

**SENATE SUBSTITUTE AMENDMENT 2,  
TO 2005 ASSEMBLY BILL 591**

1     **AN ACT** *to renumber and amend* 971.17 (4) (e), 980.08 (5) and 980.105; *to*  
2     *amend* 51.42 (3) (aw) 1. d., 301.03 (19), 301.46 (5) (c) (intro.), 980.08 (6m) and  
3     980.105 (title); and *to create* 16.705 (1n), 16.71 (5m), 301.03 (20), 301.46 (5)  
4     (bm), 301.48, 946.465, 971.17 (4) (e) 3., 980.08 (5) (a), 980.08 (5) (e), 980.08 (5m),  
5     980.08 (7) and 980.105 (2m) of the statutes; **relating to:** global positioning  
6     system tracking and a residency requirement for certain sex offenders, changes  
7     to the sex offender registry Web site, and providing a penalty.

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

8     **SECTION 1.** 16.705 (1n) of the statutes is created to read:  
9     16.705 (1n) Subsection (1) does not apply to a contract entered into by the  
10    department of corrections for global positioning system tracking services under s.  
11    301.48 (3).

1           **SECTION 2.** 16.71 (5m) of the statutes is created to read:

2           16.71 **(5m)** The department shall delegate authority to the department of  
3 corrections to enter into contracts for global positioning system tracking services  
4 under s. 301.48 (3).

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

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

14           **SECTION 4.** 301.03 (19) of the statutes is amended to read:

15           301.03 **(19)** ~~Work~~ Subject to sub. (20), work to minimize, to the greatest extent  
16 possible, the residential population density of sex offenders, as defined in s. 302.116  
17 (1) (b), who are on probation, parole, or extended supervision or placed on supervised  
18 release under s. 980.06 (2) (c), 1997 stats., or s. 980.08 (5).

19           **SECTION 5.** 301.03 (20) of the statutes is created to read:

20           301.03 **(20)** (a) Except as provided in s. 304.06 (2m) (b), place, in one of the  
21 following locations, each person who has been convicted of a sex offense, as defined  
22 in s. 301.45 (1d) (b), upon his or her release to parole or extended supervision:

- 23           1. The county in which the person resided on the date of the sex offense.  
24           2. The county in which the person was convicted of the sex offense.  
25           3. A sex offender treatment facility.

1 (b) Paragraph (a) does not preclude the department from authorizing a person  
2 to reside in a location other than one listed in par. (a) 1. to 3. if the department  
3 initially placed the person in one of those listed locations.

4 **SECTION 6.** 301.46 (5) (bm) of the statutes is created to read:

5 301.46 (5) (bm) The department shall provide on the Internet site required  
6 under sub. (5n) the following information concerning persons registered under s.  
7 301.45:

8 1. If the person is a sexually violent person, as defined in s. 980.01 (7), a notice,  
9 written in red letters, of that status.

10 2. A current color photograph of the person, if available, and a physical  
11 description including sex, race, height, weight, eye color, and hair color.

12 3. The person's name and home address.

13 4. Whether the person has responded to the last contact letter from the  
14 department.

15 5. The crime committed for which the person must register.

16 6. Any conditions of the person's supervised release, except for any condition  
17 that may reveal the identity of the victim of the crime that the person committed for  
18 which he or she must register.

19 7. The date, time, and place of any scheduled hearings for supervised release  
20 or discharge under ch. 980.

21 8. The name and court of the judge who authorized supervised release or  
22 discharge for the person.

23 9. The most recent date on which the information was updated.

24 **SECTION 7.** 301.46 (5) (c) (intro.) of the statutes, as affected by 2005 Wisconsin  
25 Act 5, is amended to read:

1           301.46 (5) (c) (intro.) The department may not provide any of the following  
2 under par. (a) or (bm):

3           **SECTION 8.** 301.48 of the statutes is created to read:

4           **301.48 Global positioning system tracking and residency requirement**  
5 **for certain sex offenders. (1) DEFINITIONS.** In this section:

6           (a) “Exclusion zone” means a zone in which a person who is tracked using a  
7 global positioning system tracking device is prohibited from entering except for  
8 purposes of traveling through it to get to another destination.

9           (b) “Global positioning system tracking” means tracking using a system that  
10 actively monitors and identifies a person’s location and timely reports or records the  
11 person’s presence near or at a crime scene or in an exclusion zone or the person’s  
12 departure from an inclusion zone. “Global positioning system tracking” includes  
13 comparable technology.

14           (c) “Inclusion zone” means a zone in which a person who is tracked using a  
15 global positioning system tracking device is prohibited from leaving.

16           (d) “Lifetime tracking” means global positioning system tracking that is  
17 required for a person for the remainder of the person’s life or until terminated under  
18 sub. (2m), sub. (6), if applicable, or sub. (7) or (8). “Lifetime tracking” does not include  
19 global positioning system tracking under sub. (2) (c) or (d), regardless of how long it  
20 is required.

21           (dm) “Passive positioning system tracking” means tracking using a system that  
22 monitors, identifies, and records a person’s location.

23           (e) “Serious child sex offense” means a violation of, or the solicitation,  
24 conspiracy, or attempt to engage in conduct in violation of, any of the following:

- 25           1. Section 948.02 (1) (b), (c), or (d) or 948.025 (1) (a) or (ag).

1           2. Section 948.02 (1), 2003 stats., s. 948.02 (2), 2003 stats., or s. 948.025 (1),  
2           2003 stats., if any of the following applies:

3           a. The actor has sexual intercourse with a person who has not attained the age  
4           of 12 years.

5           b. The actor has sexual intercourse with a person who has not attained the age  
6           of 16 years by use or threat of force or violence.

7           c. The actor has sexual contact with a person who has not attained the age of  
8           16 years by use or threat of force or violence and the actor is at least 18 years of age  
9           when the contact occurs.

10          (em) “Serious child sex offense” means a violation of, or the solicitation,  
11          conspiracy, or attempt to engage in conduct in violation of, s. 948.02 (1) or (2) or  
12          948.025 (1) if any of the following applies:

13           1. The actor has sexual intercourse with a person who has not attained the age  
14           of 12 years.

15           2. The actor has sexual intercourse with a person who has not attained the age  
16           of 16 years by use or threat of force or violence.

17           3. The actor has sexual contact with a person who has not attained the age of  
18           16 years by use or threat of force or violence and the actor is at least 18 years of age  
19           when the contact occurs.

20          (f) “Sex offense” means any of the following:

21           1. A sex offense, as defined in s. 301.45 (1d) (b).

22           2. A crime under federal law or the law of any state that is comparable to a crime  
23           described in subd. 1.

24          (g) “Sexual intercourse” means vulvar penetration as well as cunnilingus,  
25          fellatio, or anal intercourse between persons or any intrusion of any inanimate object

1 into the genital or anal opening either by the defendant or upon the defendant's  
2 instruction. The emission of semen is not required.

3 **(2) WHO IS COVERED.** (a) Except as provided in sub. (2m), the department shall  
4 maintain lifetime tracking of a person if any of the following occurs with respect to  
5 the person on or after the effective date of this paragraph .... [revisor inserts date]:

6 1. A court places the person on probation for committing a serious child sex  
7 offense.

8 2. The department releases the person to extended supervision or parole while  
9 the person is serving a sentence for committing a serious child sex offense.

10 3. The department releases the person from prison upon the completion of a  
11 sentence imposed for a serious child sex offense.

12 4. A court that found the person not guilty of a serious child sex offense by  
13 reason of mental disease or mental defect places the person on conditional release.

14 5. A court that found the person not guilty of a serious child sex offense by  
15 reason of mental disease or mental defect discharges the person under s. 971.17 (6).  
16 This subdivision does not apply if the person was on conditional release immediately  
17 before being discharged.

18 (b) The department shall maintain lifetime tracking of a person if any of the  
19 following occurs with respect to the person on or after the effective date of this  
20 paragraph .... [revisor inserts date]:

21 1. A court places the person on supervised release under s. 980.08 (6m).

22 2. A court discharges the person under s. 980.09 or 980.10. This subdivision  
23 does not apply if the person was on supervised release immediately before being  
24 discharged.

1           3. The department of health and family services places the person on parole or  
2 discharges the person under ch. 975. This subdivision does not apply unless the  
3 person's commitment was based on his or her commission of a serious child sex  
4 offense.

5           (c) The department shall have a person tracked using a global positioning  
6 system tracking device if all of the following apply:

7           1. The person has been convicted under federal law or the law of any other state  
8 of a crime that is comparable to a serious child sex offense or found not guilty of or  
9 not responsible for such a crime by reason of mental disease or mental defect.

10          2. The person resides in this state, is employed or carrying on a vocation, as  
11 defined in s. 301.45 (1d) (a), in this state, or is a student, as defined in s. 301.45 (1d)  
12 (c), in this state.

13          (d) If, on or after the effective date of this paragraph .... [revisor inserts date],  
14 a person is being placed on probation, extended supervision, or parole for committing  
15 a sex offense and par. (a), (b), or (c) does not apply, the department may have the  
16 person tracked using a global positioning system tracking device as a condition of the  
17 person's probation, extended supervision, or parole.

18          **(2m) PASSIVE POSITIONING SYSTEM TRACKING.** If a person who is subject to lifetime  
19 tracking under sub. (2) (a) 1., 2., or 3. completes his or her sentence, including any  
20 probation, parole, or extended supervision, the department may decide to use  
21 passive positioning system tracking instead of maintaining lifetime tracking.

22          **(3) FUNCTIONS AND OPERATION OF TRACKING PROGRAM.** (a) Except as provided in  
23 sub. (2m), the department shall implement a continuous global positioning tracking  
24 system to electronically monitor the whereabouts of persons who are subject to this  
25 section. The system shall do all of the following:

1           1. Use field monitoring equipment that supports cellular communications with  
2 as large a coverage area as possible and shall automatically provide instantaneous  
3 or nearly instantaneous information regarding the whereabouts of a person who is  
4 being monitored, including information regarding the person's presence in an  
5 exclusion zone established under par. (c) or absence from an inclusion zone  
6 established under par. (c).

7           2. Use land line communications equipment to transmit information regarding  
8 the location of persons who are subject to this section when they are in areas in which  
9 no commercial cellular service is available.

10          3. Immediately alert the department and the local law enforcement agency  
11 having jurisdiction over the exclusion or inclusion zone if the person stays in any  
12 exclusion zone for any longer period than the time needed to travel through the zone  
13 to get to another destination or if the person leaves any inclusion zone.

14          (b) The department shall contract with a vendor using a competitive process  
15 under s. 16.75 to provide global positioning system tracking services and passive  
16 positioning system tracking services for purposes of this section.

17          (c) For each person who is subject to global positioning system tracking under  
18 this section, the department shall create individualized exclusion and inclusion  
19 zones for the person, if necessary to protect public safety. In creating exclusion zones,  
20 the department shall focus on areas where children congregate, with perimeters of  
21 100 to 250 feet, and on areas where the person has been prohibited from going as a  
22 condition of probation, extended supervision, parole, conditional release, or  
23 supervised release. In creating inclusion zones for a person on supervised release,  
24 the department shall consider s. 980.08 (7).



1 (d) If a person who is on supervised release or conditional release is being  
2 tracked, the department shall notify the department of health and family services,  
3 upon request, of any tracking information for the person under any of the following  
4 circumstances:

5 1. The department of corrections has been alerted under par. (a) 3. that the  
6 person being tracked has improperly stayed in an exclusion zone or improperly left  
7 an inclusion zone.

8 2. The person being tracked fails to make a payment to the department under  
9 sub. (4) (b).

10 **(4) COSTS.** (a) The department shall determine all of the following for each  
11 person tracked:

12 1. The cost of global positioning system tracking or passive positioning system  
13 tracking for the person.

14 2. How much of the cost under subd. 1. the person is able to pay based on the  
15 factors listed in par. (d).

16 (b) If required by the department, a person who is subject to global positioning  
17 system tracking or passive positioning system tracking shall pay for the cost of  
18 tracking up to the amount calculated for the person under par. (a) 2.

19 (c) The department of health and family services shall pay for the cost of  
20 tracking a person to whom sub. (2) (a) 4. or 5. or (b) applies while the person is on  
21 conditional release or supervised release to the extent that the cost is not covered by  
22 payments made by the person under par. (b).

23 (d) In determining how much of the costs the person is able to pay, the  
24 department may consider the following:

25 1. The person's financial resources.

1           2. The present and future earning ability of the person.

2           3. The needs and earning ability of the person's dependents.

3           4. Any other costs that the person is required to pay in conjunction with his or  
4 her supervision by the department or the department of health and family services.

5           5. Any other factors that the department considers appropriate.

6           **(6) OFFENDER'S PETITION TO TERMINATE LIFETIME TRACKING.** (a) Subject to par. (b),  
7 a person who is subject to lifetime tracking may file a petition requesting that  
8 lifetime tracking be terminated. A person shall file a petition requesting termination  
9 of lifetime tracking with the circuit court for the county in which the person was  
10 convicted or found not guilty or not responsible by reason of mental disease or defect.

11           (b) 1. A person may not file a petition requesting termination of lifetime  
12 tracking if he or she has been convicted of a crime that was committed during the  
13 period of lifetime tracking.

14           2. A person may not file a petition requesting termination of lifetime tracking  
15 earlier than 20 years after the date on which the period of lifetime tracking began.  
16 If a person files a petition requesting termination of lifetime tracking at any time  
17 earlier than 20 years after the date on which the period of lifetime tracking began,  
18 the court shall deny the petition without a hearing.

19           3. A person described in sub. (2) (b) may not file a petition requesting  
20 termination of lifetime tracking.

21           (c) Upon receiving a petition requesting termination of lifetime tracking, the  
22 court shall send a copy of the petition to the district attorney responsible for  
23 prosecuting the serious sex offense that was the basis for the order of lifetime  
24 tracking. Upon receiving the copy of the petition, the district attorney shall conduct  
25 a criminal history record search to determine whether the person has been convicted

1 of a criminal offense that was committed during the period of lifetime tracking. No  
2 later than 30 days after the date on which he or she receives the copy of the petition,  
3 the district attorney shall report the results of the criminal history record search to  
4 the court and may provide a written response to the petition.

5 (d) After reviewing a report submitted under par. (c) concerning the results of  
6 a criminal history record search, the court shall do whichever of the following is  
7 applicable:

8 1. If the report indicates that the person filing the petition has been convicted  
9 of a criminal offense that was committed during the period of lifetime tracking, the  
10 court shall deny the person's petition without a hearing.

11 2. If the report indicates that the person filing the petition has not been  
12 convicted of a criminal offense that was committed during the period of lifetime  
13 tracking, the court shall order the person to be examined under par. (e), shall notify  
14 the department that it may submit a report under par. (f) and shall schedule a  
15 hearing on the petition to be conducted as provided under par. (g).

16 (e) A person filing a petition requesting termination of lifetime tracking who  
17 is entitled to a hearing under par. (d) 2. shall be examined by a person who is either  
18 a physician or a psychologist licensed under ch. 455 and who is approved by the court.  
19 The physician or psychologist who conducts an examination under this paragraph  
20 shall prepare a report of his or her examination that includes his or her opinion of  
21 whether the person petitioning for termination of lifetime tracking is a danger to the  
22 public. The physician or psychologist shall file the report of his or her examination  
23 with the court within 60 days after completing the examination, and the court shall  
24 provide copies of the report to the person filing the petition and the district attorney.  
25 The contents of the report shall be confidential until the physician or psychologist

1 testifies at a hearing under par. (g). The person petitioning for termination of  
2 lifetime tracking shall pay the cost of an examination required under this paragraph.

3 (f) After it receives notification from the court under par. (d) 2., the department  
4 may prepare and submit to the court a report concerning a person who has filed a  
5 petition requesting termination of lifetime tracking. If the department prepares and  
6 submits a report under this paragraph, the report shall include information  
7 concerning the person's conduct while on lifetime tracking and an opinion as to  
8 whether lifetime tracking of the person is still necessary to protect the public. When  
9 a report prepared under this paragraph has been received by the court, the court  
10 shall, before the hearing under par. (g), disclose the contents of the report to the  
11 attorney for the person who filed the petition and to the district attorney. When the  
12 person who filed the petition is not represented by an attorney, the contents shall be  
13 disclosed to the person.

14 (g) A hearing on a petition requesting termination of lifetime tracking may not  
15 be conducted until the person filing the petition has been examined and a report of  
16 the examination has been filed as provided under par. (e). At the hearing, the court  
17 shall take evidence it considers relevant to determining whether lifetime tracking  
18 should be continued because the person who filed the petition is a danger to the  
19 public. The person who filed the petition and the district attorney may offer evidence  
20 relevant to the issue of the person's dangerousness and the continued need for  
21 lifetime tracking.

22 (h) The court may grant a petition requesting termination of lifetime tracking  
23 if it determines after a hearing under par. (g) that lifetime tracking is no longer  
24 necessary to protect the public.

1 (i) If a petition requesting termination of lifetime tracking is denied after a  
2 hearing under par. (g), the person may not file a subsequent petition requesting  
3 termination of lifetime tracking until at least 5 years have elapsed since the most  
4 recent petition was denied.

5 **(7) DEPARTMENT'S PETITION TO TERMINATE LIFETIME TRACKING.** (a) The department  
6 may file a petition requesting that a person's lifetime tracking be terminated if the  
7 person is permanently physically incapacitated. The petition shall include affidavits  
8 from 2 physicians that explain the nature of the person's permanent physical  
9 incapacitation.

10 (b) 1. The department shall file a petition under par. (a) with the circuit court  
11 for the county in which the person was convicted or found not guilty or not  
12 responsible by reason of mental disease or defect or, in the case of a person described  
13 in sub. (2) (b), the circuit court for the county in which the person was found to be a  
14 sexually violent person.

15 2. The department shall send a copy of a petition filed under subd. 1. to the  
16 district attorney responsible for prosecuting the serious sex offense that was the  
17 basis for the order of lifetime tracking or, in the case of a person described in sub. (2)  
18 (b), the agency that filed the petition under s. 980.02.

19 (c) Upon its own motion or upon the motion of the party to whom the petition  
20 was sent under par. (b) 2., the court may order that the person to whom the petition  
21 relates be examined by a physician who is approved by the court. The physician who  
22 conducts an examination under this paragraph shall prepare a report of his or her  
23 examination that includes his or her opinion of whether the person is permanently  
24 physically incapacitated. The physician shall file the report of his or her examination  
25 with the court within 60 days after completing the examination, and the court shall

1 provide copies of the report to the department and the party to whom the petition was  
2 sent under par. (b) 2. The contents of the report shall be confidential until the  
3 physician testifies at a hearing under par. (d). The department shall pay the cost of  
4 an examination required under this paragraph.

5 (d) The court shall conduct a hearing on a petition filed under par. (b) 1., but  
6 if the court has ordered a physical examination under par. (c), the hearing may not  
7 occur until after the examination is complete and a report of the examination has  
8 been filed as provided under par. (c). At the hearing, the court shall take evidence  
9 it considers relevant to determining whether the person to whom the petition relates  
10 is permanently physically incapacitated so that he or she is not a danger to the  
11 public. The department and the party to whom the petition was sent under par. (b)  
12 2. may offer relevant evidence regarding that issue.

13 (e) The court may grant a petition filed under par. (b) 1. if it determines after  
14 a hearing under par. (d) that the person to whom the petition relates is permanently  
15 physically incapacitated so that he or she is not a danger to the public.

16 **(8)** (a) In this subsection, “relative” means a child, brother, sister, first cousin,  
17 2nd cousin, nephew, niece, grandchild, or great grandchild, or any other person  
18 related by blood, marriage, or adoption.

19 (b) Notwithstanding sub. (2), the department may terminate a person’s lifetime  
20 tracking after 10 years if the victim of the serious child sex offense for which the  
21 person is being tracked is a relative of the person being tracked.

22 **SECTION 9.** 946.465 of the statutes is created to read:

23 **946.465 Tampering with a global positioning system tracking device.**

24 Whoever, without the authorization of the department of corrections, intentionally

1 tampers with a global positioning system tracking device or comparable technology  
2 that is provided under s. 301.48 is guilty of a Class I felony.

3 **SECTION 12.** 971.17 (4) (e) of the statutes is renumbered 971.17 (4) (e) 1. and  
4 amended to read:

5 971.17 (4) (e) 1. If the court finds that the person is appropriate for conditional  
6 release, the court shall notify the department of health and family services. ~~The~~  
7 Subject to subd. 2. and 3., the department of health and family services and the  
8 county department under s. 51.42 in the county of residence of the person shall  
9 prepare a plan that identifies the treatment and services, if any, that the person will  
10 receive in the community. The plan shall address the person's need, if any, for  
11 supervision, medication, community support services, residential services,  
12 vocational services, and alcohol or other drug abuse treatment. The department of  
13 health and family services may contract with a county department, under s. 51.42  
14 (3) (aw) 1. d., with another public agency or with a private agency to provide the  
15 treatment and services identified in the plan. The plan shall specify who will be  
16 responsible for providing the treatment and services identified in the plan. The plan  
17 shall be presented to the court for its approval within 60 days after the court finding  
18 that the person is appropriate for conditional release, unless the county department,  
19 department of health and family services and person to be released request  
20 additional time to develop the plan.

21 2. If the county department of the person's county of residence declines to  
22 prepare a plan, the department of health and family services may arrange for  
23 ~~another~~ any other county to prepare the plan if that county agrees to prepare the plan  
24 and if the ~~individual~~ person will be living in that county. This subdivision does not

1 apply if the person was found not guilty of a sex offense, as defined in s. 301.45 (1d)  
2 (b), by reason of mental disease or defect.

3 **SECTION 14.** 971.17 (4) (e) 3. of the statutes is created to read:

4 971.17 (4) (e) 3. If the county department for the person's county of residence  
5 declines to prepare a plan for a person who was found not guilty of a sex offense, as  
6 defined in s. 301.45 (1d) (b), by reason of mental disease or defect, the department  
7 may arrange for any of the following counties to prepare a plan if the county agrees  
8 to do so:

9 a. The county in which the person was found not guilty by reason of mental  
10 disease or defect, if the person will be living in that county.

11 b. A county in which a treatment facility for sex offenders is located, if the  
12 person will be living in that facility.

13 **SECTION 15.** 980.08 (5) of the statutes is renumbered 980.08 (5) (b) and  
14 amended to read:

15 980.08 (5) (b) If the court finds that the person is appropriate for supervised  
16 release, the court shall notify the department. ~~The department shall make its best~~  
17 ~~effort to arrange for placement of the person in a residential facility or dwelling that~~  
18 ~~is in the person's county of residence, as determined by the department under s.~~  
19 ~~980.105.~~ The department and the county department under s. 51.42 in the county  
20 ~~of residence of the person~~ selected under par. (c) or (d) shall prepare a plan that  
21 identifies the treatment and services, if any, that the person will receive in the  
22 community. The plan shall address the person's need, if any, for supervision,  
23 counseling, medication, community support services, residential services, vocational  
24 services, and alcohol or other drug abuse treatment. In developing a plan for where  
25 the person may reside while on supervised release, the department shall consider the



1 proximity of any potential placement to the residence of other persons on supervised  
2 release and to the residence of persons who are in the custody of the department of  
3 corrections and regarding whom a sex offender notification bulletin has been issued  
4 to law enforcement agencies under s. 301.46 (2m) (a) or (am). If the person is a serious  
5 child sex offender, the plan shall address the person's need for pharmacological  
6 treatment using an antiandrogen or the chemical equivalent of an antiandrogen. The  
7 department may contract with a county department, under s. 51.42 (3) (aw) 1. d.,  
8 with another public agency or with a private agency to provide the treatment and  
9 services identified in the plan. The plan shall specify who will be responsible for  
10 providing the treatment and services identified in the plan. The plan shall be  
11 presented to the court for its approval within 60 days after the court finding that the  
12 person is appropriate for supervised release, unless the department, county  
13 department and person to be released request additional time to develop the plan.  
14 If

15 (c) The department shall make its best effort to arrange for placement of the  
16 person in a residential facility or dwelling that is in the person's county of residence  
17 and have the county department for that county prepare a plan. If the person is  
18 placed in his or her county of residence and the county of residence is a county that  
19 contains a 1st class city, the department shall arrange for placement of the person  
20 in a residential facility or dwelling that is in the person's city, village, or town of  
21 residence, except the department may arrange for placement of the person outside  
22 the person's city, village, or town of residence if the department approves placement  
23 of the person with the person's spouse, parent, or adult sibling. If the county  
24 department of the person's county of residence declines to prepare a plan, the  
25 department may arrange for another the county in which the person was convicted

1 or a county in which a treatment facility for sex offenders is located to prepare the  
2 plan if that county agrees to prepare the plan and if the person will be living in that  
3 county. do so.

4 (d) If the department is unable to arrange for ~~another~~ a county to prepare a plan  
5 under par. (c), the court shall designate a county department to prepare the plan,  
6 order the county department for one of the counties described in par. (c) to prepare  
7 the plan, and place the person on supervised release in that county, except that the  
8 court may not so designate the county department in any county where there is a  
9 facility in which persons committed to institutional care under this chapter are  
10 placed unless that county is also the person's county of residence.

11 **SECTION 16.** 980.08 (5) (a) of the statutes is created to read:

12 980.08 (5) (a) In this subsection, "county in which the person was convicted"  
13 means the county in which the person was convicted of, adjudicated delinquent for,  
14 or found not guilty by reason of mental disease or defect for the sexually violent  
15 offense that resulted in the sentence, placement, or commitment that was in effect  
16 when the petition was filed under s. 980.02.

17 **SECTION 17.** 980.08 (5) (e) of the statutes is created to read:

18 980.08 (5) (e) The department may arrange for the county department for the  
19 county in which the person was convicted to prepare a plan and the court may order  
20 such a county department to prepare a plan only if the person will be living in that  
21 county. The department may arrange for the county department for a county in  
22 which a treatment facility for sex offenders is located to prepare a plan and the court  
23 may order such a county department to prepare a plan only if the person will be living  
24 in that treatment facility.

25 **SECTION 18.** 980.08 (5m) of the statutes is created to read:

1           **980.08 (5m)** The department may not arrange placement under this section in  
2 a facility that did not exist before January 1, 2006.

3           **SECTION 19.** 980.08 (6m) of the statutes is amended to read:

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

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

8 **SECTION 20.** 980.08 (7) of the statutes is created to read:

9 980.08 (7) As a condition of supervised release granted under this chapter, for  
10 the first year of supervised release, the court shall restrict the person on supervised  
11 release to the person's home except for outings that are under the direct supervision  
12 of a department of corrections escort and that are for employment purposes, for  
13 religious purposes, or for caring for the person's basic living needs.

14 **SECTION 21.** 980.105 (title) of the statutes is amended to read:

15 **980.105 (title) Determination of county and city, village, or town of**  
16 **residence.**

17 **SECTION 22.** 980.105 of the statutes is renumbered 980.105 (1m), and 980.105  
18 (1m) (b), as renumbered, is amended to read:

19 980.105 (1m) (b) The department shall apply the criteria for consideration of  
20 residence and physical presence under ~~sub. (1) par. (a)~~ to the facts that existed on the  
21 date that the person committed the sexually violent offense that resulted in the  
22 sentence, placement, or commitment that was in effect when the petition was filed  
23 under s. 980.02.

24 **SECTION 23.** 980.105 (2m) of the statutes is created to read:

1           980.105 **(2m)** The department shall determine a person’s city, village, or town  
2 of residence for the purposes of s. 980.08 (5) by doing all of the following:

3           (a) The department shall consider residence as the voluntary concurrence of  
4 physical presence with intent to remain in a place of fixed habitation and shall  
5 consider physical presence as prima facie evidence of intent to remain.

6           (b) The department shall apply the criteria for consideration of residence and  
7 physical presence under par. (a) to the facts that existed on the date that the person  
8 committed the sexually violent offense that resulted in the sentence, placement, or  
9 commitment that was in effect when the petition was filed under s. 980.02.

10           **SECTION 23m. Nonstatutory provisions.**

11           (1m) RECONCILIATION PROVISIONS.

12           (a) If 2005 Wisconsin Act .... (Assembly Bill 784) is enacted into law, if sections  
13 948.02 and 948.025 of the statutes are affected by that act in the manner shown in  
14 Senate Substitute Amendment .... (LRBs0636), then the treatment of section 301.48  
15 (1) (em) of the statutes by this act is void.

16           (b) If 2005 Wisconsin Act .... (Assembly Bill 784) is enacted into law, if sections  
17 948.02 and 948.025 of the statutes are not affected by that act in the manner shown  
18 in Senate Substitute Amendment .... (LRBs0636), then the treatment of section  
19 301.48 (1) (e) of the statutes by this act is void.

20           (2m) REPORT REQUIRED. Within 6 months of the effective date of this subsection,  
21 the department of corrections shall submit to the joint committee on finance a report  
22 on the contract entered into by the department of corrections for global positioning  
23 system tracking services under section 301.48 (3) of the statutes, as created by this  
24 act.

25           **SECTION 24. Initial applicability.**

1 (1) PLACEMENT OF PERSONS RELEASED TO PAROLE OR EXTENDED SUPERVISION. The  
2 treatment of section 301.03 (20) of the statutes first applies to persons whom the  
3 department of corrections releases to parole or extended supervision on the effective  
4 date of this subsection.

5 (2) PLACEMENT OF PERSONS FOUND NOT GUILTY BY REASON OF MENTAL DISEASE OR  
6 DEFECT. The renumbering and amendment of section 971.17 (4) (e) of the statutes and  
7 the creation of section 971.17 (4) (e) 3. of the statutes first apply to persons whom the  
8 court places on conditional release on the effective date of this subsection.

9 (3) PLACEMENT OF SEXUALLY VIOLENT PERSONS. The treatment of section 980.08  
10 (7) of the statutes, the renumbering and amendment of section 980.08 (5) of the  
11 statutes, and the creation of section 980.08 (5) (a) and (e) of the statutes first apply  
12 to persons whom the court places on supervised release on the effective date of this  
13 subsection.

14 **SECTION 25. Effective date.**

15 (1) This act takes effect on July 1, 2007.

16 (END)