

2015 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB497)

Received: 1/6/2016 Received By: phurley
For: Mark Born (608) 266-2540 Same as LRB:
May Contact: By/Representing:
Subject: Criminal Law - sex offenses Drafter: phurley
Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Born@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Residency requirements

Instructions:

a1368 + nonenforcement + new analysis

Drafting History:

Table with 7 columns: Vers., Drafted, Reviewed, Proofed, Submitted, Jacketed, Required. It tracks the drafting process for two versions, /P1 and /1, listing drafters and dates.

FE Sent For:

<END>



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3088/T
PJH:jld/lwj/
emw

ASA
to

2015 ASSEMBLY BILL 497 ^{3 Stet}

50221/PI

today please

November 10, 2015 - Introduced by Representatives BORN, TITTL, JAGLER, KREMER, T. LARSON, MURPHY, J. OTT, SKOWRONSKI, SWEARINGEN, VORPAGEL, QUINN and BERNIER, cosponsored by Senators WANGGAARD, S. FITZGERALD, GUDEX and MOULTON. Referred to Committee on Corrections.

lx Regen

- 1 AN ACT to renumber and amend 980.08 (4) (f); and to create 980.01 (1e), 980.01
- 2 (1g), 980.01 (2m), 980.01 (3m), 980.01 (11), 980.08 (4) (em), 980.08 (4) (f) 2.,
- 3 980.08 (4) (f) 3. and 980.08 (4) (f) 4. of the statutes; relating to: residency
- 4 requirements for sexually violent persons on supervised release. ✓

Analysis by the Legislative Reference Bureau

This bill makes changes to the procedure for releasing certain violent sex offenders into the community. Under current law, a person who commits certain sex offenses may be involuntarily committed as a sexually violent person to the Department of Health Services (DHS) for control, care, and treatment. If a person is committed and placed in institutional care, the person may periodically petition the court for supervised release. If a court determines that supervised release is appropriate, the court authorizes the person, the person's attorney, the district attorney, any law enforcement agency in the county of intended placement, and any local governmental unit in the county of intended placement to submit to DHS prospective residential options for community placement. Current law requires DHS and the county in which the person is to be placed to prepare a plan that identifies potential sites for the person to reside, taking into consideration the options submitted.

This bill requires DHS to consult with a local law enforcement agency that has jurisdiction over any prospective residential option identified by DHS or the county and to request the law enforcement agency to submit a written report that provides information on the prospective residential option. The bill requires DHS to take into

Substitute amendment ✓

Insert analysis 2 ✓

Substitute amendment ✓

Insert analysis 2 ✓

Substitute amendment ✓

ASSEMBLY BILL 497

consideration the written report of the law enforcement agency to determine where the victims of the person live, and to ensure that any potential residential placement of the person meets certain guidelines.

Under the bill, no sexually violent person generally may be placed in a residence within 1,500 feet of any school, child care facility, youth center, place of worship, or public park. If the person committed a sexually violent offense against a child, he or she may not be placed in a residence in a property adjacent to a property where a child resides. If the person committed a sexually violent offense against an elderly or disabled person, he or she may not be placed in a residence within 1,500 feet of a nursing home or other assisted living facility.

✓ substitute amendment

✓ insert analysis 3

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

1 SECTION 1. 980.01 (1e) of the statutes is created to read:

2 980.01 (1e) "Assisted living facility" has the meaning given in s. 101.123 (1)
3 (ab).

4 SECTION 2. 980.01 (1g) of the statutes is created to read:

5 980.01 (1g) "Child care facility" means a child care facility that is operated by
6 a person licensed under s. 48.65 or certified under s. 48.651 or that is established or
7 contracted for under s. 120.13 (14).

8 SECTION 3. 980.01 (2m) of the statutes is created to read:

9 980.01 (2m) "Nursing home" has the meaning given in s. 50.01 (3).

10 SECTION 4. 980.01 (3m) of the statutes is created to read:

11 980.01 (3m) "School premises" has the meaning given in s. 948.61 (1) (c).

12 SECTION 5. 980.01 (11) of the statutes is created to read:

13 980.01 (11) "Youth center" means any center that provides, on a regular basis,
14 recreational, vocational, academic, or social services activities for persons younger
15 than 18 years old or for those persons and their families.

16 SECTION 6. 980.08 (4) (em) of the statutes is created to read:

✓ insert 2, 9

✓ insert 2, 15

ASSEMBLY BILL 497

1 980.08 (4) (em) The department shall consult with a local law enforcement
2 agency having jurisdiction over any prospective residential option identified under
3 par. (e) and shall request the law enforcement agency to submit a written report that
4 provides information relating to the prospective residential option.

5 **SECTION 7.** 980.08 (4) (f) of the statutes is renumbered 980.08 (4) (f) (intro) and
6 amended to read:

7 980.08 (4) (f) (intro.) The court shall direct the department to use any
8 submissions under par. (d), the report submitted under par. (e), ~~or any report~~
9 submitted under par. (em), and other residential options identified by the
10 department to prepare a supervised release plan for the person. The department
11 shall search its victim database, and consult with the office of victim services in the
12 department of corrections, the department of justice, and the county coordinator of
13 victims and witnesses services in the county of intended placement, the county
14 where the person was convicted, and the county of commitment to determine the
15 identity and location of known and registered victims of the person's acts. The
16 department shall prepare a supervised release plan that identifies the proposed
17 residence. The supervised release plan shall be submitted to the court within 90 days
18 of the finding under par. (cg). The court may grant extensions of this time period for
19 good cause. The plan shall address do all of the following:

20 1. Address the person's need, if any, for supervision, counseling, medication,
21 community support services, residential services, vocational services, and alcohol or
22 other drug abuse treatment. ~~The supervised release plan shall be submitted to the~~
23 ~~court within 90 days of the finding under par. (eg). The court may grant extensions~~
24 ~~of this time period for good cause.~~

25 **SECTION 8.** 980.08 (4) (f) 2. of the statutes is created to read:

ASSEMBLY BILL 497

1 980.08 (4) (f) 2. Ensure that the person's placement is into a residence that is
 2 not less than 1,500 feet from any school premises, child care facility, public park,
 3 place of worship, or youth center. ^

Insert
4.3 ✓

4 **SECTION 9.** 980.08 (4) (f) 3. of the statutes is created to read:

5 980.08 (4) (f) 3. If the person committed a sexually violent offense against an
 6 adult at risk, as defined in s. 55.01 (1e), or an elder adult at risk, as defined in s. 46.90
 7 (1) (br), ensure that the person's placement is into a residence that is not less than
 8 1,500 feet from a nursing home or an assisted living facility. ^

Insert
4.8 ✓

9 **SECTION 10.** 980.08 (4) (f) 4. of the statutes is created to read:

10 980.08 (4) (f) 4. If the person is a serious child sex offender, ensure that the
 11 person's placement is into a residence that is not on a property adjacent to a property
 12 where a child's primary residence exists. For the purpose of this subdivision,
 13 adjacent properties are properties that share a property line without regard to a
 14 public or private road if the living quarters on each property are not more than 1,500
 15 feet apart. ^

Insert
4.15 ✓

16 **SECTION 11. Initial applicability.**

17 (1) This act first applies to petitions for release that are made on the effective
 18 date of this subsection.

19 (END)

Insert 4.16 ✓



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 497

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 9: after that line insert:

3 ~~SECTION 3g.~~ 980.01 (3d) of the statutes is created to read:

4 980.01 (3d) "Place of worship" means a church building where religious
5 services are held.

6 ~~SECTION 3r.~~ 980.01 (3g) of the statutes is created to read:

7 980.01 (3g) "Public park" means a park or playground that is owned or
8 maintained by a city, village, town, or county".

9 **2.** Page 2, line 15: after that line insert:

10 ~~SECTION 5m.~~ 980.08 (4) (cm) of the statutes is amended to read:

11 980.08 (4) (cm) If the court finds that all of the criteria in par. (cg) are met, the
12 court shall select a county to prepare a report under par. (e). Unless the court has

Insert
2.9

the
state or by

INS
2.15
11
12

Insert
2.15.001

1 good cause to select another county, the court shall select the person's county of
 2 residence as determined by the department under s. 980.105. An actual or alleged
 3 lack of available housing for the person within a county because of an ordinance or
 4 resolution in effect or proposed by the county or by a city, town, or village within the
 5 county may not constitute good cause to select another county under this paragraph.
 6 The court may not select a county where there is a facility in which persons
 7 committed to institutional care under this chapter are placed unless that county is
 8 also that person's county of residence.”.

Insert
4.3

9 **3.** Page 4, line 3: after “center.” insert “A person is not in violation of a condition
 10 or rule of supervised release under sub. (7) (a) if any school premises, child care
 11 facility, public park, place of worship, or youth center is established within 1,500 feet
 12 from the person's residence after he or she is placed in the residence under this
 13 section.”.

Insert
4.B

14 **4.** Page 4, line 8: after “facility.” insert “A person is not in violation of a
 15 condition or rule of supervised release under sub. (7) (a) if a nursing home or an
 16 assisted living facility is established within 1,500 feet from the person's residence
 17 after he or she is placed in the residence under this section.”.

Insert
4.15

18 **5.** Page 4, line 15: after “apart.” insert “A person is not in violation of a
 19 condition or rule of supervised release under sub. (7) (a) if a child establishes primary
 20 residence in a property adjacent to the person's residence after the person is placed
 21 in the residence under this section.”.

22

(END)

INSERT ANALYSIS 1: Under current law, unless there is good cause to select another county, the person's home county prepares the report.

INSERT ANALYSIS 2: Under the substitute amendment, a local ordinance or resolution that restricts or prohibits a sex offender from residing within the person's home county may not constitute good cause for choosing a different prospective residential county.

INSERT ANALYSIS 3: Under the substitute amendment, any local ordinance or resolution that restricts or prohibits a sex offender from residing within a particular city, village, town, or county remains generally enforceable except that it may not be enforced against a person who is placed in a residence under supervised release, or against a person who provides housing to him or her, so long as the person is under supervision and is complying with court orders related to his or her release.

1

2

INSERT 4.16:

3

SECTION 1. 980.135 of the statutes is created to read:

4

980.135 Local restrictions; limited exemption. (1) No county, city, town,

5

or village may enforce an ordinance or resolution that restricts or prohibits a sex

6

offender from residing at a certain location or that restricts or prohibits a person from

7

providing housing to a sex offender against an individual who is released under s.

8

980.08 or against a person who provides housing to the individual so long as the

9

individual is subject to supervised release under this chapter, the individual is

10

residing where he or she is ordered to reside under s. 980.08, and he or she is in

11

compliance with all court orders issued under this chapter.

the individual



Mr

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~
**ASSEMBLY SUBSTITUTE AMENDMENT ,
TO ASSEMBLY BILL 497**

*pls
check
no changes
from 1P to 11*

LX

Regen

1 **AN ACT to renumber and amend** 980.08 (4) (f); **to amend** 980.08 (4) (cm); and
2 **to create** 980.01 (1e), 980.01 (1g), 980.01 (2m), 980.01 (3d), 980.01 (3g), 980.01
3 (3m), 980.01 (11), 980.08 (4) (em), 980.08 (4) (f) 2., 980.08 (4) (f) 3., 980.08 (4) (f)
4 4. and 980.135 of the statutes; **relating to:** residency requirements for sexually
5 violent persons on supervised release.

Analysis by the Legislative Reference Bureau

This substitute amendment makes changes to the procedure for releasing certain violent sex offenders into the community. Under current law, a person who commits certain sex offenses may be involuntarily committed as a sexually violent person to the Department of Health Services for control, care, and treatment. If a person is committed and placed in institutional care, the person may periodically petition the court for supervised release. If a court determines that supervised release is appropriate, the court authorizes the person, the person's attorney, the district attorney, any law enforcement agency in the county of intended placement, and any local governmental unit in the county of intended placement to submit to DHS prospective residential options for community placement. Current law

requires DHS and the county in which the person is to be placed to prepare a plan that identifies potential sites for the person to reside, taking into consideration the options submitted. Under current law, unless there is good cause to select another county, the person's home county prepares the report.

This substitute amendment requires DHS to consult with a local law enforcement agency that has jurisdiction over any prospective residential option identified by DHS or the county and to request the law enforcement agency to submit a written report that provides information on the prospective residential option. Under the substitute amendment, a local ordinance or resolution that restricts or prohibits a sex offender from residing within the person's home county may not constitute good cause for choosing a different prospective residential county. The substitute amendment requires DHS to take into consideration the written report of the law enforcement agency to determine where the victims of the person live, and to ensure that any potential residential placement of the person meets certain guidelines.

Under the substitute amendment, no sexually violent person generally may be placed in a residence within 1,500 feet of any school, child care facility, youth center, place of worship, or public park. If the person committed a sexually violent offense against a child, he or she may not be placed in a residence in a property adjacent to a property where a child resides. If the person committed a sexually violent offense against an elderly or disabled person, he or she may not be placed in a residence within 1,500 feet of a nursing home or other assisted living facility.

Under the substitute amendment, any local ordinance or resolution that restricts or prohibits a sex offender from residing within a particular city, village, town, or county remains generally enforceable except that it may not be enforced against a person who is placed in a residence under supervised release, or against a person who provides housing to him or her, so long as the person is under supervision and is complying with court orders related to his or her release.

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

- 1 **SECTION 1.** 980.01 (1e) of the statutes is created to read:
- 2 980.01 (1e) "Assisted living facility" has the meaning given in s. 101.123 (1)
- 3 (ab).
- 4 **SECTION 2.** 980.01 (1g) of the statutes is created to read:
- 5 980.01 (1g) "Child care facility" means a child care facility that is operated by
- 6 a person licensed under s. 48.65 or certified under s. 48.651 or that is established or
- 7 contracted for under s. 120.13 (14).

1 **SECTION 3.** 980.01 (2m) of the statutes is created to read:

2 980.01 **(2m)** “Nursing home” has the meaning given in s. 50.01 (3).

3 **SECTION 4.** 980.01 (3d) of the statutes is created to read:

4 980.01 **(3d)** “Place of worship” means a church building where religious
5 services are held.

6 **SECTION 5.** 980.01 (3g) of the statutes is created to read:

7 980.01 **(3g)** “Public park” means a park or playground that is owned or
8 maintained by the state or by a city, village, town, or county.

9 **SECTION 6.** 980.01 (3m) of the statutes is created to read:

10 980.01 **(3m)** “School premises” has the meaning given in s. 948.61 (1) (c).

11 **SECTION 7.** 980.01 (11) of the statutes is created to read:

12 980.01 **(11)** “Youth center” means any center that provides, on a regular basis,
13 recreational, vocational, academic, or social services activities for persons younger
14 than 18 years old or for those persons and their families.

15 **SECTION 8.** 980.08 (4) (cm) of the statutes is amended to read:

16 980.08 **(4)** (cm) If the court finds that all of the criteria in par. (cg) are met, the
17 court shall select a county to prepare a report under par. (e). Unless the court has
18 good cause to select another county, the court shall select the person’s county of
19 residence as determined by the department under s. 980.105. An actual or alleged
20 lack of available housing for the person within a county because of an ordinance or
21 resolution in effect or proposed by the county or by a city, town, or village within the
22 county may not constitute good cause to select another county under this paragraph.

23 The court may not select a county where there is a facility in which persons
24 committed to institutional care under this chapter are placed unless that county is
25 also that person’s county of residence.

1 **SECTION 9.** 980.08 (4) (em) of the statutes is created to read:

2 980.08 (4) (em) The department shall consult with a local law enforcement
3 agency having jurisdiction over any prospective residential option identified under
4 par. (e) and shall request the law enforcement agency to submit a written report that
5 provides information relating to the prospective residential option.

6 **SECTION 10.** 980.08 (4) (f) of the statutes is renumbered 980.08 (4) (f) (intro) and
7 amended to read:

8 980.08 (4) (f) (intro.) The court shall direct the department to use any
9 submissions under par. (d), the report submitted under par. (e), or any report
10 submitted under par. (em), and other residential options identified by the
11 department to prepare a supervised release plan for the person. The department
12 shall search its victim database, and consult with the office of victim services in the
13 department of corrections, the department of justice, and the county coordinator of
14 victims and witnesses services in the county of intended placement, the county
15 where the person was convicted, and the county of commitment to determine the
16 identity and location of known and registered victims of the person's acts. The
17 department shall prepare a supervised release plan that identifies the proposed
18 residence. The supervised release plan shall be submitted to the court within 90 days
19 of the finding under par. (cg). The court may grant extensions of this time period for
20 good cause. The plan shall address do all of the following:

21 1. Address the person's need, if any, for supervision, counseling, medication,
22 community support services, residential services, vocational services, and alcohol or
23 other drug abuse treatment. The supervised release plan shall be submitted to the
24 court within 90 days of the finding under par. (cg). The court may grant extensions
25 of this time period for good cause.

1 **SECTION 11.** 980.08 (4) (f) 2. of the statutes is created to read:

2 980.08 (4) (f) 2. Ensure that the person's placement is into a residence that is
3 not less than 1,500 feet from any school premises, child care facility, public park,
4 place of worship, or youth center. A person is not in violation of a condition or rule
5 of supervised release under sub. (7) (a) if any school premises, child care facility,
6 public park, place of worship, or youth center is established within 1,500 feet from
7 the person's residence after he or she is placed in the residence under this section.

8 **SECTION 12.** 980.08 (4) (f) 3. of the statutes is created to read:

9 980.08 (4) (f) 3. If the person committed a sexually violent offense against an
10 adult at risk, as defined in s. 55.01 (1e), or an elder adult at risk, as defined in s. 46.90
11 (1) (br), ensure that the person's placement is into a residence that is not less than
12 1,500 feet from a nursing home or an assisted living facility. A person is not in
13 violation of a condition or rule of supervised release under sub. (7) (a) if a nursing
14 home or an assisted living facility is established within 1,500 feet from the person's
15 residence after he or she is placed in the residence under this section.

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

17 980.08 (4) (f) 4. If the person is a serious child sex offender, ensure that the
18 person's placement is into a residence that is not on a property adjacent to a property
19 where a child's primary residence exists. For the purpose of this subdivision,
20 adjacent properties are properties that share a property line without regard to a
21 public or private road if the living quarters on each property are not more than 1,500
22 feet apart. A person is not in violation of a condition or rule of supervised release
23 under sub. (7) (a) if a child establishes primary residence in a property adjacent to
24 the person's residence after the person is placed in the residence under this section.

25 **SECTION 14.** 980.135 of the statutes is created to read:

