



State of Wisconsin
2005 - 2006 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 1,
TO 2005 SENATE BILL 318**

March 1, 2006 - Offered by COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY.

1 **AN ACT** *to repeal* 980.02 (2) (ag), 980.03 (5), 980.05 (1m), 980.08 (4) (b), 980.08
2 (5) and 980.10; *to renumber* 978.13 (2) and 980.01 (1); *to renumber and*
3 **amend** 938.396 (2) (e), 978.043, 980.015 (1), 980.015 (4), 980.03 (4) and 980.04
4 (2); *to amend* 20.435 (2) (bj), 46.10 (2), 48.396 (1), 48.396 (5) (a) (intro.), 51.30
5 (3) (a), 51.30 (3) (b), 51.30 (4) (b) 8m., 51.30 (4) (b) 10m., 51.30 (4) (b) 11., 51.375
6 (1) (a), 51.375 (2) (b), 51.42 (3) (aw) 1. d., 51.61 (1) (o), 109.09 (1), 146.82 (2) (c),
7 301.03 (19), 301.45 (1g) (dt), 301.45 (3) (a) 3r., 301.45 (3) (b) 3., 301.45 (5) (b) 2.,
8 756.06 (2) (b), 801.52, 808.04 (3), 808.04 (4), 808.075 (4) (h), 809.10 (1) (d),
9 809.30 (1) (c), 809.30 (1) (f), 905.04 (4) (a), 911.01 (4) (c), 938.396 (1), 938.396 (5)
10 (a) (intro.), 938.78 (2) (e), 946.42 (1) (a), 950.04 (1v) (xm), 967.03, 972.15 (4),
11 978.03 (3), 978.04, 978.045 (1r) (intro.), 978.05 (6) (a), 978.05 (8) (b), 980.01 (5),
12 980.01 (6) (a), 980.01 (6) (b), 980.01 (6) (c), 980.01 (7), 980.015 (2) (intro.),
13 980.015 (2) (a), 980.015 (2) (b), 980.015 (2) (c), 980.02 (1) (a), 980.02 (4) (intro.),

1 980.03 (2) (intro.), 980.03 (3), 980.04 (1), 980.04 (3), 980.04 (5), 980.05 (1),
2 980.05 (2), 980.05 (3) (a), 980.05 (3) (b), 980.07 (title), 980.07 (1), 980.07 (2),
3 980.07 (3), 980.08 (1), 980.08 (3), 980.08 (4) (a), 980.08 (4) (c), 980.08 (6m),
4 980.101 (2) (a), 980.11 (2) (intro.) and 980.12 (1); **to repeal and recreate**
5 980.08 (title) and 980.09; and **to create** 48.396 (6), 48.78 (2) (e), 48.981 (7) (a)
6 8s., 51.30 (3) (bm), 51.30 (4) (b) 8s., 118.125 (2) (ck), 146.82 (2) (cm), 814.61 (1)
7 (c) 6., 938.35 (1) (e), 940.20 (1g), 946.42 (3m), 972.15 (6), 978.043 (2), 978.13 (2)
8 (a), 980.01 (1b), 980.01 (1j), 980.01 (3), 980.01 (6) (am), 980.01 (6) (bm), 980.01
9 (8), 980.01 (9), 980.015 (2) (d), 980.02 (1) (b) 3., 980.02 (1m), 980.02 (6), 980.031
10 (title), 980.031 (1) and (2), 980.034, 980.036, 980.038, 980.04 (2) (b) 2., 980.05
11 (2m), 980.07 (4), (5) and (6), 980.075, 980.08 (4) (cg), 980.08 (4) (cm), 980.08 (4)
12 (d), (e), (f) and (g), 980.095, 980.14 (title) and 980.14 (1) of the statutes; **relating**
13 **to:** the definition of sexually violent person, sexually violent person
14 commitment proceedings, criteria for supervised release, battery by certain
15 committed persons, escape from custody by a person who is subject to a sexually
16 violent person commitment proceeding, and providing penalties.

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

17 **SECTION 1.** 20.435 (2) (bj) of the statutes is amended to read:

18 20.435 (2) (bj) *Competency examinations and conditional and supervised*
19 *release services.* Biennially, the amounts in the schedule for outpatient competency
20 examinations and for payment by the department of costs for treatment and services
21 for persons released under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or
22 s. 971.17 (3) (d) or (4) (e) or 980.08 ~~(5)~~ (4) (g), for which the department has contracted

1 with county departments under s. 51.42 (3) (aw) 1. d., with other public agencies, or
2 with private agencies to provide the treatment and services.

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

4 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
5 including but not limited to a person admitted, committed or placed under s. 975.01,
6 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 51.10, 51.13,
7 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.06, 971.14
8 (2) and (5), 971.17 (1), 975.06 and 980.06, receiving care, maintenance, services and
9 supplies provided by any institution in this state including University of Wisconsin
10 Hospitals and Clinics, in which the state is chargeable with all or part of the person's
11 care, maintenance, services and supplies, any person receiving care and services
12 from a county department established under s. 51.42 or 51.437 or from a facility
13 established under s. 49.73, and any person receiving treatment and services from a
14 public or private agency under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats.,
15 or s. 971.17 (3) (d) or (4) (e) or 980.08 (5) (4) (g) and the person's property and estate,
16 including the homestead, and the spouse of the person, and the spouse's property and
17 estate, including the homestead, and, in the case of a minor child, the parents of the
18 person, and their property and estates, including their homestead, and, in the case
19 of a foreign child described in s. 48.839 (1) who became dependent on public funds
20 for his or her primary support before an order granting his or her adoption, the
21 resident of this state appointed guardian of the child by a foreign court who brought
22 the child into this state for the purpose of adoption, and his or her property and
23 estate, including his or her homestead, shall be liable for the cost of the care,
24 maintenance, services and supplies in accordance with the fee schedule established
25 by the department under s. 46.03 (18). If a spouse, widow or minor, or an

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

7 **SECTION 3.** 48.396 (1) of the statutes is amended to read:

8 48.396 (1) Law enforcement officers' records of children shall be kept separate
9 from records of adults. Law enforcement officers' records of the adult expectant
10 mothers of unborn children shall be kept separate from records of other adults. Law
11 enforcement officers' records of children and the adult expectant mothers of unborn
12 children shall not be open to inspection or their contents disclosed except under sub.
13 (1b), (1d) ~~or~~, (5), or (6) or s. 48.293 or by order of the court. This subsection does not
14 apply to the representatives of newspapers or other reporters of news who wish to
15 obtain information for the purpose of reporting news without revealing the identity
16 of the child or expectant mother involved, to the confidential exchange of information
17 between the police and officials of the school attended by the child or other law
18 enforcement or social welfare agencies or to children 10 years of age or older who are
19 subject to the jurisdiction of the court of criminal jurisdiction. A public school official
20 who obtains information under this subsection shall keep the information
21 confidential as required under s. 118.125 and a private school official who obtains
22 information under this subsection shall keep the information confidential in the
23 same manner as is required of a public school official under s. 118.125. A law
24 enforcement agency that obtains information under this subsection shall keep the
25 information confidential as required under this subsection and s. 938.396 (1). A

1 social welfare agency that obtains information under this subsection shall keep the
2 information confidential as required under ss. 48.78 and 938.78.

3 **SECTION 4.** 48.396 (5) (a) (intro.) of the statutes is amended to read:

4 48.396 (5) (a) (intro.) Any person who is denied access to a record under sub.
5 (1), (1b) ~~or~~, (1d), or (6) may petition the court to order the disclosure of the records
6 governed by the applicable subsection. The petition shall be in writing and shall
7 describe as specifically as possible all of the following:

8 **SECTION 5.** 48.396 (6) of the statutes is created to read:

9 48.396 (6) Records of law enforcement officers and of the court assigned to
10 exercise jurisdiction under this chapter and ch. 938 shall be open for inspection to
11 authorized representatives of the department of corrections, the department of
12 health and family services, the department of justice, or a district attorney for use
13 in the prosecution of any proceeding or any evaluation conducted under ch. 980, if
14 the records involve or relate to an individual who is the subject of the proceeding or
15 evaluation. The court in which the proceeding under ch. 980 is pending may issue
16 any protective orders that it determines are appropriate concerning information
17 made available or disclosed under this subsection. 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 subsection for any purpose consistent with any proceeding under ch. 980.

21 **SECTION 6.** 48.78 (2) (e) of the statutes is created to read:

22 48.78 (2) (e) Notwithstanding par. (a), an agency shall, upon request, disclose
23 information to authorized representatives of the department of corrections, the
24 department of health and family services, the department of justice, or a district
25 attorney for use in the prosecution of any proceeding or any evaluation conducted

1 under ch. 980, if the information involves or relates to an individual who is the
2 subject of the proceeding or evaluation. The court in which the proceeding under ch.
3 980 is pending may issue any protective orders that it determines are appropriate
4 concerning information made available or disclosed under this paragraph. Any
5 representative of the department of corrections, the department of health and family
6 services, the department of justice, or a district attorney may disclose information
7 obtained under this paragraph for any purpose consistent with any proceeding under
8 ch. 980.

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

10 48.981 (7) (a) 8s. Authorized representatives of the department of corrections,
11 the department of health and family services, the department of justice, or a district
12 attorney for use in the prosecution of any proceeding or any evaluation conducted
13 under ch. 980, if the reports or records involve or relate to an individual who is the
14 subject of the proceeding or evaluation. The court in which the proceeding under ch.
15 980 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 8.** 51.30 (3) (a) of the statutes is amended to read:

22 51.30 (3) (a) Except as provided in pars. (b) ~~and, (bm), (c), and (d)~~, the files and
23 records of the court proceedings under this chapter shall be closed but shall be
24 accessible to any individual who is the subject of a petition filed under this chapter.

25 **SECTION 9.** 51.30 (3) (b) of the statutes is amended to read:

1 51.30 (3) (b) An individual's attorney or guardian ad litem and the corporation
2 counsel shall have access to the files and records of the court proceedings under this
3 chapter without the individual's consent and without modification of the records in
4 order to prepare for involuntary commitment or recommitment proceedings,
5 reexaminations, appeals, or other actions relating to detention, admission, or
6 commitment under this chapter or ch. 971 ~~or~~ 975, or 980.

7 **SECTION 10.** 51.30 (3) (bm) of the statutes is created to read:

8 51.30 (3) (bm) Authorized representatives of the department of corrections, the
9 department of health and family services, the department of justice, or a district
10 attorney shall have access to the files and records of court proceedings under this
11 chapter for use in the prosecution of any proceeding or any evaluation conducted
12 under ch. 980, if the files or records involve or relate to an individual who is the
13 subject of the proceeding or evaluation. The court in which the proceeding under ch.
14 980 is pending may issue any protective orders that it determines are appropriate
15 concerning information made available or disclosed under this paragraph. Any
16 representative of the department of corrections, the department of health and family
17 services, the department of justice, or a district attorney may disclose information
18 obtained under this paragraph for any purpose consistent with any proceeding under
19 ch. 980.

20 **SECTION 11.** 51.30 (4) (b) 8m. of the statutes is amended to read:

21 51.30 (4) (b) 8m. To appropriate examiners and facilities in accordance with s.
22 971.17 (2) (e), (4) (c), and (7) (c), ~~980.03 (4) or 980.08 (3)~~. The recipient of any
23 information from the records shall keep the information confidential except as
24 necessary to comply with s. 971.17 ~~or ch. 980~~.

25 **SECTION 12.** 51.30 (4) (b) 8s. of the statutes is created to read:

1 51.30 (4) (b) 8s. To appropriate persons in accordance with s. 980.031 (4) and
2 to authorized representatives of the department of corrections, the department of
3 health and family services, the department of justice, or a district attorney for use
4 in the prosecution of any proceeding or any evaluation conducted under ch. 980, if
5 the treatment records involve or relate to an individual who is the subject of the
6 proceeding or evaluation. The court in which the proceeding under ch. 980 is pending
7 may issue any protective orders that it determines are appropriate concerning
8 information made available or disclosed under this subdivision. Any representative
9 of the department of corrections, the department of health and family services, the
10 department of justice, or a district attorney may disclose information obtained under
11 this subdivision for any purpose consistent with any proceeding under ch. 980.

12 **SECTION 13.** 51.30 (4) (b) 10m. of the statutes is amended to read:

13 51.30 (4) (b) 10m. To the department of justice or a district attorney under s.
14 980.015 (3) (b), if the treatment records are maintained by an agency with
15 jurisdiction, as defined in s. ~~980.015 (1)~~ 980.01 (1d), that has control or custody over
16 a person who may meet the criteria for commitment as a sexually violent person
17 under ch. 980.

18 **SECTION 14.** 51.30 (4) (b) 11. of the statutes is amended to read:

19 51.30 (4) (b) 11. To the subject individual's counsel or guardian ad litem and
20 the corporation counsel, without modification, at any time in order to prepare for
21 involuntary commitment or recommitment proceedings, reexaminations, appeals, or
22 other actions relating to detention, admission, commitment, or patients' rights under
23 this chapter or ch. 48, 971, ~~or 975,~~ or 980.

24 **SECTION 15.** 51.375 (1) (a) of the statutes is amended to read:

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

5 **SECTION 16.** 51.375 (2) (b) of the statutes is amended to read:

6 51.375 (2) (b) The department may administer a lie detector test to a sex
7 offender as part of the sex offender’s programming, care, or treatment. A patient may
8 refuse to submit to a lie detector test under this paragraph. This refusal does not
9 constitute a general refusal to participate in treatment. The results of a lie detector
10 test under this paragraph may be used only in the care, treatment, or assessment of
11 the subject or in programming for the subject. The results of a test may be disclosed
12 only to persons employed at the facility at which the subject is placed who need to
13 know the results for purposes related to care, treatment, or assessment of the
14 patient, the committing court, the patient’s attorney, or the attorney representing
15 the state in a proceeding under ch. 980. The committing court to which the results
16 of a test have been disclosed may admit the results in evidence in a proceeding under
17 ch. 980.

18 **SECTION 17.** 51.42 (3) (aw) 1. d. of the statutes is amended to read:

19 51.42 (3) (aw) 1. d. Provide treatment and services that are specified in a
20 conditional release plan approved by a court for a person who is a county resident and
21 is conditionally released under s. 971.17 (3) or (4) or that are specified in a supervised
22 release plan approved by a court under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003
23 stats., or s. 980.08 ~~(5)~~ (4) (g). If the county department provides treatment and
24 services under this subdivision, the department of health and family services shall,

1 from the appropriation under s. 20.435 (2) (bj), pay the county department for the
2 costs of the treatment and services.

3 **SECTION 18.** 51.61 (1) (o) of the statutes is amended to read:

4 51.61 (1) (o) Except as otherwise provided, have a right not to be filmed or
5 taped, unless the patient signs an informed and voluntary consent that specifically
6 authorizes a named individual or group to film or tape the patient for a particular
7 purpose or project during a specified time period. The patient may specify in such
8 consent periods during which, or situations in which, the patient may not be filmed
9 or taped. If a patient is legally incompetent, such consent shall be granted on behalf
10 of the patient by the patient's guardian. A patient in Goodland Hall at the Mendota
11 Mental Health Institute, or a patient detained or committed under ch. 980 and
12 placed in a facility specified under s. 980.065, may be filmed or taped for security
13 purposes without the patient's consent, except that such a patient may not be filmed
14 in patient bedrooms or bathrooms ~~for any purpose~~ without the patient's consent
15 unless the patient is engaged in dangerous or disruptive behavior. A treatment
16 activity involving a patient committed or detained under ch. 980 may be filmed or
17 taped if the purpose of the recording is to assess the quality of the treatment activity
18 or to facilitate clinical supervision of the staff involved in the treatment activity.

19 **SECTION 19.** 109.09 (1) of the statutes is amended to read:

20 109.09 (1) The department shall investigate and attempt equitably to adjust
21 controversies between employers and employees as to alleged wage claims. The
22 department may receive and investigate any wage claim which is filed with the
23 department, or received by the department under s. 109.10 (4), no later than 2 years
24 after the date the wages are due. The department may, after receiving a wage claim,
25 investigate any wages due from the employer against whom the claim is filed to any

1 employee during the period commencing 2 years before the date the claim is filed.
2 The department shall enforce this chapter and ss. 66.0903, 103.02, 103.49, 103.82,
3 104.12 and 229.8275. In pursuance of this duty, the department may sue the
4 employer on behalf of the employee to collect any wage claim or wage deficiency and
5 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions
6 under s. 109.10, the department may refer such an action to the district attorney of
7 the county in which the violation occurs for prosecution and collection and the
8 district attorney shall commence an action in the circuit court having appropriate
9 jurisdiction. Any number of wage claims or wage deficiencies against the same
10 employer may be joined in a single proceeding, but the court may order separate
11 trials or hearings. In actions that are referred to a district attorney under this
12 subsection, any taxable costs recovered by the district attorney shall be paid into the
13 general fund of the county in which the violation occurs and used by that county to
14 meet its financial responsibility under s. 978.13 (2) (b) for the operation of the office
15 of the district attorney who prosecuted the action.

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

17 118.125 (2) (ck) The school district clerk or his or her designee shall make pupil
18 records available for inspection or, upon request, disclose the contents of pupil
19 records to authorized representatives of the department of corrections, the
20 department of health and family services, the department of justice, or a district
21 attorney for use in the prosecution of any proceeding or any evaluation conducted
22 under ch. 980, if the pupil records involve or relate to an individual who is the subject
23 of the proceeding or evaluation. The court in which the proceeding under ch. 980 is
24 pending may issue any protective orders that it determines are appropriate
25 concerning pupil records made available or disclosed under this paragraph. Any

1 representative of the department of corrections, the department of health and family
2 services, the department of justice, or a district attorney may disclose information
3 obtained under this paragraph for any purpose consistent with any proceeding under
4 ch. 980.

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

6 146.82 (2) (c) Notwithstanding sub. (1), patient health care records shall be
7 released to appropriate examiners and facilities in accordance with ss. s. 971.17 (2)
8 (e), (4) (c), and (7) (c), ~~980.03 (4) and 980.08 (3)~~. The recipient of any information from
9 the records shall keep the information confidential except as necessary to comply
10 with s. 971.17 ~~or ch. 980~~.

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

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

24 **SECTION 23.** 301.03 (19) of the statutes is amended to read:

1 301.03 **(19)** Work to minimize, to the greatest extent possible, the residential
2 population density of sex offenders, as defined in s. 302.116 (1) (b), who are on
3 probation, parole, or extended supervision or placed on supervised release under s.
4 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or s. 980.08 (5) (4) (g).

5 **SECTION 24.** 301.45 (1g) (dt) of the statutes is amended to read:

6 301.45 **(1g)** (dt) Is in institutional care or on ~~conditional~~ supervised release
7 under ch. 980 on or after June 2, 1994.

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

9 301.45 **(3)** (a) 3r. If the person has been committed under ch. 980, he or she is
10 subject to this subsection upon being placed on supervised release under s. 980.06
11 (2), 1997 stats., or s. 980.08 or, if he or she was not placed on supervised release,
12 before being discharged under s. 980.10, 2003 stats., or s. 980.09 ~~or 980.10~~ (4).

13 **SECTION 26.** 301.45 (3) (b) 3. of the statutes is amended to read:

14 301.45 **(3)** (b) 3. The department of health and family services shall notify a
15 person who is being placed on conditional release, supervised release, conditional
16 transfer or parole, or is being terminated or discharged from a commitment, under
17 s. 51.20, 51.35 or 971.17 or ch. 975 or 980 and who is covered under sub. (1g) of the
18 need to comply with the requirements of this section.

19 **SECTION 27.** 301.45 (5) (b) 2. of the statutes is amended to read:

20 301.45 **(5)** (b) 2. The person has been found to be a sexually violent person under
21 ch. 980, regardless of whether the person is has been discharged under s. 980.10,
22 2003 stats., or s. 980.09 ~~or 980.10~~ (4) from the sexually violent person commitment,
23 except that the person no longer has to comply with this section if the finding that
24 the person is a sexually violent person has been reversed, set aside or vacated.

25 **SECTION 28.** 756.06 (2) (b) of the statutes is amended to read:

1 756.06 (2) (b) Except as provided in par. (c) and ss. 980.05 (2) and (2m) (c),
2 980.09 (3), and 980.095 (1), a jury in a civil case shall consist of 6 persons unless a
3 party requests a greater number, not to exceed 12. The court, on its own motion, may
4 require a greater number, not to exceed 12.

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

6 **801.52 Discretionary change of venue.** The court may at any time, upon
7 its own motion, the motion of a party or the stipulation of the parties, change the
8 venue to any county in the interest of justice or for the convenience of the parties or
9 witnesses. This section does not apply to proceedings under ch. 980.

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

11 808.04 (3) Except as provided in subs. (4) and (7), an appeal in a criminal case
12 or a case under ch. 48, 51, 55 ~~or~~, 938, or 980 shall be initiated within the time period
13 specified in s. 809.30.

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

15 808.04 (4) Except as provided in sub. (7m), an appeal by the state in either a
16 criminal case under s. 974.05 or a case under ch. 48 ~~or~~, 938, or 980 shall be initiated
17 within 45 days of entry of the judgment or order appealed from.

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

19 808.075 (4) (h) Commitment, supervised release, recommitment, discharge,
20 and postcommitment relief under s. 980.10, 2003 stats., or ss. 980.06, 980.08, 980.09,
21 980.10 (4), and 980.101 of a person found to be a sexually violent person under ch.
22 980.

23 **SECTION 33.** 809.10 (1) (d) of the statutes is amended to read:

24 809.10 (1) (d) *Docketing statement.* The person shall send the court of appeals
25 an original and one copy of a completed docketing statement on a form prescribed by

1 the court of appeals. The docketing statement shall accompany the court of appeals'
2 copy of the notice of appeal. The person shall send a copy of the completed docketing
3 statement to the other parties to the appeal. Docketing statements need not be filed
4 in appeals brought under s. 809.105, 809.107, 809.32, or 974.06 (7), in cases under
5 ch. 980, or in cases in which a party represents himself or herself. Docketing
6 statements need not be filed in appeals brought under s. 809.30 or 974.05, or by the
7 state or defendant in permissive appeals in criminal cases pursuant to s. 809.50,
8 except that docketing statements shall be filed in cases arising under chs. 48, 51, 55,
9 or 938.

10 **SECTION 34.** 809.30 (1) (c) of the statutes is amended to read:

11 809.30 (1) (c) "Postconviction relief" means an appeal or a motion for
12 postconviction relief in a criminal case, other than an appeal, motion, or petition
13 under ss. 302.113 (7m), 302.113 (9g), 973.19, 973.195, 974.06, or 974.07 (2). In a ch.
14 980 case, the term means an appeal or a motion for postcommitment relief under s.
15 980.038 (4).

16 **SECTION 35.** 809.30 (1) (f) of the statutes is amended to read:

17 809.30 (1) (f) "Sentencing" means the imposition of a sentence, a fine, or
18 probation in a criminal case. In a ch. 980 case, the term means the entry of an order
19 under s. 980.06.

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

21 814.61 (1) (c) 6. An action to commit a person under ch. 51, 55, or 980.

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

23 905.04 (4) (a) *Proceedings for hospitalization, guardianship, protective*
24 *services, or protective placement or for control, care, or treatment of a sexually violent*
25 *person.* There is no privilege under this rule as to communications and information

1 relevant to an issue in proceedings to hospitalize the patient for mental illness, to
2 appoint a guardian under s. 880.33, for court-ordered protective services or
3 protective placement ~~or~~, for review of guardianship, protective services, or protective
4 placement orders, or for control, care, or treatment of a sexually violent person under
5 ch. 980, if the physician, registered nurse, chiropractor, psychologist, social worker,
6 marriage and family therapist, or professional counselor in the course of diagnosis
7 or treatment has determined that the patient is in need of hospitalization,
8 guardianship, protective services, or protective placement or control, care, and
9 treatment as a sexually violent person.

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

11 911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or
12 rendition; sentencing, granting or revoking probation, modification of a bifurcated
13 sentence under s. 302.113 (9g), adjustment of a bifurcated sentence under s. 973.195
14 (1r), issuance of arrest warrants, criminal summonses and search warrants;
15 hearings under s. 980.09 (2); proceedings under s. 971.14 (1) (c); proceedings with
16 respect to pretrial release under ch. 969 except where habeas corpus is utilized with
17 respect to release on bail or as otherwise provided in ch. 969.

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

19 938.35 (1) (e) In a hearing, trial, or other proceeding under ch. 980.

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

21 938.396 (1) Law enforcement officers' records of juveniles shall be kept
22 separate from records of adults. Law enforcement officers' records of juveniles shall
23 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),
24 (1m), (1r), (1t), (1x) ~~or~~, (5), or (10) or s. 938.293 or by order of the court. This
25 subsection does not apply to representatives of the news media who wish to obtain

1 information for the purpose of reporting news without revealing the identity of the
2 juvenile involved, to the confidential exchange of information between the police and
3 officials of the school attended by the juvenile or other law enforcement or social
4 welfare agencies, or to juveniles 10 years of age or older who are subject to the
5 jurisdiction of the court of criminal jurisdiction. A public school official who obtains
6 information under this subsection shall keep the information confidential as
7 required under s. 118.125 and a private school official who obtains information under
8 this subsection shall keep the information confidential in the same manner as is
9 required of a public school official under s. 118.125. A law enforcement agency that
10 obtains information under this subsection shall keep the information confidential as
11 required under this subsection and s. 48.396 (1). A social welfare agency that obtains
12 information under this subsection shall keep the information confidential as
13 required under ss. 48.78 and 938.78.

14 **SECTION 41.** 938.396 (2) (e) of the statutes is renumbered 938.396 (10) and
15 amended to read:

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

1 to an individual who is the subject of the proceeding or evaluation. The court in
2 which the proceeding under ch. 980 is pending may issue any protective orders that
3 it determines are appropriate concerning information made available or disclosed
4 under this subsection. Any representative of the department of corrections, the
5 department of health and family services, the department of justice, or a district
6 attorney may disclose information obtained under this subsection for any purpose
7 consistent with any proceeding under ch. 980.

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

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

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

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

1 corrections, the department of health and family services, the department of justice,
2 or a district attorney may disclose information obtained under this paragraph for any
3 purpose consistent with any proceeding under ch. 980.

4 **SECTION 44.** 940.20 (1g) of the statutes is created to read:

5 940.20 (1g) BATTERY BY CERTAIN COMMITTED PERSONS. Any person placed in a
6 facility under s. 980.065 and who intentionally causes bodily harm to an officer,
7 employee, agent, visitor, or other resident of the facility, without his or her consent,
8 is guilty of a Class H felony.

9 **SECTION 45.** 946.42 (1) (a) of the statutes is amended to read:

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

1 supervision or parole officer or the custody of a person who has been released to
2 aftercare supervision under ch. 938 unless the person is in actual custody or is
3 subject to a confinement order under s. 973.09 (4).

4 **SECTION 46.** 946.42 (3m) of the statutes is created to read:

5 946.42 (3m) A person who intentionally escapes from custody under any of the
6 following circumstances is guilty of a Class F felony:

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

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

12 **SECTION 47.** 950.04 (1v) (xm) of the statutes is amended to read:

13 950.04 (1v) (xm) To have the department of health and family services make
14 a reasonable attempt to notify the victim under s. 980.11 regarding supervised
15 release under s. 980.08 and discharge under s. 980.09 ~~or 980.10~~ (4).

16 **SECTION 48.** 967.03 of the statutes is amended to read:

17 **967.03 District attorneys.** Wherever in chs. 967 to 979 ~~980~~ powers or duties
18 are imposed upon district attorneys, the same powers and duties may be discharged
19 by any of their duly qualified deputies or assistants.

20 **SECTION 49.** 972.15 (4) of the statutes is amended to read:

21 972.15 (4) After sentencing, unless otherwise authorized under sub. (5) ~~or (6)~~
22 or ordered by the court, the presentence investigation report shall be confidential
23 and shall not be made available to any person except upon specific authorization of
24 the court.

25 **SECTION 50.** 972.15 (6) of the statutes is created to read:

1 972.15 (6) The presentence investigation report and any information contained
2 in it or upon which it is based may be used by any of the following persons in any
3 evaluation, examination, referral, hearing, trial, postcommitment relief proceeding,
4 appeal, or other proceeding under ch. 980:

5 (a) The department of corrections.

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

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

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

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

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

13 **SECTION 51.** 978.03 (3) of the statutes, as affected by 2005 Wisconsin Act 25,
14 is amended to read:

15 978.03 (3) Any assistant district attorney under sub. (1), (1m), or (2) must be
16 an attorney admitted to practice law in this state and, except as provided in s.
17 978.043 (1), may perform any duty required by law to be performed by the district
18 attorney. The district attorney of the prosecutorial unit under sub. (1), (1m), or (2)
19 may appoint such temporary counsel as may be authorized by the department of
20 administration.

21 **SECTION 52.** 978.04 of the statutes is amended to read:

22 **978.04 Assistants in certain prosecutorial units.** The district attorney of
23 any prosecutorial unit having a population of less than 100,000 may appoint one or
24 more assistant district attorneys as necessary to carry out the duties of his or her
25 office and as may be requested by the department of administration authorized in

1 accordance with s. 16.505. Any such assistant district attorney must be an attorney
2 admitted to practice law in this state and, except as provided in s. 978.043 (1), may
3 perform any duty required by law to be performed by the district attorney.

4 **SECTION 53.** 978.043 of the statutes is renumbered 978.043 (1) and amended
5 to read.

6 978.043 (1) The district attorney of the prosecutorial unit that consists of
7 Brown County and the district attorney of the prosecutorial unit that consists of
8 Milwaukee County shall each assign one assistant district attorney in his or her
9 prosecutorial unit to be a sexually violent person commitment prosecutor. An
10 assistant district attorney assigned under this ~~section~~ subsection to be a sexually
11 violent person commitment prosecutor may engage only in the prosecution of
12 sexually violent person commitment proceedings under ch. 980 and, at the request
13 of the district attorney of the prosecutorial unit, may file and prosecute sexually
14 violent person commitment proceedings under ch. 980 in any prosecutorial unit in
15 this state.

16 **SECTION 54.** 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.

25 **SECTION 55.** 978.045 (1r) (intro.) of the statutes is amended to read:

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

10 **SECTION 56.** 978.05 (6) (a) of the statutes is amended to read:

11 978.05 (6) (a) Institute, commence or appear in all civil actions or special
12 proceedings under and perform the duties set forth for the district attorney under ch.
13 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, 103.50 (8), 103.92
14 (4), 109.09, 343.305 (9) (a), 453.08, 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),
15 946.86, 946.87, 961.55 (5), 971.14 and 973.075 to 973.077, perform any duties in
16 connection with court proceedings in a court assigned to exercise jurisdiction under
17 chs. 48 and 938 as the judge may request and perform all appropriate duties and
18 appear if the district attorney is designated in specific statutes, including matters
19 within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits
20 the authority of the county board to designate, under s. 48.09 (5), that the corporation
21 counsel provide representation as specified in s. 48.09 (5) or to designate, under s.
22 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the
23 interests of the public under s. 48.14 or 938.14.

24 **SECTION 57.** 978.05 (8) (b) of the statutes, as affected by 2005 Wisconsin Act 25,
25 is amended to read:

1 978.05 (8) (b) Hire, employ, and supervise his or her staff and, subject to s.
2 978.043 (1), make appropriate assignments of the staff throughout the prosecutorial
3 unit. The district attorney may request the assistance of district attorneys, deputy
4 district attorneys, or assistant district attorneys from other prosecutorial units or
5 assistant attorneys general who then may appear and assist in the investigation and
6 prosecution of any matter for which a district attorney is responsible under this
7 chapter in like manner as assistants in the prosecutorial unit and with the same
8 authority as the district attorney in the unit in which the action is brought. Nothing
9 in this paragraph limits the authority of counties to regulate the hiring, employment,
10 and supervision of county employees.

11 **SECTION 58.** 978.13 (2) of the statutes is renumbered 978.13 (2) (b).

12 **SECTION 59.** 978.13 (2) (a) of the statutes is created to read:

13 978.13 (2) (a) In this subsection, “costs related to the operation of the district
14 attorney’s office” include costs that a prosecutorial unit must pay under s. 978.043
15 (2) but do not include costs for which a prosecutorial unit receives reimbursement
16 under s. 978.043 (2).

17 **SECTION 60.** 980.01 (1) of the statutes is renumbered 980.01 (1h).

18 **SECTION 61.** 980.01 (1b) of the statutes is created to read:

19 980.01 (1b) “Act of sexual violence” means conduct that constitutes the
20 commission of a sexually violent offense.

21 **SECTION 62.** 980.01 (1j) of the statutes is created to read:

22 980.01 (1j) “Incarceration” includes confinement in a secured correctional
23 facility, as defined in s. 938.02 (15m), or a secured child caring institution, as defined
24 in s. 938.02 (15g), or a secured group home, as defined in s. 938.02 (15p), if the person

1 was placed in the facility for being adjudicated delinquent under s. 48.34, 1993 stats.,
2 or under s. 938.183 or 938.34 on the basis of a sexually violent offense.

3 **SECTION 63.** 980.01 (3) of the statutes is created to read:

4 980.01 (3) Except in ss. 980.075, 980.09, and 980.095, “petitioner” means the
5 agency or person that filed a petition under s. 980.02.

6 **SECTION 64.** 980.01 (5) of the statutes is amended to read:

7 980.01 (5) “Sexually motivated” means that one of the purposes for an act is
8 for the actor’s sexual arousal or gratification or for the sexual humiliation or
9 degradation of the victim.

10 **SECTION 65.** 980.01 (6) (a) of the statutes is amended to read:

11 980.01 (6) (a) Any crime specified in s. 940.225 (1) ~~or~~, (2), or (3), 948.02 (1) or
12 (2), 948.025, 948.06, or 948.07.

13 **SECTION 66.** 980.01 (6) (am) of the statutes is created to read:

14 980.01 (6) (am) An offense that, prior to June 2, 1994, was a crime under the
15 law of this state and that is comparable to any crime specified in par. (a).

16 **SECTION 67.** 980.01 (6) (b) of the statutes is amended to read:

17 980.01 (6) (b) Any crime specified in s. 940.01, 940.02, 940.03, 940.05, 940.06,
18 940.19 (2), (4) ~~or~~, (5), or (6), 940.195 (4) or (5), 940.30, 940.305, 940.31 ~~or~~, 941.32,
19 943.10, 943.32, or 948.03 that is determined, in a proceeding under s. 980.05 (3) (b),
20 to have been sexually motivated.

21 **SECTION 68.** 980.01 (6) (bm) of the statutes is created to read:

22 980.01 (6) (bm) An offense that, prior to June 2, 1994, was a crime under the
23 law of this state, that is comparable to any crime specified in par. (b) and that is
24 determined, in a proceeding under s. 980.05 (3) (b), to have been sexually motivated.

25 **SECTION 69.** 980.01 (6) (c) of the statutes is amended to read:

1 980.01 (6) (c) Any solicitation, conspiracy, or attempt to commit a crime under
2 par. (a) ~~or~~, (am), (b), or (bm).

3 **SECTION 70.** 980.01 (7) of the statutes is amended to read:

4 980.01 (7) “Sexually violent person” means a person who has been convicted
5 of a sexually violent offense, has been adjudicated delinquent for a sexually violent
6 offense, or has been found not guilty of or not responsible for a sexually violent
7 offense by reason of insanity or mental disease, defect, or illness, and who is
8 dangerous because he or she suffers from a mental disorder that makes it likely that
9 the person will engage in one or more acts of sexual violence.

10 **SECTION 71.** 980.01 (8) of the statutes is created to read:

11 980.01 (8) “Significant progress in treatment” means that the person has done
12 all of the following:

13 (a) Meaningfully participated in the treatment program specifically designed
14 to reduce his or her risk to reoffend offered at a facility described under s. 980.065.

15 (b) Participated in the treatment program at a level that was sufficient to allow
16 the identification of his or her specific treatment needs and then demonstrated,
17 through overt behavior, a willingness to work on addressing the specific treatment
18 needs.

19 (c) Demonstrated an understanding of the thoughts, attitudes, emotions,
20 behaviors, and sexual arousal linked to his or her sexual offending and an ability to
21 identify when the thoughts, emotions, behaviors, or sexual arousal occur.

22 (d) Demonstrated sufficiently sustained change in the thoughts, attitudes,
23 emotions, and behaviors and sufficient management of sexual arousal such that one
24 could reasonably assume that, with continued treatment, the change could be
25 maintained.

1 **SECTION 72.** 980.01 (9) of the statutes is created to read:

2 980.01 (9) “Substantially probable” means much more likely than not.

3 **SECTION 73.** 980.015 (1) of the statutes is renumbered 980.01 (1d) and amended
4 to read:

5 980.01 (1d) ~~In this section, “agency~~ “Agency with jurisdiction” means the
6 agency with the authority or duty to release or discharge the person.

7 **SECTION 74.** 980.015 (2) (intro.) of the statutes is amended to read:

8 980.015 (2) (intro.) If an agency with jurisdiction has control or custody over
9 a person who may meet the criteria for commitment as a sexually violent person, the
10 agency with jurisdiction shall inform each appropriate district attorney and the
11 department of justice regarding the person as soon as possible beginning ~~3 months~~
12 90 days prior to the applicable date of the following:

13 **SECTION 75.** 980.015 (2) (a) of the statutes is amended to read:

14 980.015 (2) (a) ~~The anticipated discharge from a sentence, anticipated or~~
15 ~~release, on parole or, extended supervision, or anticipated release otherwise, from a~~
16 sentence of imprisonment of a person who has been convicted of or term of
17 confinement in prison that was imposed for a conviction for a sexually violent offense,
18 from a continuous term of incarceration, any part of which was imposed for a sexually
19 violent offense, or from a placement in a Type 1 prison under s. 301.048 (3) (a) 1., any
20 part of which was required as a result of a conviction for a sexually violent offense.

21 **SECTION 76.** 980.015 (2) (b) of the statutes is amended to read:

22 980.015 (2) (b) The anticipated release from a secured correctional facility, as
23 defined in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02
24 (15g), or a secured group home, as defined in s. 938.02 (15p), ~~of a~~ if the person was

1 placed in the facility as a result of being adjudicated delinquent under s. 48.34, 1993
2 stats., or under s. 938.183 or 938.34 on the basis of a sexually violent offense.

3 **SECTION 77.** 980.015 (2) (c) of the statutes is amended to read:

4 980.015 (2) (c) The anticipated release of a person on conditional release under
5 s. 971.17, the anticipated termination of a commitment order under 971.17, or the
6 anticipated discharge of a person from a commitment order under s. 971.17, if the
7 person who has been found not guilty of a sexually violent offense by reason of mental
8 disease or defect under s. 971.17.

9 **SECTION 78.** 980.015 (2) (d) of the statutes is created to read:

10 980.015 (2) (d) The anticipated release on parole or discharge of a person
11 committed under ch. 975 for a sexually violent offense.

12 **SECTION 79.** 980.015 (4) of the statutes is renumbered 980.14 (2) and amended
13 to read:

14 980.14 (2) Any agency or officer, employee, or agent of an agency is immune
15 from criminal or civil liability for any acts or omissions as the result of a good faith
16 effort to comply with any provision of this section chapter.

17 **SECTION 80.** 980.02 (1) (a) of the statutes is amended to read:

18 980.02 (1) (a) The department of justice at the request of the agency with
19 jurisdiction, ~~as defined in s. 980.015 (1), over the person. If the department of justice~~
20 ~~decides to file a petition under this paragraph, it shall file the petition before the date~~
21 ~~of the release or discharge of the person.~~

22 **SECTION 81.** 980.02 (1) (b) 3. of the statutes is created to read:

23 980.02 (1) (b) 3. The county in which the person is in custody under a sentence,
24 a placement to a secured correctional facility, as defined in s. 938.02 (15m), a secured

1 child caring institution, as defined in s. 938.02 (15g), or a secured group home, as
2 defined in s. 938.02 (15p), or a commitment order.

3 **SECTION 82.** 980.02 (1m) of the statutes is created to read:

4 980.02 (1m) A petition filed under this section shall be filed before the person
5 is released or discharged.

6 **SECTION 83.** 980.02 (2) (ag) of the statutes is repealed.

7 **SECTION 84.** 980.02 (4) (intro.) of the statutes is amended to read:

8 980.02 (4) (intro.) A petition under this section shall be filed in any one of the
9 following:

10 **SECTION 85.** 980.02 (6) of the statutes is created to read:

11 980.02 (6) A court assigned to exercise jurisdiction under chs. 48 and 938 does
12 not have jurisdiction over a petition filed under this section alleging that a child is
13 a sexually violent person.

14 **SECTION 86.** 980.03 (2) (intro.) of the statutes is amended to read:

15 980.03 (2) (intro.) Except as provided in ss. ~~980.09 (2) (a)~~ 980.038 (2) and
16 ~~980.10~~ 980.09 and without limitation by enumeration, at any hearing under this
17 chapter, the person who is the subject of the petition has the right to:

18 **SECTION 87.** 980.03 (3) of the statutes is amended to read:

19 980.03 (3) The person who is the subject of the petition, the person's attorney,
20 ~~or the department of justice or the district attorney~~ petitioner may request that a
21 trial under s. 980.05 be to a jury of ~~12~~. A request for a jury trial shall be made as
22 provided under s. 980.05 (2). Notwithstanding s. 980.05 (2), if the person, the
23 person's attorney, ~~or the department of justice or the district attorney~~ petitioner does
24 not request a jury trial, the court may on its own motion require that the trial be to

1 a jury of 12. The jury shall be selected as provided under s. 980.05 (2m). A verdict
2 of a jury under this chapter is not valid unless it is unanimous.

3 **SECTION 88.** 980.03 (4) of the statutes is renumbered 980.031 (3) and amended
4 to read:

5 980.031 (3) Whenever a person who is the subject of a petition filed under s.
6 980.02 or who has been committed under s. 980.06 is required to submit to an
7 examination of his or her mental condition under this chapter, he or she may retain
8 ~~experts or a licensed physician, licensed psychologist, or other mental health~~
9 ~~professional persons~~ to perform an examination. If the person is indigent, the court
10 shall, upon the person's request, appoint a qualified and available licensed
11 physician, licensed psychologist, or other mental health professional to perform an
12 examination of the person's mental condition and participate on the person's behalf
13 in a trial or other proceeding under this chapter at which testimony is authorized.
14 Upon the order of the circuit court, the county shall pay, as part of the costs of the
15 action, the costs of a licensed physician, licensed psychologist, or other mental health
16 professional appointed by a court under this subsection to perform an examination
17 and participate in the trial or other proceeding on behalf of an indigent person.

18 (4) If the person a party retains ~~a qualified expert~~ or the court appoints a
19 licensed physician, licensed psychologist, or other mental health professional person
20 of his or her own choice to conduct an examination under this chapter of the person's
21 mental condition, the examiner shall have reasonable access to the person for the
22 purpose of the examination, as well as to the person's past and present treatment
23 records, as defined in s. 51.30 (1) (b), and patient health care records as provided
24 under s. 146.82 (2) (e). ~~If the person is indigent, the court shall, upon the person's~~
25 ~~request, appoint a qualified and available expert or professional person to perform~~

1 ~~an examination and participate in the trial or other proceeding on the person's~~
2 ~~behalf. Upon the order of the circuit court, the county shall pay, as part of the costs~~
3 ~~of the action, the costs of an expert or professional person appointed by a court under~~
4 ~~this subsection to perform an examination and participate in the trial or other~~
5 ~~proceeding on behalf of an indigent person. An expert (cm), past and present juvenile~~
6 ~~records, as provided under ss. 48.396 (6), 48.78 (2) (e), 938.396 (10), and 938.78 (2)~~
7 ~~(e), and the person's past and present correctional records, including presentence~~
8 ~~investigation reports under s. 972.15 (6).~~

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

18 **SECTION 89.** 980.03 (5) of the statutes is repealed.

19 **SECTION 90.** 980.031 (title) of the statutes is created to read:

20 **980.031 (title) Examinations.**

21 **SECTION 91.** 980.031 (1) and (2) of the statutes are created to read:

22 980.031 (1) If a person who is the subject of a petition filed under s. 980.02
23 denies the facts alleged in the petition, the court may appoint at least one qualified
24 licensed physician, licensed psychologist, or other mental health professional to
25 conduct an examination of the person's mental condition and testify at trial.

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

6 **SECTION 92.** 980.034 of the statutes is created to read:

7 **980.034 Change of place of trial or jury from another county.** (1) A
8 person who is the subject of a petition filed under s. 980.02 or who has been
9 committed under this chapter may move to change the place of a jury trial under s.
10 980.05 on the ground that an impartial trial cannot be had in the county in which the
11 trial is set to be held. The motion shall be made within 20 days after the completion
12 or waiver of the probable cause hearing under s. 980.04 (2), whichever is applicable,
13 except that it may be made after that time for cause.

14 (2) The motion shall be in writing and supported by affidavit which shall state
15 evidentiary facts showing the nature of the prejudice alleged. The petitioner may file
16 counter affidavits.

17 (3) If the court determines that there exists in the county where the action is
18 pending such prejudice that a fair trial cannot be had, it shall, except as provided in
19 sub. (4), order that the trial be held in any county where an impartial trial can be had.
20 Only one change may be granted under this subsection. The judge who orders the
21 change in the place of trial shall preside at the trial. Preliminary matters before trial
22 may be conducted in either county at the discretion of the court.

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

25 1. The court will sequester the jurors during the trial.

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

2 3. The estimated cost to the county of using the procedure under this subsection
3 is less than the estimated cost to the county of holding the trial in another county.

4 (b) A court that proceeds under this subsection shall follow the procedure under
5 sub. (3) until the jury is chosen in the 2nd county. At that time, the proceedings shall
6 return to the original county using the jurors selected in the 2nd county. The original
7 county shall reimburse the 2nd county for all applicable costs under s. 814.22.

8 **SECTION 93.** 980.036 of the statutes is created to read:

9 **980.036 Discovery and inspection.** (1) DEFINITIONS. In this section:

10 (a) "Person subject to this chapter" means a person who is subject to a petition
11 filed under s. 980.02 or a person who has been committed under s. 980.06.

12 (b) "Prosecuting attorney" means an attorney representing the state in a
13 proceeding under this chapter.

14 (2) **WHAT A PROSECUTING ATTORNEY MUST DISCLOSE TO A PERSON SUBJECT TO THIS**
15 **CHAPTER.** Upon demand, a prosecuting attorney shall disclose to a person subject to
16 this chapter or his or her attorney, and permit the person subject to this chapter or
17 his or her attorney to inspect and copy or photograph, all of the following materials
18 and information, if the material or information is within the possession, custody, or
19 control of the state:

20 (a) Any written or recorded statement made by the person subject to this
21 chapter concerning the allegations in the petition filed under s. 980.02 or concerning
22 other matters at issue in the trial or proceeding and the names of witnesses to the
23 written statements of the person subject to this chapter.

1 (b) A written summary of all oral statements of the person subject to this
2 chapter that the prosecuting attorney plans to use at the trial or proceeding and the
3 names of witnesses to the oral statements of the person subject to this chapter.

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

6 (d) A copy of the criminal record of the person subject to this chapter.

7 (e) A list of all witnesses whom the prosecuting attorney intends to call at the
8 trial or proceeding, together with their addresses. This paragraph does not apply to
9 rebuttal witnesses or witnesses called for impeachment only.

10 (f) Any relevant written or recorded statements of a witness listed under par.
11 (e), including all of the following:

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

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

14 (g) The criminal record of a witness listed under par. (e) that is known to the
15 prosecuting attorney.

16 (h) The results of any physical or mental examination or any scientific or
17 psychological test, instrument, experiment, or comparison that the prosecuting
18 attorney intends to offer in evidence at the trial or proceeding, and any raw data that
19 were collected, used, or considered in any manner as part of the examination, test,
20 instrument, experiment, or comparison.

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

23 (j) Any exculpatory evidence.

24 **(3) WHAT A PERSON SUBJECT TO THIS CHAPTER MUST DISCLOSE TO THE PROSECUTING**
25 **ATTORNEY.** Upon demand, a person who is subject to this chapter or his or her attorney

1 shall disclose to the prosecuting attorney, and permit the prosecuting attorney to
2 inspect and copy or photograph, all of the following materials and information, if the
3 material or information is within the possession, custody, or control of the person who
4 is subject to this chapter or his or her attorney:

5 (a) A list of all witnesses, other than the person who is subject to this chapter,
6 whom the person who is subject to this chapter intends to call at the trial or
7 proceeding, together with their addresses. This paragraph does not apply to rebuttal
8 witnesses or witnesses called for impeachment only.

9 (b) Any relevant written or recorded statements of a witness listed under par.
10 (a), including any reports prepared in accordance with s. 980.031 (5).

11 (c) The criminal record of a witness listed under par. (a) if the criminal record
12 is known to the attorney for the person who is subject to this chapter.

13 (d) The results of any physical or mental examination or any scientific or
14 psychological test, instrument, experiment, or comparison that the person who is
15 subject to this chapter intends to offer in evidence at the trial or proceeding, and any
16 raw data that were collected, used, or considered in any manner as part of the
17 examination, test, instrument, experiment, or comparison.

18 (e) Any physical or documentary evidence that the person who is subject to this
19 chapter intends to offer in evidence at the trial or proceeding.

20 **(3m)** WHEN DISCLOSURE MUST BE MADE. A party required to make a disclosure
21 under this section shall do so within a reasonable time after the probable cause
22 hearing and within a reasonable time before a trial under s. 980.05, if the other
23 party's demand is made in connection with a trial. If the demand is made in
24 connection with a proceeding under s. 980.08 or 980.09 (3), the party shall make the
25 disclosure within a reasonable time before the start of that proceeding.

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

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

9 **(6) PROTECTIVE ORDER.** Upon motion of a party, the court may at any time order
10 that discovery, inspection, or the listing of witnesses required under this section be
11 denied, restricted, or deferred, or make other appropriate orders. If the prosecuting
12 attorney or the attorney for a person subject to this chapter certifies that listing a
13 witness under sub. (2) (e) or (3) (a) may subject the witness or others to physical or
14 economic harm or coercion, the court may order that the deposition of the witness be
15 taken under s. 967.04 (2) to (6). The name of the witness need not be divulged prior
16 to the taking of such deposition. If the witness becomes unavailable or changes his
17 or her testimony, the deposition shall be admissible at trial as substantive evidence.

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

22 **(8) CONTINUING DUTY TO DISCLOSE.** If, after complying with a requirement of this
23 section, and before or during trial, a party discovers additional material or the names
24 of additional witnesses requested that are subject to discovery, inspection, or

1 production under this section, the party shall promptly notify the other party of the
2 existence of the additional material or names.

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

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

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

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

21 **SECTION 94.** 980.038 of the statutes is created to read:

22 **980.038 Miscellaneous procedural provisions. (1) MOTIONS CHALLENGING**
23 **JURISDICTION OR COMPETENCY OF COURT OR TIMELINESS OF PETITION.** (a) A motion
24 challenging the jurisdiction or competency of the court or the timeliness of a petition
25 filed under s. 980.02 shall be filed within 30 days after the court holds the probable

1 cause hearing under s. 980.04 (2). Failure to file a motion within the time specified
2 in this paragraph waives the right to challenge the jurisdiction or competency of the
3 court or the timeliness of a petition filed under s. 980.02.

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

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

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

20 **(3) TESTIMONY BY TELEPHONE OR LIVE AUDIOVISUAL MEANS.** Unless good cause to
21 the contrary is shown, proceedings under ss. 980.04 (2) (a) and 980.08 (7) (d) may be
22 conducted by telephone or audiovisual means, if available. If the proceedings are
23 required to be reported under SCR 71.02 (2), the proceedings shall be reported by a
24 court reporter who is in simultaneous voice communication with all parties to the
25 proceeding. Regardless of the physical location of any party to the telephone call, any

1 action taken by the court or any party has the same effect as if made in open court.
2 A proceeding under this subsection shall be conducted in a courtroom or other place
3 reasonably accessible to the public. Simultaneous access to the proceeding shall be
4 provided to a person entitled to attend by means of a loudspeaker or, upon request
5 to the court, by making the person party to the telephone call without charge.

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

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

19 **(5) FAILURE TO COMPLY WITH TIME LIMITS; EFFECT.** Failure to comply with any time
20 limit specified in this chapter does not deprive the circuit court of personal or subject
21 matter jurisdiction or of competency to exercise that jurisdiction. Failure to comply
22 with any time limit specified in this chapter is not grounds for an appeal or grounds
23 to vacate any order, judgment, or commitment issued or entered under this chapter.
24 Failure to object to a period of delay or a continuance waives the time limit that is
25 the subject of the period of delay or continuance.

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

4 **SECTION 95.** 980.04 (1) of the statutes is amended to read:

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

19 **SECTION 96.** 980.04 (2) of the statutes is renumbered 980.04 (2) (a) and
20 amended to read:

21 **980.04 (2) (a)** Whenever a petition is filed under s. 980.02, the court shall hold
22 a hearing to determine whether there is probable cause to believe that the person
23 named in the petition is a sexually violent person. ~~If the person named in the petition~~
24 ~~is in custody, the court shall hold the probable cause hearing within 72 hours after~~

1 the petition is filed, excluding Saturdays, Sundays and legal holidays. If the person
2 named in the petition is not in custody

3 (b) 1. Except as provided in subd. 2., the court shall hold the probable cause
4 hearing within a reasonable time 30 days, excluding Saturdays, Sundays, and legal
5 holidays, after the filing of the petition, unless that time is extended by the court for
6 good cause shown upon its own motion, the motion of any party, or the stipulation
7 of the parties.

8 **SECTION 97.** 980.04 (2) (b) 2. of the statutes is created to read:

9 980.04 **(2)** (b) 2. If the person named in the petition is in custody under a
10 sentence, dispositional order, or commitment and the probable cause hearing will be
11 held after the date on which the person is scheduled to be released or discharged from
12 the sentence, dispositional order, or commitment, the probable cause hearing under
13 par. (a) shall be held no later than 10 days after the person's scheduled release or
14 discharge date, excluding Saturdays, Sundays, and legal holidays, unless that time
15 is extended by the court for good cause shown upon its own motion, the motion of any
16 party, or the stipulation of the parties.

17 **SECTION 98.** 980.04 (3) of the statutes is amended to read:

18 980.04 **(3)** If the court determines after a hearing that there is probable cause
19 to believe that the person named in the petition is a sexually violent person, the court
20 shall order that the person be taken into custody if he or she is not in custody and
21 shall order the person to be transferred within a reasonable time to an appropriate
22 facility specified by the department for an evaluation by the department as to
23 whether the person is a sexually violent person. If the court determines that
24 probable cause does not exist to believe that the person is a sexually violent person,
25 the court shall dismiss the petition.

1 **SECTION 99.** 980.04 (5) of the statutes is amended to read:

2 980.04 (5) If the person named in the petition claims or appears to be indigent,
3 the court shall, prior to the probable cause hearing under sub. (2) (a), refer the person
4 to the authority for indigency determinations under s. 977.07 (1) and, if applicable,
5 the appointment of counsel.

6 **SECTION 100.** 980.05 (1) of the statutes is amended to read:

7 980.05 (1) A trial to determine whether the person who is the subject of a
8 petition under s. 980.02 is a sexually violent person shall commence no later than 45
9 90 days after the date of the probable cause hearing under s. 980.04 (2) (a). The court
10 may grant ~~a continuance~~ one or more continuances of the trial date for good cause
11 upon its own motion, the motion of any party or the stipulation of the parties.

12 **SECTION 101.** 980.05 (1m) of the statutes is repealed.

13 **SECTION 102.** 980.05 (2) of the statutes is amended to read:

14 980.05 (2) The person who is the subject of the petition, the person's attorney,
15 ~~or the department of justice or the district attorney~~ petitioner may request that a
16 trial under this section be to a jury of 12. A request for a jury trial under this
17 subsection shall be made within 10 days after the probable cause hearing under s.
18 980.04 (2) (a). If no request is made, the trial shall be to the court. The person, the
19 person's attorney, ~~or the district attorney or department of justice, whichever is~~
20 ~~applicable,~~ petitioner may withdraw his, her, or its request for a jury trial if the 2
21 persons who did not make the request consent to the withdrawal.

22 **SECTION 103.** 980.05 (2m) of the statutes is created to read:

23 980.05 (2m) (a) At a jury trial under this section, juries shall be selected and
24 treated in the same manner as they are selected and treated in civil actions in circuit
25 court, except that, notwithstanding s. 805.08 (3), each party shall be entitled to 4

1 peremptory challenges or, if the court orders additional jurors to be selected under
2 s. 805.08 (2), to 5 peremptory challenges. A party may waive in advance any or all
3 of its peremptory challenges and the number of jurors called under par. (b) shall be
4 reduced by this number.

5 (b) The number of jurors selected shall be the number prescribed in sub. (2),
6 unless a lesser number has been stipulated to and approved under par. (c) or the court
7 orders that additional jurors be selected. That number of jurors, plus the number
8 of peremptory challenges available to all of the parties, shall be called initially and
9 maintained in the jury box by calling others to replace jurors excused for cause until
10 all jurors have been examined. The parties shall exercise in their order, the state
11 beginning, the peremptory challenges available to them, and if any party declines to
12 challenge, the challenge shall be made by the clerk by lot.

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

17 **SECTION 104.** 980.05 (3) (a) of the statutes is amended to read:

18 980.05 (3) (a) At a trial on a petition under this chapter, the petitioner has the
19 burden of proving ~~the allegations in the petition~~ beyond a reasonable doubt that the
20 person who is the subject of the petition is a sexually violent person.

21 **SECTION 105.** 980.05 (3) (b) of the statutes is amended to read:

22 980.05 (3) (b) If the state alleges that the sexually violent offense or act that
23 forms the basis for the petition was an act that was sexually motivated as provided
24 in s. 980.01 (6) (b) or (bm), the state is required to prove beyond a reasonable doubt
25 that the alleged sexually violent act was sexually motivated.

1 **SECTION 106.** 980.07 (title) of the statutes is amended to read:

2 **980.07 (title) Periodic reexamination and treatment progress; report**
3 **from the department.**

4 **SECTION 107.** 980.07 (1) of the statutes is amended to read:

5 980.07 (1) If a person ~~has been~~ is committed under s. 980.06 and has not been
6 discharged under s. 980.09 ~~(4)~~, the department shall appoint a commissioner to
7 conduct an examination a reexamination of his or her the person's mental condition
8 within ~~6~~ 12 months after ~~an~~ the date of the initial commitment order under s. 980.06
9 and again thereafter at least once each 12 months ~~for the purpose of determining to~~
10 determine whether the person has made sufficient progress for the court to consider
11 whether the person should be placed on supervised release or discharged. The
12 examiner shall apply the criteria under s. 980.08 (4) (cg) when considering if the
13 person should be placed on supervised release and shall apply the criteria under s.
14 980.09 (3) when considering if the person should be discharged. At the time of a
15 reexamination under this section, the person who has been committed may retain
16 or ~~seek to~~ have the court appoint an examiner as provided under s. ~~980.03 (4)~~ 980.031
17 (3), except that the court is not required to appoint an examiner if supervised release
18 or discharge is supported by the examination conducted by the examiner appointed
19 by the department. The county shall pay the costs of an examiner appointed by the
20 court as provided under s. 51.20 (18) (a).

21 **SECTION 108.** 980.07 (2) of the statutes is amended to read:

22 980.07 (2) Any examiner conducting ~~an examination~~ a reexamination under
23 ~~this section sub. (1)~~ shall prepare a written report of the ~~examination~~ reexamination
24 no later than 30 days after the date of the ~~examination~~ reexamination. The examiner

1 shall place a copy of the report in the person's medical records and shall provide a
2 copy of the report to the court that committed the person under s. 980.06 department.

3 **SECTION 109.** 980.07 (3) of the statutes is amended to read:

4 980.07 (3) Notwithstanding sub. (1), the court that committed a person under
5 s. 980.06 may order a reexamination of the person at any time during the period in
6 which the person is subject to the commitment order. Any report ordered under this
7 subsection shall conform to sub. (4).

8 **SECTION 110.** 980.07 (4), (5) and (6) of the statutes are created to read:

9 980.07 (4) At any reexamination under sub. (1), the treating professional shall
10 prepare a treatment progress report. The treating professional shall provide a copy
11 of the treatment progress report to the department. The treatment progress report
12 shall consider all of the following:

13 (a) The specific factors associated with the person's risk for committing another
14 sexually violent offense.

15 (b) Whether the person has made significant progress in treatment or has
16 refused treatment.

17 (c) The ongoing treatment needs of the person.

18 (d) Any specialized needs or conditions associated with the person that must
19 be considered in future treatment planning.

20 (5) Any examiners under sub. (1) and treating professionals under sub. (4) shall
21 have reasonable access to the person for purposes of reexamination, to the person's
22 past and present treatment records, as defined in s. 51.30 (1) (b), and to the person's
23 patient health care records, as provided under s. 146.82 (2) (c).

24 (6) The department shall submit an annual report comprised of the
25 reexamination report under sub. (1) and the treatment progress report under sub.

1 (4) to the court that committed the person under s. 980.06. A copy of the annual
2 report shall be placed in the person’s treatment records. The department shall
3 provide a copy of the annual report to the person committed under s. 980.06, the
4 department of justice, and the district attorney, if applicable. The court shall provide
5 a copy of the annual report to the person’s attorney as soon as he or she is retained
6 or appointed.

7 **SECTION 111.** 980.075 of the statutes is created to read:

8 **980.075 Patient petition process.** (1) When the department submits its
9 report to the court under s. 980.07 (6), the person who has been committed under s.
10 980.06 may retain or have the court appoint an attorney as provided in s. 980.03 (2)
11 (a).

12 **(1m)** (a) When the department provides a copy of the report under s. 980.07 (6)
13 to the person who has been committed under s. 980.06, the department shall provide
14 to the person a standardized petition form for supervised release under s. 980.08 and
15 a standardized petition form for discharge under s. 980.09.

16 (b) The department shall, after consulting with the department of justice and
17 the state public defender, develop the standardized petition forms required under
18 par. (a).

19 **(2)** (a) Within 30 days after the department submits its report to the court
20 under s. 980.07 (6), the person who has been committed under s. 980.06 or his or her
21 attorney may submit one of the completed forms provided under sub. (1m) to the
22 court to initiate either a petition for supervised release or a petition for discharge.

23 (b) If no completed petition is filed in a timely manner under par. (a), the person
24 who has been committed under s. 980.06 will remain committed.

1 **(3)** If the person files a petition for discharge under s. 980.09 without counsel,
2 the court shall serve a copy of the petition and any supporting documents on the
3 district attorney or department of justice, whichever is applicable. If the person
4 petitions for discharge under s. 980.09 through counsel, his or her attorney shall
5 serve the district attorney or department of justice, whichever is applicable.

6 **(4)** (a) The petitioner may use experts or professional persons to support his
7 or her petition.

8 (b) The district attorney or the department of justice may use experts or
9 professional persons to support or oppose any petition.

10 **(5)** Subject to s. 980.03 (2) (a), before proceeding under s. 980.08 or 980.09 but
11 as soon as circumstances permit, the court shall refer the matter to the authority for
12 indigency determinations under s. 977.07 (1) and appointment of counsel under s.
13 977.05 (4) (j) if the person is not represented by counsel.

14 **(6)** At any time before a hearing under s. 980.08 or 980.09, the department may
15 file a supplemental report if the department determines that court should have
16 additional information.

17 **SECTION 112.** 980.08 (title) of the statutes is repealed and recreated to read:

18 **980.08** (title) **Supervised release; procedures, implementation,**
19 **revocation.**

20 **SECTION 113.** 980.08 (1) of the statutes is amended to read:

21 980.08 **(1)** Any person who is committed under s. 980.06 may petition the
22 committing court to modify its order by authorizing supervised release if at least ~~18~~
23 12 months have elapsed since the initial commitment order was entered or at least
24 ~~6~~ 12 months have elapsed since the most recent release petition was denied or the
25 most recent order for supervised release was revoked. The director of the facility at

1 which the person is placed may file a petition under this subsection on the person's
2 behalf at any time.

3 **SECTION 114.** 980.08 (3) of the statutes is amended to read:

4 980.08 (3) Within 20 days after receipt of the petition, the court shall appoint
5 one or more examiners having the specialized knowledge determined by the court to
6 be appropriate, who shall examine the person and furnish a written report of the
7 examination to the court within 30 days after appointment. The examiners shall
8 have reasonable access to the person for purposes of examination and to the person's
9 past and present treatment records, as defined in s. 51.30 (1) (b), and patient health
10 care records, as provided under s. 146.82 (2) (c). If any such examiner believes that
11 the person is appropriate for supervised release under the criteria specified in sub.
12 (4) (b) ~~(cg)~~, the examiner shall report on the type of treatment and services that the
13 person may need while in the community on supervised release. The county shall
14 pay the costs of an examiner appointed under this subsection as provided under s.
15 51.20 (18) (a).

16 **SECTION 115.** 980.08 (4) (a) of the statutes is amended to read:

17 980.08 (4) (a) The court, without a jury, shall hear the petition within 30 days
18 after the report of the court-appointed examiner is filed with the court, unless the
19 ~~petitioner waives~~ court for good cause extends this time limit. Expenses of
20 proceedings under this subsection shall be paid as provided under s. 51.20 (18) (b),
21 (c), and (d).

22 **SECTION 116.** 980.08 (4) (b) of the statutes is repealed.

23 **SECTION 117.** 980.08 (4) (c) of the statutes is amended to read:

24 980.08 (4) (c) In making a decision under par. ~~(b)~~ ~~(cg)~~, the court may consider,
25 without limitation because of enumeration, the nature and circumstances of the

1 behavior that was the basis of the allegation in the petition under s. 980.02 (2) (a),
2 the person's mental history and present mental condition, where the person will live,
3 how the person will support himself or herself, and what arrangements are available
4 to ensure that the person has access to and will participate in necessary treatment,
5 including pharmacological treatment using an antiandrogen or the chemical
6 equivalent of an antiandrogen if the person is a serious child sex offender. A decision
7 under par. (b) (cg) on a petition filed by a person who is a serious child sex offender
8 may not be made based on the fact that the person is a proper subject for
9 pharmacological treatment using an antiandrogen or the chemical equivalent of an
10 antiandrogen or on the fact that the person is willing to participate in
11 pharmacological treatment using an antiandrogen or the chemical equivalent of an
12 antiandrogen.

13 **SECTION 118.** 980.08 (4) (cg) of the statutes is created to read:

14 980.08 (4) (cg) The court may not authorize supervised release unless, based
15 on all of the reports, trial records, and evidence presented, the court finds that all of
16 the following criteria are met:

17 1. The person has made significant progress in treatment and the person's
18 progress can be sustained while on supervised release.

19 2. It is substantially probable that the person will not engage in an act of sexual
20 violence while on supervised release.

21 3. Treatment that meets the person's needs and a qualified provider of the
22 treatment are reasonably available.

23 4. The person can be reasonably expected to comply with his or her treatment
24 requirements and with all of his or her conditions or rules of supervised release that
25 are imposed by the court or by the department.

1 5. A reasonable level of resources can provide for the level of residential
2 placement, supervision, and ongoing treatment needs that are required for the safe
3 management of the person while on supervised release.

4 **SECTION 119.** 980.08 (4) (cm) of the statutes is created to read:

5 980.08 (4) (cm) If the court finds that all of the criteria in par. (cg) are met, the
6 court shall select a county to prepare a report under par. (e). Unless the court has
7 good cause to select another county, the court shall select the person’s county of
8 residence as determined by the department under s. 980.105. The court may not
9 select a county where there is a facility in which persons committed to institutional
10 care under this chapter are placed unless that county is also that person’s county of
11 residence.

12 **SECTION 120.** 980.08 (4) (d), (e), (f) and (g) of the statutes are created to read:

13 980.08 (4) (d) The court shall authorize the petitioner, the person’s attorney,
14 the district attorney, any law enforcement agency in the county of intended
15 placement, and any local governmental unit in the county of intended placement to
16 submit prospective residential options for community placement to the department
17 within 60 days following the selection of the county under par. (cm).

18 (e) The court shall order the county department under s. 51.42 in the county
19 of intended placement to prepare a report, either independently or with the
20 department of health and family services, identifying prospective residential options
21 for community placement. In identifying prospective residential options, the county
22 department shall consider the proximity of any potential placement to the residence
23 of other persons on supervised release and to the residence of persons who are in the
24 custody of the department of corrections and regarding whom a sex offender
25 notification bulletin has been issued to law enforcement agencies under s. 301.46

1 (2m) (a) or (am). The county department shall submit its report to the department
2 within 60 days following the court order.

3 (f) The court shall direct the department to use any submissions under par. (d),
4 the report submitted under par. (e), or other residential options identified by the
5 department to prepare a supervised release plan for the person. The department
6 shall prepare a supervised release plan that identifies the proposed residence. The
7 plan shall address the person's need, if any, for supervision, counseling, medication,
8 community support services, residential services, vocational services, and alcohol or
9 other drug abuse treatment. The supervised release plan shall be submitted to the
10 court within 90 days of the finding under par. (cg). The court may grant extensions
11 of this time period for good cause.

12 (g) The court shall review the plan submitted by the department under par.
13 (cm). If the details of the plan adequately meet the treatment needs of the individual
14 and the safety needs of the community, then the court shall approve the plan and
15 determine that supervised release is appropriate. If the details of the plan do not
16 adequately meet the treatment needs of the individual or the safety needs of the
17 community, then the court shall determine that supervised release is not appropriate
18 or direct the preparation of another supervised release plan to be considered by the
19 court under this paragraph.

20 **SECTION 121.** 980.08 (5) of the statutes is repealed.

21 **SECTION 122.** 980.08 (6m) of the statutes is amended to read:

22 980.08 **(6m)** An order for supervised release places the person in the custody
23 and control of the department. The department shall arrange for control, care and
24 treatment of the person in the least restrictive manner consistent with the
25 requirements of the person and in accordance with the plan for supervised release

1 approved by the court under sub. ~~(5)~~ (4) (g). A person on supervised release is subject
2 to the conditions set by the court and to the rules of the department. Within 10 days
3 of imposing a rule, the department shall file with the court any additional rule of
4 supervision not inconsistent with the rules or conditions imposed by the court. If the
5 department wants to change a rule or condition of supervision imposed by the court,
6 the department must obtain the court's approval. Before a person is placed on
7 supervised release by the court under this section, the court shall so notify the
8 municipal police department and county sheriff for the municipality and county in
9 which the person will be residing. The notification requirement under this
10 subsection does not apply if a municipal police department or county sheriff submits
11 to the court a written statement waiving the right to be notified.

12 (7) (a) If the department alleges believes that a released person on supervised
13 release, or awaiting placement on supervised release, has violated, or threatened to
14 violate, any condition or rule, or that of supervised release, the department may
15 petition for revocation of the order granting supervised release as described in par.
16 (c) or may detain the person.

17 (b) If the department believes that a person on supervised release, or awaiting
18 placement on supervised release, is a threat to the safety of others requires that
19 supervised release be revoked, he or she may be taken into custody under the rules
20 of the department. The department shall submit a statement showing probable
21 cause of the detention and a, the department shall detain the person and petition to
22 revoke for revocation of the order for granting supervised release to as described in
23 par. (c).

24 (c) If the department concludes that the order granting supervised release
25 should be revoked, it shall file with the committing court a statement alleging the

1 violation and or threat of a violation and a petition to revoke the order for supervised
2 release and provide a copy of each to the regional office of the state public defender
3 responsible for handling cases in the county where the committing court is located.
4 If the department has detained the person under par. (a) or (b), the department shall
5 file the statement and the petition and provide them to the regional office of the state
6 public defender within 72 hours after the detention, excluding Saturdays, Sundays
7 and legal holidays. Pending the revocation hearing, the department may detain the
8 person in a jail or in a hospital, center, or facility under s. 51.15 (2). The court shall
9 refer the matter to the authority for indigency determinations under s. 977.07 (1) and
10 appointment of counsel under s. 977.05 (4) (j). The determination of indigency and
11 the appointment of counsel shall be done as soon as circumstances permit.

12 (d) The court shall hear the petition within 30 days, unless the hearing or time
13 deadline is waived by the detained person. A final decision on the petition to revoke
14 the order for supervised release shall be made within 90 days of the filing. Pending
15 the revocation hearing, the department may detain the person in a jail or in a
16 hospital, center or facility specified by s. 51.15 (2). ~~The state has the burden of~~
17 ~~proving~~ the county jail or return him or her to institutional care.

18 (8) (a) If the court finds after a hearing, by clear and convincing evidence, that
19 any rule or condition of release has been violated, or and the court finds that the
20 violation of the rule or condition merits the revocation of the order granting
21 supervised release, the court may revoke the order for supervised release and order
22 that the person be placed in institutional care. The court may consider alternatives
23 to revocation. The person shall remain in institutional care until the person is
24 discharged from the commitment under s. 980.09 or is placed again on supervised
25 release under sub. (4) (g).

1 **(b) If the court finds after a hearing, by clear and convincing evidence, that the**
2 safety of others requires that supervised release be revoked. ~~If the court determines~~
3 ~~after hearing that any rule or condition of release has been violated, or that the safety~~
4 ~~of others requires that supervised release be revoked, it may shall revoke the order~~
5 for supervised release and order that the released person be placed in an appropriate
6 ~~institution~~ institutional care. The person shall remain in institutional care until the
7 person is discharged from the commitment under s. 980.09 or ~~until again is~~ is placed
8 on supervised release under ~~this section~~ sub. (4) (g).

9 **SECTION 123.** 980.09 of the statutes is repealed and recreated to read:

10 **980.09 Petition for discharge.** A committed person may petition the
11 committing court for discharge at any time. The court shall deny the petition under
12 this section without a hearing unless the petition alleges facts from which the court
13 or jury may conclude the person's condition has changed since the date of his or her
14 initial commitment order so that the person does not meet the criteria for
15 commitment as a sexually violent person.

16 **(2)** The court shall review the petition within 30 days and may hold a hearing
17 to determine if it contains facts from which the court or jury may conclude that the
18 person does not meet the criteria for commitment as a sexually violent person. In
19 determining under this subsection whether facts exist that might warrant such a
20 conclusion, the court shall consider any current or past reports filed under s. 980.07,
21 relevant facts in the petition and in the state's written response, arguments of
22 counsel, and any supporting documentation provided by the person or the state. If
23 the court determines that the petition does not contain facts from which a court or
24 jury may conclude that the person does not meet the criteria for commitment, the
25 court shall deny the petition. If the court determines that facts exist from which a

1 court or jury could conclude the person does not meet criteria for commitment the
2 court shall set the matter for hearing.

3 (3) The court shall hold a hearing within 90 days of the determination that the
4 petition contains facts from which the court or jury may conclude that the person
5 does not meet the criteria for commitment as a sexually violent person. The state has
6 the burden of proving by clear and convincing evidence that the person meets the
7 criteria for commitment as a sexually violent person.

8 (4) If the court or jury is satisfied that the state has not met its burden of proof
9 under sub. (3), the petitioner shall be discharged from the custody of the department.
10 If the court or jury is satisfied that the state has met its burden of proof under sub.
11 (3), the court may proceed under s. 980.08 (4) to determine whether to modify the
12 petitioner's existing commitment order by authorizing supervised release.

13 **SECTION 124.** 980.095 of the statutes is created to read:

14 **980.095 Procedures for discharge hearings. (1) USE OF JURIES.** (a) The
15 district attorney or the department of justice, whichever filed the original petition,
16 or the petitioner or his or her attorney may request that a hearing under s. 980.09
17 (3) be to a jury of 6. A jury trial is deemed waived unless it is demanded within 10
18 days of the filing of the petition for discharge.

19 (b) Juries shall be selected and treated in the same manner as they are selected
20 and treated in civil actions in circuit court. The number of jurors prescribed in par.
21 (a), plus the number of peremptory challenges available to all of the parties, shall be
22 called initially and maintained in the jury box by calling others to replace jurors
23 excused for cause until all jurors have been examined. The parties shall exercise in
24 their order, the state beginning, the peremptory challenges available to them, and
25 if any party declines to challenge, the challenge shall be made by the clerk by lot.

1 (c) No verdict shall be valid or received unless at least 5 of the jurors agree to
2 it.

3 **(2) POST VERDICT MOTIONS.** Motions after verdict may be made without further
4 notice upon receipt of the verdict.

5 **(3) APPEALS.** Any party may appeal an order under this subsection as a final
6 order under chs. 808 and 809.

7 **SECTION 125.** 980.10 of the statutes is repealed.

8 **SECTION 126.** 980.101 (2) (a) of the statutes is amended to read:

9 980.101 **(2)** (a) If the sexually violent offense was the sole basis for the
10 allegation under s. 980.02 (2) (a) and there are no other judgments relating to a
11 sexually violent offense committed by the person, the court shall reverse, set aside,
12 or vacate the judgment under s. 980.05 (5) that the person is a sexually violent
13 person, vacate the commitment order, and discharge the person from the custody or
14 supervision of the department.

15 **SECTION 127.** 980.11 (2) (intro.) of the statutes is amended to read:

16 980.11 **(2)** (intro.) If the court places a person on supervised release under s.
17 980.08 (4) or discharges a person under s. 980.09 or ~~980.10~~ (4), the department shall
18 do all of the following:

19 **SECTION 128.** 980.12 (1) of the statutes is amended to read:

20 980.12 **(1)** Except as provided in ss. ~~980.03~~ (4) 980.031 **(3)** and ~~980.08~~ (3) 980.07
21 (1), the department shall pay from the appropriations under s. 20.435 (2) (a) and (bm)
22 for all costs relating to the evaluation, treatment, and care of persons evaluated or
23 committed under this chapter.

24 **SECTION 129.** 980.14 (title) of the statutes is created to read:

25 **980.14** (title) **Immunity.**

1 **SECTION 130.** 980.14 (1) of the statutes is created to read:

2 980.14 (1) In this section, “agency” means the department of corrections, the
3 department of health and family services, the department of justice, or a district
4 attorney.

5 **SECTION 131. Initial applicability.**

6 (1) This act first applies to reviews regarding detention and probable cause
7 hearings under section 980.04 of the statutes, as affected by this act, and trials under
8 section 980.05 of the statutes, as affected by this act, that are based on a petition filed
9 under s. 980.02 of the statutes, as affected by this act, on the effective date of this
10 subsection.

11 (2) This act first applies to periodic reexaminations conducted under section
12 980.07 of the statutes, as affected by this act, begun on the effective date of this
13 subsection and to court proceedings resulting from those reexaminations.

14 (3) This act first applies to proceedings to revoke supervised release under
15 section 980.08 of the statutes, as affected by this act, that are commenced on the
16 effective date of this subsection, except that the treatment of section 980.08 (7) of the
17 statutes, with respect to where a person may be detained while a petition to revoke
18 supervised release is pending, first applies to a person whose detention commences
19 on the effective date of this subsection.

20 (4) This act first applies to discharge proceedings commenced on the effective
21 date of this subsection.

22 **SECTION 132. Effective date.**

23 (1) This act takes effect on the first day of the 2nd month beginning after
24 publication.

25

(END)