the person's oral statements.

12 (c) Evidence obtained in the manner described under s. 968.31 (2) (b), if the
13 prosecuting attorney intends to use the evidence at the trial or proceeding.

14 (d) A copy of the person's criminal record.

15 (e) A list of all witnesses, and their addresses, whom the prosecuting attorney
16 intends to call at the trial or proceeding. This paragraph does not apply to rebuttal
17 witnesses or witnesses called for impeachment only.

18 (f) Any relevant written or recorded statements of a witness named on a list
19 under par. (e), including all of the following:

20 1. Any videotaped oral statement of a child under s. 908.08.

21 2. Any reports prepared in accordance with s. 980.031 (5).

22 (g) The results of any physical or mental examination or any scientific or
23 psychological test, experiment, or comparison that the prosecuting attorney intends
24 to offer in evidence at the trial or proceeding, and any raw data that were collected,

1 used, or considered in any manner as part of the examination, test, experiment, or
2 comparison.

3 (h) The criminal record of a witness for the state that is known to the
4 prosecuting attorney.

5 (i) Any physical or documentary evidence that the prosecuting attorney intends
6 to offer in evidence at a trial or proceeding.

7 (j) Any exculpatory evidence.

8 **(3) WHAT A PERSON SUBJECT TO THIS CHAPTER MUST DISCLOSE TO THE PROSECUTING**
9 **ATTORNEY.** Upon demand, a person who is subject to this chapter or the person's
10 attorney shall, within a reasonable time after the probable cause hearing and before
11 a trial under s. 980.05 or other proceeding under s. 980.07 (7), 980.09 (2m), or 980.093
12 (3), disclose to the prosecuting attorney, and permit the prosecuting attorney to
13 inspect and copy or photograph, all of the following materials and information, if the
14 material or information is within the possession, custody, or control of the person or
15 the person's attorney:

16 (a) A list of all witnesses, other than the person, whom the person intends to
17 call at the trial or proceeding, together with their addresses. This paragraph does
18 not apply to rebuttal witnesses or witnesses called for impeachment only.

19 (b) Any relevant written or recorded statements of a witness named on a list
20 under par. (a), including any reports prepared in accordance with s. 980.031 (5).

21 (c) The results of any physical or mental examination or any scientific or
22 psychological test, experiment, or comparison that the person intends to offer in
23 evidence at the trial or proceeding, and any raw data that were collected, used, or
24 considered in any manner as part of the examination, test, experiment, or
25 comparison.

1 (d) The criminal record of a witness named on a list under par. (a) if the criminal
2 record is known to the person's attorney.

3 (e) Any physical or documentary evidence that the person intends to offer in
4 evidence at the trial or proceeding.

5 (4) COMMENT OR INSTRUCTION ON FAILURE TO CALL WITNESS. No comment or
6 instruction regarding the failure to call a witness at the trial may be made or given
7 if the sole basis for the comment or instruction is the fact that the name of the witness
8 appears upon a list furnished under this section.

9 (5) TESTING OR ANALYSIS OF EVIDENCE. On motion of a party, the court may order
10 the production of any item of evidence or raw data that is intended to be introduced
11 at the trial for testing or analysis under such terms and conditions as the court
12 prescribes.

13 (6) PROTECTIVE ORDER. Upon motion of a party, the court may at any time order
14 that discovery, inspection, or the listing of witnesses required under this section be
15 denied, restricted, or deferred, or make other appropriate orders. If the prosecuting
16 attorney or the attorney for a person subject to this chapter certifies that to list a
17 witness may subject the witness or others to physical or economic harm or coercion,
18 the court may order that the deposition of the witness be taken pursuant to s. 967.04
19 (2) to (6). The name of the witness need not be divulged prior to the taking of such
20 deposition. If the witness becomes unavailable or changes his or her testimony, the
21 deposition shall be admissible at trial as substantive evidence.

22 (7) IN CAMERA PROCEEDINGS. Either party may move for an in camera inspection
23 by the court of any document required to be disclosed under sub. (2) or (3) for the
24 purpose of masking or deleting any material that is not relevant to the case being
25 tried. The court shall mask or delete any irrelevant material.

1 **(8) CONTINUING DUTY TO DISCLOSE.** If, subsequent to compliance with a
2 requirement of this section, and prior to or during trial, a party discovers additional
3 material or the names of additional witnesses requested that are subject to discovery,
4 inspection, or production under this section, the party shall promptly notify the other
5 party of the existence of the additional material or names.

6 **(9) SANCTIONS FOR FAILURE TO COMPLY.** (a) The court shall exclude any witness
7 not listed or evidence not presented for inspection, copying, or photographing
8 required by this section, unless good cause is shown for failure to comply. The court
9 may in appropriate cases grant the opposing party a recess or a continuance.

10 (b) In addition to or in place of any sanction specified in par. (a), a court may,
11 subject to sub. (4), advise the jury of any failure or refusal to disclose material or
12 information required to be disclosed under sub. (2) or (3), or of any untimely
13 disclosure of material or information required to be disclosed under sub. (2) or (3).

14 **(10) PAYMENT OF PHOTOCOPY COSTS IN CASES INVOLVING INDIGENT RESPONDENTS.**
15 When the state public defender or a private attorney appointed under s. 977.08
16 requests photocopies of any item that is discoverable under this section, the state
17 public defender shall pay any fee charged for the photocopies from the appropriation
18 under s. 20.550 (1) (a). If the person providing photocopies under this section charges
19 the state public defender a fee for the photocopies, the fee may not exceed the actual,
20 necessary, and direct cost of photocopying.

21 **(11) EXCLUSIVE METHOD OF DISCOVERY.** Chapter 804 does not apply to
22 proceedings under this chapter. This section provides the only methods of obtaining
23 discovery and inspection in proceedings under this chapter.

24 **SECTION 86.** 980.038 of the statutes is created to read:

1 **980.038 Miscellaneous procedural provisions. (1) MOTIONS CHALLENGING**
2 JURISDICTION OR COMPETENCY OF COURT OR TIMELINESS OF PETITION. (a) A motion
3 challenging the jurisdiction or competency of the court or the timeliness of a petition
4 filed under s. 980.02 shall be filed within 10 days after the court holds the probable
5 cause hearing under s. 980.04 (2). Failure to file a motion within the time specified
6 in this paragraph waives the right to challenge the jurisdiction or competency of the
7 court or the timeliness of a petition filed under s. 980.02.

8 (b) Notwithstanding s. 801.11, a court may exercise personal jurisdiction over
9 a person who is the subject of a petition filed under s. 980.02 even though the person
10 is not served as provided under s. 801.11 (1) or (2) with a verified petition and
11 summons or with an order for detention under s. 980.04 (1) and the person has not
12 had a probable cause hearing under s. 980.04 (2).

13 **(2) EVIDENCE OF REFUSAL TO PARTICIPATE IN EXAMINATION.** (a) At any hearing
14 under this chapter, the state may present evidence or comment on evidence that a
15 person who is the subject of a petition filed under s. 980.02 or a person who has been
16 committed under this chapter refused to participate in an examination of his or her
17 mental condition that was being conducted under this chapter or that was conducted
18 before the petition under s. 980.02 was filed for the purpose of evaluating whether
19 to file a petition.

20 (b) A licensed physician, licensed psychologist, or other mental health
21 professional may indicate in any written report that he or she prepares in connection
22 with a proceeding under this chapter that the person whom he or she examined
23 refused to participate in the examination.

24 **(3) TESTIMONY BY TELEPHONE OR LIVE AUDIOVISUAL MEANS.** Unless good cause to
25 the contrary is shown, proceedings under ss. 980.04 (2) (a) and 980.08 (5) (d) may be

1 conducted by telephone or audiovisual means, if available. If the proceedings are
2 required to be reported under SCR 71.02 (2), the proceedings shall be reported by a
3 court reporter who is in simultaneous voice communication with all parties to the
4 proceeding. Regardless of the physical location of any party to the telephone call, any
5 action taken by the court or any party shall have the same effect as if made in open
6 court. The proceedings shall be conducted in a courtroom or other place reasonably
7 accessible to the public. Simultaneous access to the proceeding shall be provided to
8 persons entitled to attend by means of a loudspeaker or, upon request to the court,
9 by making a person party to the telephone call without charge.

10 (4) MOTIONS FOR POSTCOMMITMENT RELIEF; APPEAL. (a) A motion for
11 postcommitment relief by a person committed under s. 980.06 shall be made in the
12 time and manner provided in ss. 809.30 and 809.40. An appeal by a person who has
13 been committed under ~~ch. 980~~ ^{✓ s. 980.06} from a final order under s. 980.06, 980.08, or 980.09
14 or from an order denying a motion for postcommitment relief or from both shall be
15 taken in the time and manner provided in ss. 808.04 (3), 809.30, and 809.40. If a
16 person is seeking relief from an order of commitment under s. 980.06, the person
17 shall file a motion for postcommitment relief in the trial court prior to an appeal
18 unless the grounds for seeking relief are sufficiency of the evidence or issues
19 previously raised.

20 (b) An appeal by the state from a final judgment or order under this chapter
21 may be taken to the court of appeals within the time specified in s. 808.04 (4) and in
22 the manner provided for civil appeals under chs. 808 and 809.

23 (5) FAILURE TO COMPLY WITH TIME LIMITS; EFFECT. Failure to comply with any time
24 limit specified in this chapter does not deprive the circuit court of personal or subject
25 matter jurisdiction or of competency to exercise that jurisdiction. Failure to comply

1 with any time limit specified in this chapter is not grounds for an appeal or grounds
2 to vacate any order, judgment, or commitment issued or entered under this chapter.
3 Failure to object to a period of delay or a continuance waives the time limit that is
4 the subject of the period of delay or continuance.

5 (6) ERRORS AND DEFECTS NOT AFFECTING SUBSTANTIAL RIGHTS. The court shall, in
6 every stage of a proceeding under this chapter, disregard any error or defect in the
7 pleadings or proceedings that does not affect the substantial rights of either party.

8 SECTION 87. 980.04 (1) of the statutes is amended to read:

9 980.04 (1) Upon the filing of a petition under s. 980.02, the court shall review
10 the petition to determine whether to issue an order for detention of the person who
11 is the subject of the petition. The person shall be detained only if there is probable
12 cause to believe that the person is eligible for commitment under s. 980.05 (5). A
13 person detained under this subsection shall be held in a facility approved by the
14 department. If the person is serving a sentence of imprisonment, is in a secured
15 correctional facility, as defined in s. 938.02 (15m), a secured child caring institution,
16 as defined in s. 938.02 (15g), or a secured group home, as defined in s. 938.02 (15p),
17 or is committed to institutional care, and the court orders detention under this
18 subsection, the court shall order that the person be transferred to a detention facility
19 approved by the department. A detention order under this subsection remains in
20 effect until the person is discharged petition is dismissed after a hearing under sub.
21 (3) or after a trial under s. 980.05 (5) or until the effective date of a commitment order
22 under s. 980.06, whichever is applicable.

23 SECTION 88. 980.04 (2) of the statutes is renumbered 980.04 (2) (a) and
24 amended to read:

SECTION 88

1 980.04 (2) (a) Whenever a petition is filed under s. 980.02, the court shall hold
2 a hearing to determine whether there is probable cause to believe that the person
3 named in the petition is a sexually violent person. ~~If the person named in the petition~~
4 ~~is in custody, the court shall hold the probable cause hearing within 72 hours after~~
5 ~~the petition is filed, excluding Saturdays, Sundays and legal holidays. If the person~~
6 ~~named in the petition is not in custody, the~~ Except as provided in par. (b), the court
7 shall hold the probable cause hearing within ~~a reasonable time~~ 30 days, excluding
8 Saturdays, Sundays, and legal holidays, after the filing of the petition, unless that
9 time is extended by the court for good cause shown upon its own motion, the motion
10 of any party, or the stipulation of the parties.

11 **SECTION 89.** 980.04 (2) (b) of the statutes is created to read:

12 980.04 (2) (b) If the person named in the petition is in custody under a sentence,
13 dispositional order, or commitment and the probable cause hearing will be held after
14 the date on which the person is scheduled to be released or discharged from the
15 sentence, dispositional order, or commitment, the probable cause hearing under par.
16 (a) shall be held no later than 10 days after the person's scheduled release or
17 discharge date, excluding Saturdays, Sundays, and legal holidays, unless that time
18 is extended by the court for good cause shown upon its own motion, the motion of any
19 party, or the stipulation of the parties.

20 **SECTION 90.** 980.04 (3) of the statutes is amended to read:

21 980.04 (3) If the court determines after a hearing that there is probable cause
22 to believe that the person named in the petition is a sexually violent person, the court
23 shall order that the person be taken into custody if he or she is not in custody and
24 shall order the person to be transferred within a reasonable time to an appropriate
25 facility specified by the department for an evaluation by the department as to

1 whether the person is a sexually violent person. If the court determines that
2 probable cause does not exist to believe that the person is a sexually violent person,
3 the court shall dismiss the petition.

4 **SECTION 91.** 980.05 (1) of the statutes is amended to read:

5 980.05 (1) A trial to determine whether the person who is the subject of a
6 petition under s. 980.02 is a sexually violent person shall commence no later than 45
7 90 days after the date of the probable cause hearing under s. 980.04. The court may
8 grant ~~a continuance~~ one or more continuances of the trial date for good cause upon
9 its own motion, the motion of any party or the stipulation of the parties.

10 **SECTION 92.** 980.05 (1m) of the statutes is repealed.

11 **SECTION 93.** 980.05 (2m) of the statutes is created to read:

12 980.05 (2m) (a) At a jury trial under this section, juries shall be selected and
13 treated in the same manner as they are selected and treated in civil actions in circuit
14 court, except that, notwithstanding s. 805.08 (3), each party shall be entitled to 4
15 peremptory challenges or, if the court orders additional jurors to be selected under
16 s. 805.08 (2), to 5 peremptory challenges. A party may waive in advance any or all
17 of its peremptory challenges and the number of jurors called under par. (b) shall be
18 reduced by this number.

19 (b) The number of jurors selected shall be the number prescribed in sub. (2),
20 unless a lesser number has been stipulated to and approved under par. (c) or the court
21 orders that additional jurors be selected. That number of jurors, plus the number
22 of peremptory challenges available to all of the parties, shall be called initially and
23 maintained in the jury box by calling others to replace jurors excused for cause until
24 all jurors have been examined. The parties shall thereupon exercise in their order,

1 the state beginning, the peremptory challenges available to them, and if any party
2 declines to challenge, the challenge shall be made by the clerk by lot.

3 (c) At any time before the verdict in a jury trial under this section, the parties
4 may stipulate in writing or by statement in open court, on the record, with the
5 approval of the court, that the jury shall consist of any number less than the number
6 prescribed in sub. (2).

7 **SECTION 94.** 980.05 (3) (a) of the statutes is amended to read:

8 980.05 (3) (a) At a trial on a petition under this chapter, the petitioner has the
9 burden of proving ~~the allegations in the petition~~ beyond a reasonable doubt that the
10 person who is the subject of the petition is a sexually violent person.

11 **SECTION 95.** 980.05 (3) (b) of the statutes is amended to read:

12 980.05 (3) (b) If the state alleges that the sexually violent offense or act that
13 forms the basis for the petition was an act that was sexually motivated as provided
14 in s. 980.01 (6) (b) or (bm), the state is required to prove beyond a reasonable doubt
15 that the alleged sexually violent act was sexually motivated.

16 **SECTION 96.** 980.065 (1m) of the statutes is amended to read:

17 980.065 (1m) The department shall place a person committed under s. 980.06
18 at the secure mental health facility established under s. 46.055 (1), the Wisconsin
19 resource center established under s. 46.056 or a secure mental health unit or facility
20 provided by the department of corrections under sub. (2).

21 **SECTION 97.** 980.07 (1) of the statutes is renumbered 980.07 (1) (intro.) and
22 amended to read:

23 980.07 (1) (intro.) If a person has been committed under s. 980.06 and has not
24 been discharged under s. 980.09, the department shall conduct an examination of his
25 or her mental condition within 6 18 months after ~~an~~ the date of the initial

1 commitment order under s. 980.06 and again thereafter at least once each 12 months
2 ~~for the purpose of determining to determine~~ whether the person has made sufficient
3 progress for the court to consider whether the person should be placed on supervised
4 release or discharged. At the time of a reexamination under this section, the person
5 who has been committed may retain or ~~seek to~~ have the court appoint an any of the
6 following:

7 (a) An examiner as provided under s. 980.03 (4) 980.031 (3)

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8 SECTION 98. 980.07 (1) (b) of the statutes is created to read:

9 980.07 (1) (b) An attorney as provided under s. 980.03 (2) (a).

and whether that
progress has
been sufficient

10 SECTION 99. 980.07 (1m) of the statutes is created to read:

11 980.07 (1m) At the time for any examination under sub. (1), the department
12 shall provide a treatment report based on the treating professional's evaluation of
13 the person's progress or lack of sufficient progress, in treatment and a description
14 of the type of treatment that the person would need in the community if supervised
15 release were ordered. The department shall provide a copy of this report shall be given to any examiner conducting
16 an examination under sub. (1).

prepare

SECTION #. (R) 980.07 (1g)

17 SECTION 100. 980.07 (2) of the statutes is amended to read:

18 980.07 (2) Any examiner conducting an examination under this section sub. (1)
19 shall prepare a written report of the examination no later than 30 days after the date
20 of the examination. The examiner shall place a copy of the report in the person's
21 medical records and shall provide a copy of the report to the department. The report
22 shall include an assessment of the person's risk for ^{risk that the} ^{will} ^d ^{if} reoffense, whether the risk can
23 be safely managed in the community assuming reasonable conditions of supervision
24 and security, and whether the treatment that the person needs is available in the
25 community. The department shall attach ^{then send} the treatment report to the written

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are imposed

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and a written statement from the department

1 examination report ~~and send the reports~~ to the court that committed the person
2 under s. 980.06. A copy of each report and the department's recommendation shall
3 be provided also to the district attorney or department of justice, whichever is
4 applicable, and to the person's attorney as soon as he or she is retained or appointed.

5 ~~The department of health and family services shall~~ recommend ^{ing either} continued
6 institutional care, supervised release, or discharge ~~whichever is appropriate~~. ~~The~~
7 ~~department of health and family services shall~~ advise the person of its
8 ~~recommendation at the conclusion of the reexamination process.~~ If the department's
9 examiner concludes that the person does not meet the criteria for commitment as a
10 sexually violent person, the department shall petition for discharge in accordance
11 with the provisions of s. 980.09 (1).

12 **SECTION 101.** 980.07 (3) of the statutes is amended to read:

13 980.07 (3) Notwithstanding sub. (1), the court that committed a person under
14 s. 980.06 may order a reexamination of the person at any time during the period in
15 which the person is subject to the commitment order. Any report ordered under this
16 subsection shall conform to subs. (1m) and (2).

17 **SECTION 102.** 980.07 (4) to (7) of the statutes are created to read:

18 980.07 (4) Within 30 days ^{after} of the filing of the reexamination report, treatment
19 report, and recommendation under this section, the person subject to the
20 commitment, the district attorney, or the department of justice, whichever is
21 applicable, may object to the department's recommendation under sub. (2).

22 (5) (a) If the person files a timely objection without counsel, the court shall
23 serve a copy of the objection and any supporting documents on the district attorney
24 or department of justice, whichever is applicable, ^{and,} subject to s. 980.03 (2) (a),
25 refer the matter to the authority for indigency determinations under s. 977.07 (1) and

the ^{court} ~~court~~ shall also

unless par. (b)
= applies, and

1 appointment of counsel under s. 977.05 (4) (j). The determination of indigency and
2 the appointment of counsel shall be done as soon as circumstances permit. If the
3 person objects through counsel, his or her attorney shall serve the district attorney
4 or department of justice, whichever is applicable. If the district attorney or
5 department of justice objects, it shall serve the person or his or her counsel.

6 (b) If the person filing an objection is requesting discharge, ~~the petition shall be~~
if the person files a petition under that section
~~filed in accordance with the provisions of s. 980.093.~~ *the court shall not proceed*
under sub. (7). The court may
proceed under

7 *am*
8 (6) If the department chooses to appear and be heard at any hearing, the
9 department shall be represented at the hearing by its agency counsel.

10 *(19) (B)*
11 (6) Any examiners under this section shall have reasonable access to the person
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12 for purposes of examination and to the person's past and present treatment records,
13 as defined in s. 51.30 (1) (b), and patient health care records, as provided under s.

14 146.82 (2) (c). The county shall pay the costs of an examiner appointed under this

15 subsection *paragraph* *plain* as provided under s. 51.20 (18) (a). The district attorney or department
→ (6)
16 of justice, whichever is applicable, may employ experts or professional persons to

17 oppose any recommendation. If any examination under this subsection recommends
18 supervised release, the department of health and family services shall file a
19 treatment report as required by sub. (2) unless it has already filed a treatment report
for this reexamination period.

20 (7) (a) The court, without a jury, shall hear the objection within 30 days after
21 all of the reports of the persons who examined the petitioner are filed with the court,
22 unless the petitioner waives this time limit. Expenses of proceedings under this
23 subsection shall be paid as provided under s. 51.20 (18) (b), (c), and (d).

24 (b) The court shall determine from all of the evidence the appropriate
25 placement for the person. In making a decision under this subsection, the court may

would be
while on
supervised release

whether to continue
institutional care
and, if not, what

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1 consider, without limitation because of enumeration, the nature and circumstances
 2 of the behavior that was the basis of the allegation in the petition under s. 980.02 (2)
 3 (a), the person's mental history and present mental condition, ^{the person's} ~~treatment~~ progress,
 4 or ~~the~~ lack of ~~treatment~~ ⁱⁿ progress, ^{INS 42/4 ✓} where the person ~~will~~ live, how the person ~~will~~
 5 support himself or herself, and what arrangements ^{would} are available to ensure that the
 6 person ^{would} has access to and ^{be} will participate in necessary treatment. ^{INS}

(NS ✓ 42/6 7 (c) ^{INS 42/7 ✓} The court shall order the county department under s. 51.42 in the county
 8 of residence of the person, as determined under s. 980.105, or the county of intended
 9 placement, ^{have} whichever is appropriate, to prepare a report, either independently or
 10 with the department of health and family services, identifying prospective
 11 residential options for community placement. ^{INS 42/11 ✓}

(d) The court may not order that a person be placed on supervised release
 13 unless it finds, based on all of the reports, trial records, and evidence presented, that
 14 all of the following apply:

15 1. The person who will be placed on supervised release has made sufficient
 16 progress in treatment such that the risk ^{that the person will} to reoffend can be safely managed in the
 17 community.

18 2. The person who will be placed on supervised release will be treated by a
 19 provider who is qualified to provide the necessary treatment in this state.

20 3. The provider presents a specific course of treatment for the person who will
 21 be placed on supervised release, agrees to assume responsibility for the person's
 22 treatment, will report on the person's progress to the court on a regular basis, and
 23 will report any violations ^{as applicable} as prescribed in subds. 4. and 5. immediately to the court,
 24 the attorney ^{of supervised release} for the state, and the attorney for the institution under s. 980.065.

department of
justice or the district

of supervised release

1 4. The person who will be placed on supervised release has housing
2 arrangements that are sufficiently secure to protect the community, and the person
3 or agency that is providing the housing to the person who will be placed on supervised
4 release agrees in writing to the following conditions:

5 a. To accept the person who will be placed supervised release.

6 b. To provide or allow for the level of safety that the court requires.

7 c. To report immediately the unauthorized absence of the person who will be
8 placed on supervised release from the housing arrangement to which the person has
9 been assigned.

10 5. The person who will be placed on supervised release will comply with the
11 *treatment requirements* provider and all of the requirements that are imposed by the department and the
12 court. (S)

13 6. The provider will comply with the rules of supervision imposed by the court
14 and the department. *services, including*

15 7. The department has made provisions for the necessary sex offender
16 treatment, other counseling, medication, community support services, residential
17 services, vocational services, and alcohol or other drug abuse treatment.

18 **SECTION 103.** 980.08 of the statutes is repealed and recreated to read:

19 **980.08 Supervised release; procedures, implementation, revocation.**

20 (1) The court shall order the county department under s. 51.42 in the county of
21 residence of the person, as determined under s. 980.105, or the county of intended
22 placement, whichever is appropriate, to assist the department of health and family
23 services in implementing the supervised release placement. If the person is to be
24 placed outside of the county of residence, the county department under s. 51.42 for

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1 the county of placement shall assist in implementing the supervised release
2 placement.

3 (2) The department shall file with the court any additional rules of supervision
4 not inconsistent with the rules imposed by the court within 10 days of imposing the
5 rule.

6 (3) If the department wishes to change a rule of supervision imposed by the
7 court, it must obtain the court's approval.

8 (4) An order granting supervised release places the person in the care, control,
9 and custody of the department. The department shall arrange for the care, control,
10 and treatment of the person in the least restrictive manner consistent with the
11 requirements of the person and in accordance with the order for supervised release.
12 Before a person is actually released under this section, the court shall notify the
13 municipal police department and county sheriff for the municipality and county in
14 which the person will be residing. The notification requirement under this
15 subsection does not apply if a municipal police department or county sheriff submits
16 to the court a written statement waiving the right to be notified.

17 (5) (a) If the department concludes that a person on supervised release, or
18 awaiting placement on supervised release, violated or threatened to violate a rule of
19 supervised release, it may petition for revocation of the order granting supervised
20 release. *From next page INS. 44-20*

21 (b) If the department concludes that a person on supervised release, or
22 awaiting placement on supervised release, is a threat to the safety of others, it shall
23 detain the person and petition for revocation of the order granting supervised
24 release.

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also

1 (c) ~~If the department determines that the person has violated a rule, it may~~
 2 detain the person. If the department concludes that the order granting supervised
 3 release should be revoked, it shall file a statement alleging the violation and a
 4 petition to revoke the order for supervised release with the committing court and ~~the~~ ^{provide}
 5 regional office of the state public defender responsible for handling cases in the ^{a copy of}
 6 county where the committing court is located ^{INS 45/6 v} within 72 hours after the detention, ^{each to}
 7 excluding Saturdays, Sundays, and legal holidays. The court shall refer the matter
 8 to the authority for indigency determinations under s. 977.07 (1) and appointment
 9 of counsel under s. 977.05 (4) (j). The determination of indigency and the
 10 appointment of counsel shall be done as soon as circumstances permit.

11 (d) The court shall hear the petition within 30 days, unless the hearing or time
 12 deadline is waived. A final decision on the petition to revoke shall be made within
 13 90 days of the filing of the petition. Pending the final revocation hearing, the
 14 department may detain the person in the county jail or return him or her to
 15 institutional care.

16 (6) (a) If the court finds after a hearing, by clear and convincing evidence, that
 17 any rule has been violated and that the violation of the rule merits the revocation of
 18 the order granting supervised release, the court may revoke the order for supervised
 19 release and order that the person be placed in institutional care. The person shall
 20 remain in institutional care until he or she is discharged from the commitment or
 21 again placed on supervised release.

22 (b) If the court determines ^{finds} after a hearing, by clear and convincing evidence,
 23 that the safety of others requires that supervised release be revoked, the court shall
 24 revoke the order granting supervised release and order that the person be placed in

1 institutional care. The person shall remain in institutional care until he or she is
2 discharged from the commitment or again placed on supervised release.

3 SECTION 104. 980.09 (title) of the statutes is amended to read:

4 980.09 (title) **Petition for discharge with department's approval;**
5 **procedure.**

6 SECTION 105. 980.09 (1) (title) of the statutes is repealed.

7 SECTION 106. 980.09 (1) (a) of the statutes is renumbered 980.09 (1) and
8 amended to read:

9 980.09 (1) If the ~~secretary~~ department determines at any time that a person
10 committed under this chapter ~~is no longer~~ does not meet ^{the} criteria for commitment as
11 a sexually violent person, the ~~secretary~~ department shall ~~authorize the person to~~
12 petition the committing court for discharge. The ~~person~~ department shall file the
13 petition with the court and serve a copy upon the department of justice or the district
14 attorney's office that filed the petition under s. 980.02 (1), whichever is applicable.
15 The court, upon receipt of the petition for discharge, shall order a hearing to be held
16 within ~~45~~ 90 days after the date of receipt of the petition.

17 SECTION 107. 980.09 (1) (b) of the statutes is renumbered 980.09 (2m) and
18 amended to read:

19 980.09 (2m) At a hearing under this ~~subsection~~ section, the district attorney
20 or the department of justice, whichever filed the original petition, shall represent the
21 state and shall have the right to have the petitioner examined by an expert or
22 professional person of his, her or its choice. ~~The hearing shall be before the court~~
23 ~~without a jury~~ The district attorney or the department of justice, whichever filed the
24 original petition, or the petitioner or his or her attorney may request that the hearing
25 under this section be to a jury of 6. The state has the burden of proving by clear and

1 convincing evidence that the petitioner is ~~still~~ currently meets the criteria for
2 commitment as a sexually violent person.

3 SECTION 108. 980.09 (1) (c) of the statutes is renumbered 980.09 (3) and
4 amended to read:

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

11 SECTION 109. 980.09 (2) of the statutes is repealed.

12 SECTION 110. 980.093 of the statutes is created to read:

13 **980.093 Discharge petitions without the secretary's approval;**
14 **procedure.** (1) PETITIONS IN GENERAL. A committed person may petition the
15 committing court for discharge without the secretary's approval. The court shall
16 deny the petition under this section without a hearing unless the petition alleges
17 facts from which the court may conclude the person's condition has changed so that
18 the person does not meet the criteria for commitment as a sexually violent person.

19 (2) COURT REVIEW OF PETITION. The court shall review the petition to determine
20 if it contains facts from which the court may conclude that the person does not meet
21 the criteria for commitment as a sexually violent person. In determining under this
22 subsection whether facts exist that might warrant such a conclusion, the court shall
23 consider any current or past reports filed under s. 980.07, relevant arguments, and
24 any supporting documentation provided by the person or the state.

SECTION 110

1 **(3) HEARING.** The court shall hold a hearing within 90 days of the determination
2 that the petition contains facts from which the court may conclude that the person
3 does not meet the criteria for commitment as a sexually violent person. The district
4 attorney or the department of justice, whichever filed the original petition, or the
5 petitioner or his or her attorney may request that the hearing under this subsection
6 be to a jury of 6. A jury trial is deemed waived unless it is demanded within 10 days
7 of the filing of the petition for discharge. The state has the burden of proving by clear
8 and convincing evidence that the person meets the criteria for commitment as a
9 sexually violent person. No verdict shall be valid or received unless it is agreed to
10 by at least 5 of the jurors. Motions after verdict may be made without further notice
11 upon receipt of the verdict.

12 **(4) DISPOSITION.** The court shall enter an order denying the petition or
13 discharging the person unless the court orders a new trial based on post verdict
14 motions. Any party may appeal an order under this subsection as a final order under
15 chs. 808 and 809.

16 **SECTION 111.** 980.095 of the statutes is created to read:

17 **980.095 Jury selection.** [ⓐ] (1) At a hearing to a jury on a petition for discharge
18 under s. 980.09 or 980.093, juries shall be selected and treated in the same manner
19 as they are selected and treated in civil actions in circuit court.

20 **(2)** The number of jurors selected shall be the number prescribed in s. 980.09
21 (2m) or 980.093 (3), whichever is applicable, unless a lesser number has been
22 stipulated to and approved under sub. (3) or the court orders that additional jurors
23 be selected. That number of jurors, plus the number of peremptory challenges
24 available to all of the parties, shall be called initially and maintained in the jury box
25 by calling others to replace jurors excused for cause until all jurors have been

1 examined. The parties shall thereupon exercise in their order, the state beginning,
2 the peremptory challenges available to them, and if any party declines to challenge,
3 the challenge shall be made by the clerk by lot.

4 (3) At any time before the verdict in a hearing to a jury on a petition for
5 discharge, the parties may stipulate in writing or by statement in open court, on the
6 record, with the approval of the court, that the jury shall consist of any number less
7 than the number prescribed in s. 980.09 (2m) or 980.093 (3), whichever is applicable.

8 **SECTION 112.** 980.10 of the statutes is repealed.

9 **SECTION 113.** 980.101 (2) (a) of the statutes is amended to read:

10 980.101 (2) (a) If the sexually violent offense was the sole basis for the
11 allegation under s. 980.02 (2) (a) and there are no other judgments relating to a
12 sexually violent offense committed by the person, the court shall reverse, set aside,
13 or vacate the judgment under s. 980.05 (5) that the person is a sexually violent
14 person, vacate the commitment order, and discharge the person from the custody or
15 supervision of the department.

16 **SECTION 114.** 980.11 (2) (intro.) of the statutes is amended to read:

17 980.11 (2) (intro.) If the court places a person on supervised release under s.
18 980.08 or discharges a person under s. 980.09 or ~~980.10~~ 980.093, the department
19 shall do all of the following:

20 **SECTION 115.** 980.12 (1) of the statutes is amended to read:

21 980.12 (1) Except as provided in ss. ~~980.03 (4)~~ 980.031 (3) and 980.08 (3), the
22 department shall pay from the appropriations under s. 20.435 (2) (a) and (bm) for all
23 costs relating to the evaluation, treatment, and care of persons evaluated or
24 committed under this chapter.

25 **SECTION 116.** 980.14 (title) of the statutes is created to read:

1 **980.14 (title) Immunity.**

2 **SECTION 117.** 980.14 (1) of the statutes is created to read:

3 980.14 (1) In this section, “agency” means the department of corrections, the
4 department of health and family services, the department of justice, or a district
5 attorney.

6 **SECTION 118. Nonstatutory provisions.**

7 (1) (a) There is created a committee to assist the state in determining the
8 location for the facility enumerated in 2001 Wisconsin Act 16, section 9107 (1) (d) 1.,
9 that will be a transitional facility for the housing of persons committed to the custody
10 of the department of health and family services under chapter 980 of the statutes.

11 (b) The departments of corrections and health and family services shall provide
12 necessary administrative support services to the committee.

13 (c) The department of administration shall reimburse members of the
14 committee for their actual and necessary expenses incurred in carrying out their
15 functions, from the appropriation under section 20.505 (4) (ba) of the statutes, within
16 the budget authorized under section 16.40 (14) of the statutes.

17 (d) The members of the committee shall be:

18 1. The chairperson of the Milwaukee County board of supervisors or his or her
19 designee.

20 2. The chief of police of the city of Milwaukee or his or her designee.

21 3. The county executive of Milwaukee County or his or her designee.

22 4. The district attorney of Milwaukee County or his or her designee.

23 5. The mayor of the city of Milwaukee or his or her designee.

24 6. The sheriff of Milwaukee County or his or her designee.

1 7. One representative of the Milwaukee County Law Enforcement Executives
2 Association who is not from the city of Milwaukee.

3 8. One representative of the intergovernmental cooperation council who is not
4 from the city of Milwaukee.

5 9. Three other individuals who are residents of the city of Milwaukee, to be
6 appointed by the governor.

7 10. Two other individuals who are residents of Milwaukee County but who are
8 not residents of the city of Milwaukee, to be appointed by the governor.

9 (e) The governor shall appoint the chair of the committee from the individuals
10 appointed under par. (d) 9. and 10.

11 (f) The committee shall hold public hearings in Milwaukee County regarding
12 the selection of a location of the facility. The committee shall consider all of the
13 following factors when determining the criteria for the location of the facility or when
14 determining specific locations for the facility:

15 1. Community safety.

16 2. Proximity to sensitive locations.

17 3. Ability to make the facility secure.

18 4. Accessibility to treatment for the persons living in the facility.

19 (g) No later than December 31, 2004, the committee shall submit a report to
20 the departments of corrections and health and family services recommending
21 specific locations that the committee determines are appropriate for the placement
22 of the facility.

23 **SECTION 119. Initial applicability.**

24 (1) SEXUALLY VIOLENT PERSON COMMITMENT PROCEEDINGS GENERALLY. The
25 treatment of sections 48.396 (6), 48.78 (2) (e), 48.981 (7) (a) 8s., 51.30 (3) (b), (bm),

1 and (4) (b) 8m., 8s. and 10m., 118.125 (2) (ck), 146.82 (2) (c) and (cm), 801.52, 808.04
2 (3) and (4), 809.10 (1) (a), 809.30 (1) (a) and (b), 809.40 (1), 814.61 (1) (c) 6., 905.04
3 (4) (a), 911.01 (4) (c), 938.35 (1) (e), 938.396 (2) (e), 938.78 (2) (e), 972.15 (6), 980.01
4 (2), (5) and (6) (a), (am), (b), (bm), (c) and (d), 980.015 (2) (c), 980.03 (2) (intro.), (3),
5 (4) and (5), 980.031 (title), (1) and (2), 980.034, 980.036, 980.038, 980.04 (1) and (3),
6 980.05 (1), (1m), (2m) and (3) (a) and (b), 980.07 (1) and (3), 980.08 (3) and (4) and
7 980.09 (1) (b), (2) (a) and (b) and (3) of the statutes, the renumbering and amendment
8 of section 980.04 (2) of the statutes and the creation of section 980.04 (2) (b) of the
9 statutes first apply to proceedings under chapter 980 of the statutes that are
10 initiated by a petition filed under section 980.02 of the statutes, as affected by this
11 act, on the effective date of this subsection.

12 (2) **SEXUALLY VIOLENT PERSON COMMITMENT PETITIONS.** The treatment of section
13 980.02 (1) (a) and (b) 3., (1m), (2) (ag) and (4) (intro.) of the statutes first applies to
14 petitions filed on the effective date of this subsection.

15 (3) **IMMUNITY PROVISIONS.** The treatment of sections 980.015 (4) and 980.14
16 (title) and (1) of the statutes first applies to acts or omissions occurring on the
17 effective date of this subsection.

****NOTE: Editors, I have not updated the initial applicability section yet.

18 (END)

**2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4158/P4ins
MGD:.....

1 **INSERT 9/7** ✓

2 **SECTION 1.** 109.09 (1) of the statutes is amended to read:

3 109.09 (1) The department shall investigate and attempt equitably to adjust
4 controversies between employers and employees as to alleged wage claims. The
5 department may receive and investigate any wage claim which is filed with the
6 department, or received by the department under s. 109.10 (4), no later than 2 years
7 after the date the wages are due. The department may, after receiving a wage claim,
8 investigate any wages due from the employer against whom the claim is filed to any
9 employee during the period commencing 2 years before the date the claim is filed.
10 The department shall enforce this chapter and ss. 66.0903, 103.02, 103.49, 103.82,
11 104.12 and 229.8275. In pursuance of this duty, the department may sue the
12 employer on behalf of the employee to collect any wage claim or wage deficiency and
13 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions
14 under s. 109.10, the department may refer such an action to the district attorney of
15 the county in which the violation occurs for prosecution and collection and the
16 district attorney shall commence an action in the circuit court having appropriate
17 jurisdiction. Any number of wage claims or wage deficiencies against the same
18 employer may be joined in a single proceeding, but the court may order separate
19 trials or hearings. In actions that are referred to a district attorney under this
20 subsection, any taxable costs recovered by the district attorney shall be paid into the
21 general fund of the county in which the violation occurs and used by that county to
22 meet its financial responsibility under s. 978.13 (2) (b) ✓ for the operation of the office
23 of the district attorney who prosecuted the action.

1 2. If a person is in the physical custody of the department of health and family
 2 services under ch. 971, 975, or 980 when being sentenced, and the court, under par.
 3 (a) 1., stays the execution of the sentence until the person is discharged from custody,
 4 the person shall remain in the physical custody of the department of health and
 5 family services or until he or she is placed on conditional release under s. 971.17,
 6 paroled under 975.10 (1), or placed on supervised release under s. 980.08.

7 **INSERT 19/11** ✓

8 **SECTION 2.** 978.03 (3) of the statutes is amended to read:

9 978.03 (3) Any assistant district attorney under sub. (1), (1m) or (2) must be
 10 an attorney admitted to practice law in this state and, except as provided in ss.
 11 978.043 (1) and 978.044, may perform any duty required by law to be performed by
 12 the district attorney. The district attorney of the prosecutorial unit under sub. (1),
 13 (1m), or (2) may appoint such temporary counsel as may be authorized by the
 14 department of administration.

*Fix
compleat*

*and amended
to read:*

History: 1989 a. 31; 1991 a. 39; 1999 a. 9; 2001 a. 16.

15 **SECTION 3.** 978.043 of the statutes is renumbered 978.043 (1)

16 **SECTION 4.** 978.043 (2) of the statutes is created to read:

17 978.043 (2) If an assistant district attorney assigned under sub. (1) prosecutes
 18 or assists in the prosecution of a case under ch. 980 in a prosecutorial unit other than
 19 his or her own, the prosecutorial unit in which the case is heard shall reimburse the
 20 assistant district attorney's own prosecutorial unit for his or her reasonable costs
 21 associated with the prosecution, including transportation, lodging, and meals.
 22 Unless otherwise agreed upon by the prosecutorial units involved, the court hearing
 23 the case shall determine the amount of money to be reimbursed for expert witness
 24 fees under this subsection.

INS
X

INSERT 20/10 ✓

SECTION 5. 978.05 (8) (b) of the statutes is amended to read:

978.05 (8) (b) Hire, employ, and supervise his or her staff and, subject to ss. 978.043 (1) and 978.044, make appropriate assignments of the staff throughout the prosecutorial unit. The district attorney may request the assistance of district attorneys, deputy district attorneys, or assistant district attorneys from other prosecutorial units or assistant attorneys general who then may appear and assist in the investigation and prosecution of any matter for which a district attorney is responsible under this chapter in like manner as assistants in the prosecutorial unit and with the same authority as the district attorney in the unit in which the action is brought. Nothing in this paragraph limits the authority of counties to regulate the hiring, employment, and supervision of county employees.

History: 1989 a. 31, 117, 336; 1991 a. 16, 32, 39; 1993 a. 98; 1995 a. 27 ss. 7291, 7292, 9116 (5), 9130 (4); 1995 a. 77, 201, 448; Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 3, 35, 73; 1999 a. 9; 2001 a. 16.

SECTION 6. 978.13 (2) of the statutes is renumbered 978.13 (2) (b). ✓

SECTION 7. 978.13 (2) (a) of the statutes is created to read:

978.13 (2) (a) In this subsection, "costs related to the operation of the district attorney's office" include costs that a prosecutorial unit must pay under s. 978.043 (2) but do not include costs for which a prosecutorial unit receives reimbursement under s. 978.043 (2).

INSERT 42/4 ✓

Not and, if the court were to authorize supervised release,

INSERT 42/6 ✓

(bm) If the court determines, as a preliminary matter, that it may be possible to authorize supervised release, the court shall select a county to prepare a report under par. (c). Unless the court has good cause to select another county, the court

1 shall select the person's county of residence. A preliminary decision by the court
2 under this paragraph or under par. (cm) to refer a case to a county department or the
3 court's failure to make such a decision shall not affect the court's power to authorize
4 or not authorize supervised release under this subsection.

5 INSERT 42/7 ✓

6 (No P) Unless the court determines that par. (d) 1. applies,

7 (No P) INSERT 42/11 ✓

8 In identifying prospective residential options, the county department shall
9 consider the proximity of any potential placement to the residence of other persons
10 on supervised release and to the residence of persons who are in the custody of the
11 department of corrections and regarding whom a sex offender notification bulletin
12 has been issued to law enforcement agencies under s. 301.46 (2m) (a) or (am). ✓ ✓

13 (cm) If the court determines that the prospective residential options identified
14 in the report under par. (c) are inadequate, the court may, but is not required to, select
15 one or more other counties to prepare a report under par. (c). ✓ ✓

16 INSERT 43/20 ✓

17 (No P) If the court determines under s. 980.07 (6) that supervised release is
18 appropriate,

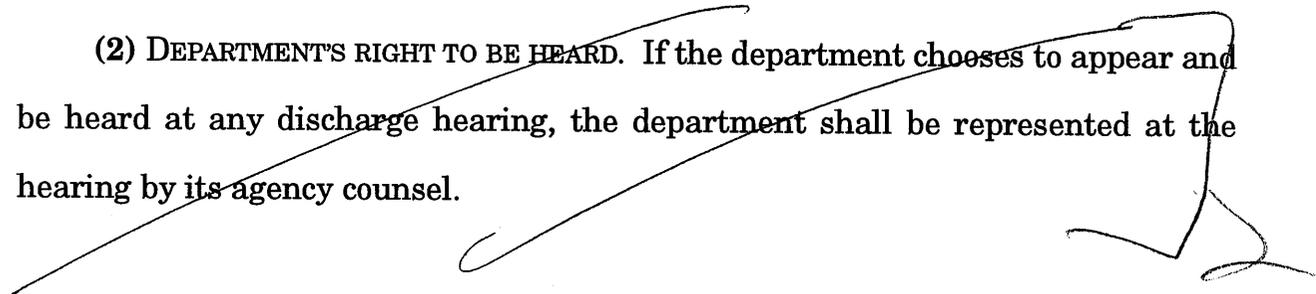
19 (No P) INSERT 45/6 ✓

20 If the department has detained the person under par. (a) or (b), the department
21 shall file the statement and the petition and provide them to the state public
22 defender

23 INSERT 49/

7

1 (2) DEPARTMENT'S RIGHT TO BE HEARD. If the department chooses to appear and
2 be heard at any discharge hearing, the department shall be represented at the
3 hearing by its agency counsel.



INsect X

(B)
(1)

PLAIN

~~978.043~~

978.043 ~~Assistants for prosecution of sexually violent person commitment cases.~~ The district attorney of the prosecutorial unit that consists of Brown County and the district attorney of the prosecutorial unit that consists of Milwaukee County shall each assign one assistant district attorney in his or her prosecutorial unit to be a sexually violent person commitment prosecutor. An assistant district attorney assigned under this section to be a sexually violent person commitment prosecutor may engage only in the prosecution of sexually violent person commitment proceedings under ch. 980 and, at the request of the district attorney of the prosecutorial unit, may file and prosecute sexually violent person commitment proceedings under ch. 980 in any prosecutorial unit in this state.

Subsection ✓

As I mentioned in my voicemail message last night, I have a number of concerns regarding the bill:

1. Beyond the question that I raised in the email that I sent you on Saturday, I have another question about s. 980.038 (5): if a court determines that a particular action is untimely, does that provision give the aggrieved party the right to appeal on abuse of discretion grounds? That language, after all, seems to be aimed at appeals in which the court has allowed a party to proceed in spite of missing a deadline. No am 5 w/ bar
2. Who is *the* treating professional referred to in s. 980.07 (1m)? ✓
3. Page 40, line 8: I assume that the "conclusion of the reexamination process" means upon the completion of the examiner's report. If it means something else, please let me know. ✓
4. I assume that you want s. 980.07 (5) (a) to apply in cases in which DOJ or the DA object to a DHFS recommendation that the person be placed on supervised release. ✓
5. I assume that s. 980.07 (7) (b) – (d) applies even if DHFS, DOJ/DA and the person all agree to supervised release. The bill should specifically state that. Otherwise, in view of par. (a), those provisions could be construed as applicable only if there is an objection. If there is no objection, does the 30-day requirement in par. (a) still apply?
6. Under current law, the filing of a revocation petition is linked to the decision to take a person into custody. If DHFS takes custody of the person, it files a petition. Your bill breaks that link, except for cases in which the department determines that public safety is threatened. In other cases DHFS may file a petition without taking custody of a person. But the provisions regarding filing and notice to the public defender presuppose that the person is in custody. I can modify the filing and notice provisions to account for the possibility that a person may not be in custody, but before I do, I wanted to be sure of your intent with respect to the connection (or absence of a connection) between filing the petition and taking custody of the person.
7. The requirement that the court conduct the revocation hearing within 30 days can be waived, but the bill does not specify by whom. I assume that it would be by the person detained, so I added the necessary language. Is that okay?
8. The budget bill added two requirements to s. 980.08 (5) regarding where DHFS should place people on supervised release:
 - a. The department shall make its best effort to arrange for placement of the person in a residential facility or dwelling that is in the person's county of residence, as determined by the department under s. 980.105.
 - b. In developing a plan for where the person may reside while on supervised release, the department shall consider the proximity of any potential placement to the residence of other persons on supervised release and to the residence of persons who are in the custody of the department of corrections and regarding whom a sex offender notification bulletin has been issued to law enforcement agencies under s. 301.46 (2m) (a) or (am).

Is it your intent that these provisions should not apply to the court's decision regarding where to place a person on supervised release?

9. What happens if DHFS recommends supervised release and the person, seeking discharge, objects, but the court denies the petition for discharge? (It appears that you have eliminated the court's authority to order supervised release in a discharge case, even if DHFS seeks discharge.) In addition, it is unclear how s. 980.07 (5) (b) will work. If the person does not file a petition, what happens?
10. I assume that s. 980.093 (2) describes how the court makes the decision referred to in s. 980.093 (1). But how do the petitioner and the state present relevant arguments or supporting documentation? For the petitioner, is it only through the petition itself? I assume that it is your intent that the person not be provided an attorney unless the court finds probable cause for discharge. Should the statutes state that?

Dsida, Michael

From: Vance, Vaughn L.
Sent: Monday, February 16, 2004 1:22 PM
To: Dsida, Michael
Subject: RE: 9 & 10

Skip #9. If necessary we'll fix with an amendment.

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

From: Dsida, Michael
Sent: Monday, February 16, 2004 1:12 PM
To: Vance, Vaughn L.
Subject: RE: 9 & 10

See below

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

From: Vance, Vaughn L.
Sent: Monday, February 16, 2004 10:23 AM
To: Dsida, Michael
Subject: 9 & 10

9. Folks here do not think we have eliminated court's authority here. AAGs cite 980.07(7b). I don't think that addresses my concern. That relates to what the court does when it has the authority to consider supervised release. Look at p. 47, lines 7-10. As a result of that, if the person objects to a supervised release recommendation, and files a discharge petition, he or she stays in the institution if the court denies the discharge petition.

9b. If no petition, then the judge will not consider discharge.

10. Relevant materials and documentation are made in writing. For the petitioner, the petition itself is the basis.

We do NOT want the statute to say anything about the person's right to an attorney pre-probable cause determination. Caselaw adequately addresses our needs here, we do not need it explicitly in statute.

Dsida, Michael

From: Vance, Vaughn L.
Sent: Monday, February 16, 2004 9:44 AM
To: Dsida, Michael
Subject: RE: Over the weekend (which was my first chance to look at the relevant language), I discovered a number of problems with the prov

Answer to #6 is yes. Should not necessarily relate to "custody."

Answer to #8. **Should** apply to court determinations.

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

From: Dsida, Michael
Sent: Monday, February 16, 2004 9:14 AM
To: Vance, Vaughn L.
Subject: Over the weekend (which was my first chance to look at the relevant language), I discovered a number of problems with the prov

Focus on questions 6, 8, 9, and 10 first.

Thanks.

<< File: questions.doc >>

Dsida, Michael

From: Vance, Vaughn L.
Sent: Monday, February 16, 2004 2:28 PM
To: Dsida, Michael
Subject: RE: Choosing a county

Can try another county, or my understanding was that DHFS could issue its own opinion on placement.

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

From: Dsida, Michael
Sent: Monday, February 16, 2004 2:26 PM
To: Vance, Vaughn L.
Subject: Choosing a county

If a county comes back to the court and says we have no suitable place (or the court decides that the county's proposal doesn't work), does the person stay in the institution? Or does (or can) the court try another county?

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

Dsida, Michael

From: Dsida, Michael
Sent: Monday, February 16, 2004 2:26 PM
To: Vance, Vaughn L.
Subject: Choosing a county

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Mike Dsida
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michael.dsida@state.legis.wi.us

Dsida, Michael

From: Dsida, Michael
Sent: Monday, February 16, 2004 2:24 PM
To: Vance, Vaughn L.
Subject: RE:

I'll do what I can

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

From: Vance, Vaughn L.
Sent: Monday, February 16, 2004 2:22 PM
To: Dsida, Michael
Subject: RE:

I'm glad the provision is there, first of all. One panic attack averted.

I agree that it wouldn't make sense to require a county to prepare a report if it was "clear" that supervised release was inappropriate. I don't have a suggested fix. Our goal here was to ensure to utilize the 51.42 board to be involved in the siting location when one was necessary. Do you have a suggested fix that would preserve it for the right cases? If I have to choose, I am less concerned about generating reports when not necessary than I am about failing to have one when it is.

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

From: Dsida, Michael
Sent: Monday, February 16, 2004 2:15 PM
To: Vance, Vaughn L.
Subject:

1. re 42/7: This provision doesn't make sense in cases in which supervised release is CLEARLY inappropriate for the person.
2. RE 41/25: "Placement" isn't clear enough here, if you want the court to consider continued institutional care. "Placement" may suggest community placeemnt. No need to reply on this. I'll come up with some clearer language.

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

Dsida, Michael

From: Dsida, Michael
Sent: Monday, February 16, 2004 2:15 PM
To: Vance, Vaughn L.

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

Dsida, Michael

From: Dsida, Michael
Sent: Monday, February 16, 2004 2:05 PM
To: Vance, Vaughn L.
Subject: 41/20

You may want to rethink the 30 day time limit there. It's the same as the deadline for filing objections.

Dsida, Michael

From: Dsida, Michael
Sent: Monday, February 16, 2004 1:44 PM
To: Vance, Vaughn L.
Subject: no reply needed

just fyi - -

I'm deleting the last sentence of s. 980.07 (6). It's already covered by sub. (2)

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

Dsida, Michael

From: Dsida, Michael
Sent: Monday, February 16, 2004 2:53 PM
To: Vance, Vaughn L.
Subject: 43/7

not required, but do you want to specify to whom the person reports the violation? I assume it's dhfs

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

Dsida, Michael

From: Dsida, Michael
Sent: Monday, February 16, 2004 2:51 PM
To: Vance, Vaughn L.
Subject: 42/24 -- any idea why this language (in bold) is there?

3. The provider presents a specific course of treatment for the person who will be placed on supervised release, agrees to assume responsibility for the person's treatment, will report on the person's progress to the court on a regular basis, and will report any violations as prescribed in subds. 4. and 5. immediately to the court, the attorney for the state, **and the attorney for the institution under s. 980.065.**

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

Dsida, Michael

From: Dsida, Michael
Sent: Monday, February 16, 2004 2:29 PM
To: Vance, Vaughn L.
Subject: this should be good enough -- at the start of 42/7

Unless the court determines that par. (d) 1. applies,

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

Dsida, Michael

From: Vance, Vaughn L.
Sent: Monday, February 16, 2004 2:22 PM
To: Dsida, Michael
Subject: RE:

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

From: Dsida, Michael
Sent: Monday, February 16, 2004 2:15 PM
To: Vance, Vaughn L.
Subject:

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2. RE 41/25: "Placement" isn't clear enough here, if you want the court to consider continued institutional care. "Placement" may suggest community placement. No need to reply on this. I'll come up with some clearer language.

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

P/c to Vaughn re relationship b/t
980.038 (5) + 980.02 - time limit re filing

← Vaughn - Make as expansive as possible

Dsida, Michael

From: Vance, Vaughn L.
Sent: Tuesday, February 17, 2004 8:42 AM
To: Dsida, Michael
Subject: RE: juries

I like the way that you think.

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

From: Dsida, Michael
Sent: Tuesday, February 17, 2004 7:56 AM
To: Vance, Vaughn L.
Subject: juries

Vaughn -

The bill had a provisions that: 1) permitted the court to increase the number of jurors to more than 6; and 2) that allowed the parties to agree to fewer than 6 jurors. Those provisions did not work with the requirement that all verdicts be agreed to by at least 5 jurors, so I took them out.

Mike Dsida