

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

November 9, 2005 – Offered by Representatives SUDER and KLEEFISCH.

1     **AN ACT** *to renumber and amend* 971.17 (4) (e) and 980.08 (5); *to amend* 51.42  
2           (3) (aw) 1. d., 301.03 (19) and 980.08 (6m); and *to create* 301.03 (20), 301.48,  
3           946.465, 948.02 (6), 948.025 (4), 971.17 (4) (e) 3., 980.08 (5) (a) and 980.08 (5)  
4           (e) of the statutes; **relating to:** global positioning system tracking and a  
5           residency requirement for certain sex offenders and providing a penalty.

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

6           **SECTION 1.** 51.42 (3) (aw) 1. d. of the statutes is amended to read:  
7           51.42 **(3)** (aw) 1. d. Provide treatment and services that are specified in a  
8           conditional release plan approved by a court for a person who is a county resident and  
9           is conditionally released under s. 971.17 (3) or (4) or that are specified in a supervised  
10          release plan approved by a court under s. 980.06 (2) (c), 1997 stats., or s. 980.08 (5)  
11          (b). If the county department provides treatment and services under this

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

4 **SECTION 2.** 301.03 (19) of the statutes is amended to read:

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

9 **SECTION 3.** 301.03 (20) of the statutes is created to read:

10 **301.03 (20)** (a) Except as provided in s. 304.06 (2m) (b), place, in one of the  
11 following locations, each person who has been convicted of a sex offense, as defined  
12 in s. 301.45 (1d) (b), upon his or her release to parole or extended supervision:

- 13 1. The county in which the person resided on the date of the sex offense.
- 14 2. The county in which the person was convicted of the sex offense.
- 15 3. A sex offender treatment facility.

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

19 **SECTION 4.** 301.48 of the statutes is created to read:

20 **301.48 Global positioning system tracking and residency requirement**  
21 **for certain sex offenders. (1) DEFINITIONS.** In this section:

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

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

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

8 (d) “Lifetime tracking” means global positioning system tracking that is  
9 required for a person for the remainder of the person’s life or until terminated under  
10 sub. (6). “Lifetime tracking” does not include global positioning system tracking  
11 under sub. (2) (b) or (c), regardless of how long it is required.

12 (e) “Serious child sex offense” means any of the following:

- 13 1. A violation of s. 948.02 (1) or 948.025 (1) (a).  
14 2. A violation of s. 948.02 (2) or 948.025 (1) (b), if the court makes a finding  
15 under s. 948.02 (6) or 948.025 (4) (b).

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

- 17 1. A sex offense, as defined in s. 301.45 (1d) (b).  
18 2. A crime under federal law or the law of any state that is comparable to a crime  
19 described in subd. 1.

20 **(2) WHO IS COVERED.** (a) The department shall arrange for lifetime tracking of  
21 all of the following:

- 22 1. Any person who is placed on probation, extended supervision, or parole for  
23 committing a serious child sex offense, unless a court exempts the person from  
24 lifetime tracking under sub. (5).

1           2. Any person who is placed on conditional release after having been found not  
2 guilty of a serious child sex offense by reason of mental disease or mental defect,  
3 unless a court exempts the person from lifetime tracking under sub. (5).

4           3. Any person who is placed on supervised release under s. 980.08 (6m).

5           (b) 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          (c) If a person is placed on probation, extended supervision, or parole for  
14 committing a sex offense and par. (a) or (b) does not apply, the department may have  
15 the person tracked using a global positioning system tracking device.

16          **(3) DUTIES OF THE DEPARTMENT.** (a) For each person who is subject to global  
17 positioning system tracking under this subsection, the department shall do all of the  
18 following:

19          1. Create individualized exclusion and inclusion zones for the person, if  
20 necessary to protect public safety. In creating exclusion zones, the department shall  
21 focus on areas where children congregate, with perimeters of 100 to 250 feet, and on  
22 areas where the person has been prohibited from going as a condition of probation,  
23 extended supervision, parole, conditional release, or supervised release.

24          2. Ensure that the person's global positioning system tracking device, or any  
25 comparable technology used with respect to the person, immediately alerts the

1 department and the local law enforcement agency having jurisdiction over the  
2 exclusion or inclusion zone if the person stays in any exclusion zone that is created  
3 for him or her under subd. 1. for any longer period than the time needed to travel  
4 through the zone to get to another destination or if the person leaves any inclusion  
5 zone that is created for him or her under subd. 1.

6 (b) If a person who is on supervised release or conditional release is being  
7 tracked, the department shall notify the department of health and family services,  
8 upon request, of any tracking information for the person under any of the following  
9 circumstances:

10 1. The department of corrections has been alerted under par. (a) 2. that the  
11 person being tracked has improperly stayed in an exclusion zone or improperly left  
12 an inclusion zone.

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

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

17 1. The cost of global positioning system tracking for the person.

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

20 (b) If required by the department, a person who is subject to global positioning  
21 system tracking shall pay for the cost of tracking up to the amount calculated for the  
22 person under par. (a) 2.

23 (c) The department of health and family services shall pay for the cost of  
24 tracking a person to whom sub. (2) (a) 2. or 3. applies while the person is on

1 conditional release or supervised release to the extent that the cost is not covered by  
2 payments made by the person under par. (b).

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

5 1. The person's financial resources.

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

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

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

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

11 **(5) EXCEPTION TO LIFETIME TRACKING REQUIREMENT; UNDERAGE SEXUAL ACTIVITY.**

12 (a) A person described in sub. (2) (a) 1. or 2. is not subject to tracking under this  
13 section if all of the following apply:

14 1. The serious child sex offense described in sub. (2) (a) 1. or 2. did not involve  
15 sexual intercourse, as defined in s. 948.01 (6), by the use or threat of force or violence  
16 and did not involve sexual intercourse with a victim under the age of 12 years.

17 2. At the time of the serious child sex offense, the person had not attained the  
18 age of 19 years, was not more than 4 years older than the child, and was not more  
19 than 4 years younger than the child.

20 3. It is not necessary, in the interest of public protection, to subject the person  
21 to global positioning system tracking.

22 (b) If a person believes that he or she is not subject to global positioning system  
23 tracking under par. (a), the person may move a court to make a determination of  
24 whether the person satisfies those criteria. A motion made under this paragraph

1 shall be filed with the circuit court for the county in which the person was convicted  
2 or found not guilty or not responsible by reason of mental disease or defect.

3 (c) A person who files a motion under par. (b) shall send a copy of the motion  
4 to the district attorney for the county in which the motion is filed. The district  
5 attorney shall make a reasonable attempt to contact the victim of the crime that is  
6 the subject of the person's motion to inform the victim of his or her right to make or  
7 provide a statement under par. (e).

8 (d) A court shall hold a hearing on a motion made by a person under par. (b).  
9 The district attorney who receives a copy of a motion under par. (c) may appear at  
10 the hearing.

11 (e) Before deciding a motion filed under par. (b), the court shall allow the victim  
12 of the serious child sex offense described in sub. (2) (a) 1. or 2. to make a statement  
13 in court at the hearing under par. (d) or to submit a written statement to the court.  
14 A statement under this paragraph must be relevant to whether the person satisfies  
15 the criteria specified in par. (a).

16 (f) 1. Before deciding a motion filed by a person under par. (b), a court may  
17 request the person to be examined by a physician or a psychologist licensed under  
18 ch. 445 and who is approved by the court. If the person refuses to undergo an  
19 examination requested by the court under this subdivision, the court shall deny the  
20 person's motion without prejudice.

21 2. If a person is examined by a physician or a psychologist under subd. 1., the  
22 physician or psychologist shall file a report of his or her examination with the court,  
23 and the court shall provide copies of the report to the person and, if he or she requests  
24 a copy, to the district attorney. The contents of the report shall be confidential until  
25 the physician or psychologist has testified at the hearing held under par. (d). The

1 report shall contain an opinion regarding whether it would be in the interest of public  
2 protection to have the person subject to global positioning system tracking and the  
3 basis for that opinion.

4 3. A person who is examined by a physician or psychologist under subd. 1. is  
5 responsible for paying the cost of the services provided by the physician or  
6 psychologist, except that if the person is indigent the cost of the services provided by  
7 the physician or psychologist shall be paid by the county. If the person claims or  
8 appears to be indigent, the court shall refer the person to the authority for indigency  
9 determinations under s. 977.07 (1), except that the person shall be considered  
10 indigent without another determination under s. 977.07 (1) if the person is  
11 represented by the state public defender or by a private attorney appointed under  
12 s. 977.08.

13 (g) At the hearing held under par. (d), the person who filed the motion under  
14 par. (b) has the burden of proving by clear and convincing evidence that he or she  
15 satisfies the criteria specified in par. (a). In deciding whether the person has satisfied  
16 the criterion specified in par. (a) 3., the court may consider any of the following:

17 1. The ages, at the time of the violation, of the person and of the child with whom  
18 the person had sexual contact or sexual intercourse.

19 2. The relationship between the person and the child with whom the person had  
20 sexual contact or sexual intercourse.

21 3. Whether the violation resulted in bodily harm, as defined in s. 939.22 (4), to  
22 the child with whom the person had sexual contact or sexual intercourse.

23 4. Whether the child with whom the person had sexual contact or sexual  
24 intercourse suffered from a mental illness or mental deficiency that rendered the



1 child temporarily or permanently incapable of understanding or evaluating the  
2 consequences of his or her actions.

3 5. The probability that the person will commit other violations in the future.

4 6. The report of the examination conducted under par. (f).

5 7. Any other factor that the court determines may be relevant to the particular  
6 case.

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

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

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

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

22 (c) Upon receiving a petition requesting termination of lifetime tracking, the  
23 court shall send a copy of the petition to the district attorney responsible for  
24 prosecuting the serious sex offense that was the basis for the order of lifetime  
25 tracking. Upon receiving the copy of the petition, the district attorney shall conduct

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

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

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

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

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

1 The contents of the report shall be confidential until the physician or psychologist  
2 testifies at a hearing under par. (g). The person petitioning for termination of  
3 lifetime tracking shall pay the cost of an examination required under this paragraph.

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

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

23 (h) The court may grant a petition requesting termination of lifetime tracking  
24 if it determines after a hearing under par. (g) that lifetime tracking is no longer  
25 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) (a) 3., the circuit court for the county in which the person was found to be  
14 a 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 (a) 3., 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 **SECTION 5.** 946.465 of the statutes is created to read:

17 **946.465 Tampering with a global positioning system tracking device.**

18 Whoever, without the authorization of the department of corrections, intentionally  
19 tampers with a global positioning system tracking device or comparable technology  
20 that is provided under s. 301.48 is guilty of a Class I felony.

21 **SECTION 6.** 948.02 (6) of the statutes is created to read:

22 **948.02 (6) FINDING REGARDING FORCE OR VIOLENCE.** If a person is convicted or  
23 found not guilty by reason of mental disease or defect under sub. (2), the court shall  
24 determine, immediately after the trial, based on a preponderance of the evidence  
25 presented at trial, and without a jury, if the offense involved the use or a threat of

1 force or violence. If the court makes such a determination, the court shall enter a  
2 finding to that effect in the record.

3 **SECTION 7.** 948.025 (4) of the statutes is created to read:

4 948.025 (4) (a) If a person is convicted or found not guilty by reason of mental  
5 disease or defect under sub. (1) (b), the court shall determine, immediately after the  
6 trial, based on a preponderance of the evidence presented at trial, and without a jury,  
7 if any of the following applies:

- 8 1. The offense involved a violation of s. 948.02 (1).
- 9 2. The offense involved the use or a threat of force or violence.

10 (b) If the court determines that either par. (a) 1. or 2. applies, the court shall  
11 enter a finding to that effect in the record.

12 **SECTION 8.** 971.17 (4) (e) of the statutes is renumbered 971.17 (4) (e) 1. and  
13 amended to read:

14 971.17 (4) (e) 1. If the court finds that the person is appropriate for conditional  
15 release, the court shall notify the department of health and family services. The  
16 Subject to subd. 2. and 3., the department of health and family services and the  
17 county department under s. 51.42 in the county of residence of the person shall  
18 prepare a plan that identifies the treatment and services, if any, that the person will  
19 receive in the community. The plan shall address the person's need, if any, for  
20 supervision, medication, community support services, residential services,  
21 vocational services, and alcohol or other drug abuse treatment. The department of  
22 health and family services may contract with a county department, under s. 51.42  
23 (3) (aw) 1. d., with another public agency or with a private agency to provide the  
24 treatment and services identified in the plan. The plan shall specify who will be  
25 responsible for providing the treatment and services identified in the plan. The plan

1 shall be presented to the court for its approval within 60 days after the court finding  
2 that the person is appropriate for conditional release, unless the county department,  
3 department of health and family services and person to be released request  
4 additional time to develop the plan.

5 2. If the county department of the person's county of residence declines to  
6 prepare a plan, the department of health and family services may arrange for  
7 ~~another~~ any other county to prepare the plan if that county agrees to prepare the plan  
8 and if the individual person will be living in that county. This subdivision does not  
9 apply if the person was found not guilty of a sex offense, as defined in s. 301.45 (1d)  
10 (b), by reason of mental disease or defect.

11 **SECTION 9.** 971.17 (4) (e) 3. of the statutes is created to read:

12 971.17 **(4)** (e) 3. If the county department for the person's county of residence  
13 declines to prepare a plan for a person who was found not guilty of a sex offense, as  
14 defined in s. 301.45 (1d) (b), by reason of mental disease or defect, the department  
15 may arrange for any of the following counties to prepare a plan if the county agrees  
16 to do so:

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

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

21 **SECTION 10.** 980.08 (5) of the statutes is renumbered 980.08 (5) (b) and  
22 amended to read:

23 980.08 **(5)** (b) If the court finds that the person is appropriate for supervised  
24 release, the court shall notify the department. ~~The department shall make its best~~  
25 ~~effort to arrange for placement of the person in a residential facility or dwelling that~~

1 ~~is in the person's county of residence, as determined by the department under s.~~  
2 ~~980.105.~~ The department and the county department under s. 51.42 in the county  
3 ~~of residence of the person selected under par. (c) or (d)~~ shall prepare a plan that  
4 identifies the treatment and services, if any, that the person will receive in the  
5 community. The plan shall address the person's need, if any, for supervision,  
6 counseling, medication, community support services, residential services, vocational  
7 services, and alcohol or other drug abuse treatment. In developing a plan for where  
8 the person may reside while on supervised release, the department shall consider the  
9 proximity of any potential placement to the residence of other persons on supervised  
10 release and to the residence of persons who are in the custody of the department of  
11 corrections and regarding whom a sex offender notification bulletin has been issued  
12 to law enforcement agencies under s. 301.46 (2m) (a) or (am). If the person is a serious  
13 child sex offender, the plan shall address the person's need for pharmacological  
14 treatment using an antiandrogen or the chemical equivalent of an antiandrogen. The  
15 department may contract with a county department, under s. 51.42 (3) (aw) 1. d.,  
16 with another public agency or with a private agency to provide the treatment and  
17 services identified in the plan. The plan shall specify who will be responsible for  
18 providing the treatment and services identified in the plan. The plan shall be  
19 presented to the court for its approval within 60 days after the court finding that the  
20 person is appropriate for supervised release, unless the department, county  
21 department and person to be released request additional time to develop the plan.

22 If

23 (c) The department shall make its best effort to arrange for placement of the  
24 person in a residential facility or dwelling that is in the person's county of residence  
25 and have the county department for that county prepare a plan, but if the county



1 department of the person's county of residence declines to prepare a plan, the  
2 department may arrange for another the county in which the person was convicted  
3 or a county in which a treatment facility for sex offenders is located to prepare the  
4 plan if that county agrees to prepare the plan and if the person will be living in that  
5 county. do so.

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

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

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

19 **SECTION 12.** 980.08 (5) (e) of the statutes is created to read:

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

1 may order such a county department to prepare a plan only if the person will be living  
2 in that treatment facility.

3 **SECTION 13.** 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 14. Initial applicability.**

9 (1) PLACEMENT AND TRACKING OF PERSONS RELEASED TO PAROLE OR EXTENDED  
10 SUPERVISION. The treatment of sections 301.03 (20) and 301.48 of the statutes first  
11 applies to persons whom the department of corrections releases to parole or extended  
12 supervision on the effective date of this subsection.

13 (2) TRACKING OF PERSONS PLACED ON PROBATION. The treatment of section 301.48  
14 of the statutes first applies to persons whom the court places on probation or on the  
15 effective date of this subsection.

16 (3) PLACEMENT AND TRACKING OF PERSONS FOUND NOT GUILTY BY REASON OF MENTAL  
17 DISEASE OR DEFECT. The treatment of section 301.48 of the statutes, the renumbering  
18 and amendment of section 971.17 (4) (e) of the statutes, and the creation of section  
19 971.17 (4) (e) 3. of the statutes first apply to persons whom the court places on  
20 conditional release on the effective date of this subsection.

21 (4) TRACKING OF SEXUALLY VIOLENT PERSONS. The treatment of section 301.48 of  
22 the statutes first applies to persons who are on supervised release on the effective  
23 date of this subsection.

24 (5) PLACEMENT OF SEXUALLY VIOLENT PERSONS. The renumbering and  
25 amendment of section 980.08 (5) of the statutes and the creation of section 980.08 (5)

1 (a) and (e) of the statutes first apply to persons whom the court places on supervised  
2 release on the effective date of this subsection.

3 (6) SPECIAL FINDING IN CHILD SEXUAL ASSAULT CASES. The treatment of sections  
4 948.02 (6) and 948.025 (4) of the statutes first applies to cases in which a person is  
5 convicted or found not guilty by reason of mental disease or defect on the effective  
6 date of this subsection.

7 **SECTION 15. Effective date.**

8 (1) This act takes effect on the first day of the 6th month beginning after  
9 publication.

10 (END)