

2009 DRAFTING REQUEST

Bill

Received: **09/04/2009**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - LRC**

By/Representing: **Laura Rose**

This file may be shown to any legislator: **NO**

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Mental Health - detent/commit**

Extra Copies: **TJD**

Submit via email: **YES**

Requester's email: **laura.rose@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Sexually violent person reexamination and supervision

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	rryan 09/04/2009	bkraft 09/08/2009	jfrantze 09/08/2009	_____	lparisi 09/08/2009		
/1	rryan 01/19/2010	bkraft 01/19/2010	phenry 01/19/2010	_____	sbasford 01/19/2010	cduerst 01/20/2010	

FE Sent For:

<END>

↳ Not Needed

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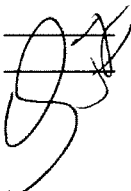
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FE Sent For:

11 bjk 1/19

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1?	rryan	/Pl bjk 9/4		9/8			

FE Sent For:

<END>

Ryan, Robin

From: Rose, Laura
Sent: Friday, July 31, 2009 3:01 PM
To: Ryan, Robin
Cc: Young, Tracey
Subject: FW: Chp 980 Law Revision (3).doc
Attachments: Chp 980 Law Revision (3).doc

Hi, Robin,

Here is a new Law Revision drafting request from the DHS. I left you a voicemail about this too. I hope you are the appropriate person to draft this. If you aren't, could you please let me know who I should send it to?

Thanks very much!

Laura

Laura D. Rose, Deputy Director
Wisconsin Legislative Council
One East Main Street, Suite 401
PO Box 2536
Madison, WI 53701-2536
tel: 608.266.9791
fax: 608.266.3830
laura.rose@legis.wisconsin.gov

From: Currans-Sheehan, Rachel H - DHS [mailto:Rachel.CurransSheehan@dhs.wisconsin.gov]
Sent: Tuesday, July 28, 2009 4:34 PM
To: Rose, Laura
Subject: Chp 980 Law Revision (3).doc

Laura- Please accept this version in lieu of the previous version I sent to you. We made some clarifications. In my haste to get you a document on Friday, there wer some clarifications that needed to be made. I apologize for sending two documents and confusing the issue.

Thanks,
Rachel

08/03/2009

DHS—Division of Mental Health and Substance Abuse
Remedial Legislation for 2009-10 Legislative Session

Corrections to Ch. 980
(civil commitment of sexually violent persons)

Specific Statutory Change Requested

Modify § 980.07 and § 908.08(9) as follows . . .

980.07 Periodic reexamination and treatment progress; report from the department. (1) If a person is committed under s. 980.06 and has not been discharged under s. 980.09 (4), the department shall appoint an examiner to conduct a reexamination of the person's mental condition within 12 months after the date of the initial commitment order under s. 980.06 and again thereafter at least once each 12 months to determine whether the person has made sufficient progress for the court to consider whether the person should be placed on supervised release or discharged. The examiner shall apply the criteria under s. 980.08 (4) (cg) when considering if the person should be placed on supervised release and shall apply the criteria under s. 980.09 (3) when considering if the person should be discharged. At the time of a reexamination under this section, the person who has been committed may retain or have the court appoint an examiner as provided under s. 980.031 (3), ~~except that the court is not required to appoint an examiner if supervised release or discharge is supported by the examination conducted by the examiner appointed by the department.~~ The county shall pay the costs of an examiner appointed by the court as provided under s. 51.20 (18)(a).

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

Problem with Current Statute

The revision to § 980.07 is needed to correct an inconsistency in the statute. The reexamination is a process, which requires time to complete before the report is drafted and submitted to the Court. The beginning of the sentence indicates that the examiner may be retained or appointed at the time of a reexamination. The second part of the sentence suggests that the Court may wait until AFTER the examination has been conducted and AFTER the report has been filed BEFORE the Court appoints an examiner. The language also creates an inconsistency with the process outlined in § 980.075. The inconsistency has led to confusion in the Courts. This inconsistency is a result of a drafting error that occurred when revisions were made by during the 2005 legislative session.

The revision to § 980.08(9) is needed to correctly identify this department as the department that has custody of the persons on supervised release. DOC does not have statutory responsibility for

the operation of ch. 980, and should not be identified as the agency. Chapter 980 is a civil commitment statute, and DHS has the statutory responsibility for its operation.

Need for Change

Inconsistencies in § 980.07 have led to confusion in the Courts as the language provides conflicting direction regarding reexamination for those at Sand Ridge Secure Treatment Center, Wisconsin Resource Center, and those on supervised release. The language creates an inconsistency with the process outlined in § 980.075.

Current language in § 980.08(9) creates confusion in the Courts with regard to custody of persons on supervised release as the Department of Health Services has statutory responsibilities for operation of the supervised release program and the care and custody of those committed under ch. 980, not the Department of Corrections.

Estimate of Fiscal Impact

None

DHS Contact: Rachel Currans-Sheehan
266-3262



State of Wisconsin
2009 - 2010 LEGISLATURE

PI
LRB-3386
RLR:.....
Lbjk

In 9/4/09

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

SA
X-ref
Insert

1 AN ACT ^{gen.}...; relating to: appointment of an examiner for a person committed as
2 a sexually violent person, and specification of the department responsible for
3 providing an escort for a sexually violent person on supervised release
4 (suggested as remedial legislation by the Department of Health Services).

Analysis by the Legislative Reference Bureau

Current law provides for committing a person who is found to be a sexually violent person to the custody of the Department of Health Services (DHS). Upon initial commitment, a sexually violent person is placed in institutional care and may subsequently be placed on supervised release or discharged from commitment. Every 12 months DHS must appoint an examiner to examine the mental condition of a person who remains committed, either in an institution or on supervised release, as a sexually violent person. At the time of the annual examination, the sexually violent person may retain his or her own examiner or have the court appoint an examiner. However, the court is not required to appoint an examiner if the examination conducted by the DHS-appointed examiner supports supervised release or discharge of the sexually violent person. This bill eliminates the exception that the court need not appoint an examiner for a sexually violent person at the time of the required annual examination if the annual examination conducted by the DHS-appointed examiner supports supervised release or discharge.

Current law provides that DHS is responsible for the control, care, and treatment of a sexually violent person committed to DHS and placed on supervised release. However, current law specifies that during the first year a sexually violent

person is placed on supervised release, he or she must remain at his or her home unless under the direct supervision of a Department of Corrections escort. This bill clarifies that a DHS escort, rather than a Department of Corrections escort, supervises sexually violent persons on supervised release.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

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

2 980.07 (1) If a person is committed under s. 980.06 and has not been discharged
3 under s. 980.09 (4), the department shall appoint an examiner to conduct a
4 reexamination of the person's mental condition within 12 months after the date of
5 the initial commitment order under s. 980.06 and again thereafter at least once each
6 12 months to determine whether the person has made sufficient progress for the
7 court to consider whether the person should be placed on supervised release or
8 discharged. The examiner shall apply the criteria under s. 980.08 (4) (cg) when
9 considering if the person should be placed on supervised release and shall apply the
10 criteria under s. 980.09 (3) when considering if the person should be discharged. At
11 the time of a reexamination under this section, the person who has been committed
12 may retain or have the court appoint an examiner as provided under s. 980.031 (3),
13 ~~except that the court is not required to appoint an examiner if supervised release or~~
14 ~~discharge is supported by the examination conducted by the examiner appointed by~~
15 ~~the department.~~ The county shall pay the costs of an examiner appointed by the
16 court as provided under s. 51.20 (18) (a).

History: 1993 a. 479; 1999 a. 9; 2005 a. 434.

17 **SECTION 2.** 980.08 (9) (a) of the statutes is amended to read:

1 980.08 (9) (a) As a condition of supervised release granted under this chapter,
2 for the first year of supervised release, the court shall restrict the person on
3 supervised release to the person's home except for outings that are under the direct
4 supervision of a department of ~~corrections~~ escort and that are for employment
5 purposes, for religious purposes, or for caring for the person's basic living needs.

History: 1993 a. 479; 1995 a. 276; 1997 a. 27, 275, 284; 1999 a. 9 ss. 3223L, 3232p to 3238d; 1999 a. 32; 2001 a. 16; 2003 a. 187; 2005 a. 431, 434; 2007 a. 20 ss. 3929, 3930, 9121 (6) (a); 2007 a. 96, 97.

(END)

6
JNS

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3386/P1ns
RLR:.....

1

2

SECTION 1. 980.08 (9) (b) of the statutes is amended to read:

3

980.08 (9) (b) The department of ~~corrections~~ may contract for the escort

4

services under par. (a).

History: 1993 a. 479; 1995 a. 276; 1997 a. 27, 275, 284; 1999 a. 9 ss. 3223L, 3232p to 3238d; 1999 a. 32; 2001 a. 16; 2003 a. 187; 2005 a. 431, 434; 2007 a. 20 ss. 3929, 3930, 9121 (6) (a); 2007 a. 96, 97.

Ryan, Robin

From: Rose, Laura
Sent: Monday, January 18, 2010 12:00 PM
To: Ryan, Robin
Subject: FW: DHS draft for Law Revision - oops, here is the attachment.

Attachments: SECTION NOTES to 3386.doc



SECTION NOTES to
3386.doc (24 ...)

Laura D. Rose, Deputy Director
Wisconsin Legislative Council
One East Main Street, Suite 401
PO Box 2536
Madison, WI 53701-2536
tel: 608.266.9791
fax: 608.266.3830
laura.rose@legis.wisconsin.gov

From: Rose, Laura
Sent: Monday, January 18, 2010 11:59 AM
To: Ryan, Robin
Subject: DHS draft for Law Revision

Hi Robin,

I am attaching SECTION notes for LRB 3386, which was approved for introduction by the Law Revision Committee. Could you please draft this as a Senate bill and include the SECTION notes? Please feel free to contact me with any questions or concerns.

Thanks,

Laura

Laura D. Rose, Deputy Director
Wisconsin Legislative Council
One East Main Street, Suite 401
PO Box 2536
Madison, WI 53701-2536
tel: 608.266.9791
fax: 608.266.3830
laura.rose@legis.wisconsin.gov

SECTION NOTES to 3386/P1

Place after SECTION 1: This SECTION eliminates an exception in current law that says that the court is not required to appoint an examiner to examine a committed sexually violent person, if the examination conducted by the DHS-appointment examiner supports supervised release or discharge of the person.

Place after SECTION 3: The amendments to SECTIONS 2 and 3 clarify that the department of health services, not the department of corrections, is responsible for supervising a sexually violent person on supervised release.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3386/20

RLR:bjk:jf

1
e
L stays

In 1/19/10

Soon

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

SA

Inserts

regen.

1 AN ACT to amend 980.07 (1), 980.08 (9) (a) and 980.08 (9) (b) of the statutes;
2 relating to: appointment of an examiner for a person committed as a sexually
3 violent person, and specification of the department responsible for providing an
4 escort for a sexually violent person on supervised release (suggested as
5 remedial legislation by the Department of Health Services).

Analysis by the Legislative Reference Bureau

Current law provides for committing a person who is found to be a sexually violent person to the custody of the Department of Health Services (DHS). Upon initial commitment, a sexually violent person is placed in institutional care and may subsequently be placed on supervised release or discharged from commitment. Every 12 months DHS must appoint an examiner to examine the mental condition of a person who remains committed, either in an institution or on supervised release as a sexually violent person. At the time of the annual examination, the sexually violent person may retain his or her own examiner or have the court appoint an examiner. However, the court is not required to appoint an examiner if the examination conducted by the DHS-appointed examiner supports supervised release or discharge of the sexually violent person. This bill eliminates the exception that the court need not appoint an examiner for a sexually violent person at the time of the required annual examination if the annual examination conducted by the DHS-appointed examiner supports supervised release or discharge.

Current law provides that DHS is responsible for the control, care, and treatment of a sexually violent person committed to DHS and placed on supervised

release. However, current law specifies that during the first year a sexually violent person is placed on supervised release, he or she must remain at his or her home unless under the direct supervision of a Department of Corrections escort. This bill clarifies that a DHS escort, rather than a Department of Corrections escort, supervises sexually violent persons on supervised release.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

JNS
2-1
1 →

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

2 980.07 (1) If a person is committed under s. 980.06 and has not been discharged
3 under s. 980.09 (4), the department shall appoint an examiner to conduct a
4 reexamination of the person's mental condition within 12 months after the date of
5 the initial commitment order under s. 980.06 and again thereafter at least once each
6 12 months to determine whether the person has made sufficient progress for the
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8 discharged. The examiner shall apply the criteria under s. 980.08 (4) (cg) when
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10 criteria under s. 980.09 (3) when considering if the person should be discharged. At
11 the time of a reexamination under this section, the person who has been committed
12 may retain or have the court appoint an examiner as provided under s. 980.031 (3),
13 ~~except that the court is not required to appoint an examiner if supervised release or~~
14 ~~discharge is supported by the examination conducted by the examiner appointed by~~
15 ~~the department.~~ The county shall pay the costs of an examiner appointed by the
16 court as provided under s. 51.20 (18) (a).

SECTION 2. 980.08 (9) (a) of the statutes is amended to read:

↑
a.r. A

JNS
2-16
17 →

1 980.08 (9) (a) As a condition of supervised release granted under this chapter,
2 for the first year of supervised release, the court shall restrict the person on
3 supervised release to the person's home except for outings that are under the direct
4 supervision of a department of ~~corrections~~ escort and that are for employment
5 purposes, for religious purposes, or for caring for the person's basic living needs.

a.r.
B

6 **SECTION 3.** 980.08 (9) (b) of the statutes is amended to read:

7 980.08 (9) (b) The department of ~~corrections~~ may contract for the escort
8 services under par. (a).

INS
3-8 →

(END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3386/1ins
RLR:.....

1

Ins 2-1:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Health Services and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

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3

4

Ins 2-16:

NOTE: This SECTION eliminates an exception in current law that says that the court is not required to appoint an examiner to examine a committed sexually violent person, if the examination conducted by the DHS-appointment examiner supports supervised release or discharge of the person.

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Ins 3-8:

NOTE: The amendments to SECTIONS 2 and 3 clarify that the department of health services, not the department of corrections, is responsible for supervising a sexually violent person on supervised release.

x
x

CS → *please lower case "ECTION."*

Department of Health Services

ed

CS → *please lower case "ECTION."*

a.r. A in draft p.2, line 17

a.r. B in draft p.3, line 6

Duerst, Christina

From: Rose, Laura
Sent: Wednesday, January 20, 2010 8:27 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-3386/1 Topic: Sexually violent person reexamination and supervision

Please Jacket LRB 09-3386/1 for the SENATE.