



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 156
[2015 Assembly Bill 497]

**Residency Requirements for
Sexually Violent Persons**

2015 Wisconsin Act 156 relates to residency requirements for sexually violent persons on supervised release.

BACKGROUND

State law provides a civil commitment process under ch. 980, Stats., for sex offenders who meet certain criteria and have completed their criminal sentences. These offenders are referred to as “sexually violent persons” (SVPs) and are committed to a civil treatment facility for an indefinite period of time. SVPs may petition for supervised release from commitment, which a court may grant if the SVP meets specified statutory criteria.

If a court finds that an SVP meets the criteria for supervised release, the court chooses a county to prepare a report identifying prospective residential options for the SVP. The county may prepare the report in cooperation with the Department of Health Services (DHS), which is the agency responsible for supervising an SVP on supervised release. The court must select the SVP’s county of residence to identify prospective housing, unless the court has good cause to select another county. DHS must use the plan prepared by the county when the agency creates a supervised release plan and identifies a proposed residence for the SVP.

2015 WISCONSIN ACT 156

Act 156 imposes restrictions and requirements on where DHS may place an SVP who is on supervised release. The Act imposes distance restrictions, provides for limited preemption of local sex offender residency ordinances, requires DHS to search for known victims and consult local law enforcement, and constrains placement of an SVP outside his or her home county.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

Distance Restrictions

Act 156 prohibits the DHS supervised release plan from placing an SVP in a residence within 1,500 feet of certain locations. The plan must ensure that the residence is not less than 1,500 feet from any school premises, child care facility, public park, place of worship, or youth center.

If the SVP committed a sexually violent offense against an adult-at-risk or elder-at-risk, the plan must ensure that the residence is not less than 1,500 feet from a nursing home or assisted living facility.

If the SVP is a serious child sex offender, the plan must ensure that the residence is not on a property adjacent to a child's primary residence, meaning that the properties share a property line (without regard to a road) if the living quarters are not more than 1,500 feet apart.

An SVP who was placed into a residence before a school, public park, or other prohibited location was established within 1,500 feet is not in violation of his or her conditions or rules of supervised release.

Limited Preemption of Local Sex Offender Ordinances

Act 156 prohibits local sex offender residency restriction ordinances from being enforced against an SVP on supervised release or against a person who provides housing to the SVP, provided that the SVP is residing in the location ordered by the court and is in compliance with the court's orders. The Act does not affect the ability of a local government to enforce its sex offender residency restriction ordinances against any other sex offender.

Searches Regarding Known Victims and Consultation With Law Enforcement

Act 156 requires DHS to search for information regarding known victims of an SVP when creating a supervised release plan and to consult with local law enforcement about any proposed residence. Under the Act, DHS must search its victim database and consult with the following entities to determine the identity and location of known and registered victims of the SVP: (a) the Office of Victim Services in the Department of Corrections; (b) the Department of Justice; (c) the County Coordinator of Victims and Witnesses Services in the county of intended placement; (d) the county where the SVP was convicted; and (e) the county of commitment.

The Act further requires DHS to consult with a local law enforcement agency with jurisdiction over any prospective residence identified for the SVP and request that the agency submit a written report relating to that proposed residence.

Placement Outside the SVP's Home County

Act 156 provides that local sex offender residency restriction cannot constitute "good cause" for placing an SVP outside of his or her county of residence. Specifically, a court cannot rely upon an actual or alleged lack of available housing because of an enacted or proposed ordinance or resolution within the county as good cause for selecting another county for the SVP.

Initial Applicability

Act 156 first applies to SVPs who applied for supervised release before the effective date of the Act, but whose supervised release was not yet authorized.

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