

2019 DRAFTING REQUEST

Bill

For: **Michael Schraa (608) 267-7990** Drafter: **chanaman**
 By: **Linda** Secondary Drafters:
 Date: **9/6/2018** May Contact:
 Same as LRB: **-1299**

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

Pre Topic:

No specific pre topic given

Topic:

Clarify that Act 184 applies to all cases in which sexually violent person placed after effective date

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	chanaman 9/6/2018	csicilia 9/6/2018	dwalker 9/6/2018		
/1	chanaman 2/14/2019	csicilia 2/14/2019	dwalker 1/11/2019	dwalker 1/11/2019	
/2			lparisi 2/14/2019	lparisi 2/14/2019	

FE Sent For:

Not Needed

<END>

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/P1	chanaman 9/6/2018	csicilia 9/6/2018	dwalker 9/6/2018		
/1			dwalker 1/11/2019	dwalker 1/11/2019	

Per CMT →
 sent new jacket for 1/2 per CMT

FE Sent For: <END>



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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 AN ACT ...; relating to: applicability of 2017 Wisconsin Act 184.

had

Analysis by the Legislative Reference Bureau

2017 Wisconsin Act 184 modified the procedure for determining placement of sexually violent persons on supervised release. One change required that the court had to order the person's county of residence to prepare a report identifying appropriate residential options for the person. Prior law allowed the court, with good cause, to choose another county to prepare the report. The effect of this change was that the person could not longer be placed in a county that was not his or her county of residence. The changes made in 2017 Wisconsin Act 184 applied to any petition pending as of March 30, 2018.

This bill clarifies that a petition pending includes any petition if the court had not approved the county report and subsequent plan for supervised release.

This bill also requires the Department of Health Services to identify any person on supervised release if the person's residence or proposed residence is not in his or her county of residence and if, as of March 30, 2018, the person's plan had not been approved. If DHS identifies any person, DHS must notify the court of the nonconforming residence. If a court is notified by DHS of a nonconforming residence, the court must revoke the person's supervised release and order the person's county of residence to prepare a new report that conforms with 2017 Wisconsin Act 184.

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

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State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0210/P1
CMH:cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- 1 **AN ACT** *to affect* 2017 Wisconsin Act 184, section 9320 (1); **relating to:**
2 applicability of 2017 Wisconsin Act 184.

Analysis by the Legislative Reference Bureau

2017 Wisconsin Act 184 modified the procedure for determining placement of sexually violent persons on supervised release. One change required the court to order the person's county of residence to prepare a report identifying appropriate residential options for the person. Prior law had allowed the court, with good cause, to choose another county to prepare the report. The effect of this change was that the person could not be placed in a county that was not his or her county of residence. The changes made in 2017 Wisconsin Act 184 applied to any petition for supervised release that was pending as of March 30, 2018.

This bill clarifies that a petition for supervised release was pending if the court had not yet approved a plan for supervised release.

This bill also requires the Department of Health Services to identify any person on supervised release whose residence or proposed residence is not in his or her county of residence and whose plan for supervised release had not been approved as of March 30, 2018. If DHS identifies any such person, DHS must notify the court, and the court must revoke the person's supervised release and order the person's county of residence to prepare a new report.

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



State of Wisconsin
2019 - 2020 LEGISLATURE

-0210/2
LRB-1299/2
CMH:amn

2019 BILL

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1 AN ACT ~~to amend~~ 980.08 (4) (dm) 1. (intro.), 980.08 (4) (dm) 1. a., b. and c. and
2 980.08 (4) (dm) 4. of the statutes; and **to affect** 2017 Wisconsin Act 184, section
3 9320 (1); **relating to:** applicability of 2017 Wisconsin Act 184; time frame for
4 reports for sexually violent persons petitioning for supervised release; and
5 placement of sexually violent persons on supervised release.

Analysis by the Legislative Reference Bureau

2017 Wisconsin Act 184 modified the procedure for determining the placement of a sexually violent person on supervised release. One change eliminated the ability of the court to choose a county other than the person's county of residence to prepare a report identifying appropriate residential options for the person. Prior law had allowed the court, with good cause, to choose another county. The effect of this change was that the person could not be placed in a county that was not his or her county of residence. The changes made in 2017 Wisconsin Act 184 applied to any petition for supervised release pending as of March 30, 2018. This bill clarifies that a petition for supervised release was pending if the person had not been physically placed in a residence on supervised release.

This bill also requires the Department of Health Services to identify any person on supervised release whose residence is not in his or her county of residence and who had been physically placed in a residence on supervised release on or after March 30, 2018. If DHS identifies any such person, DHS must notify the court, and the court must revoke the person's supervised release and order the person's county of residence to prepare a new report.

BILL

Under 2017 Wisconsin Act 184, a county was required to prepare its report for the court within 180 days of the court order if the order was made on or after March 30, 2018, and before April 1, 2019, and within 120 days if the order was made on or after April 1, 2019. If the county failed to prepare its report in that time frame, the county would violate the person's rights as a patient and would be subject to enforcement and damages for each violation. This bill eliminates the shortening of the time frame beginning on April 1, 2019, so that a county is required to prepare its report for the court within 180 days of the court order. This bill also allows a county, if it fails to prepare its report within 180 days, to request that the court make a finding that the county is making a good faith effort to prepare the report, and, if the court makes such a finding, the county is not subject to enforcement and damages.

Under current law, when a sexually violent person is placed on supervised release, he or she may not be placed within 1,500 feet of a school, child care facility, place of worship, park, youth center, or other specified places. Under the bill, the county must consider the proximity of the placement to the places specified under current law, but the bill removes the exact distance.

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

1 **SECTION 1.** 980.08 (4) (dm) 1. (intro.) of the statutes is amended to read:

2 980.08 (4) (dm) 1. (intro.) If the court finds that all of the criteria in par. (cg)
3 are met, the court shall order the county of the person's residence, as determined by
4 the department of health services under s. 980.105, to prepare a report. The county
5 shall create a temporary committee to prepare the report for the county. The
6 committee shall consist of the county department under s. 51.42, a representative of
7 the department of health services, a local probation or parole officer, the county
8 corporation counsel or his or her designee, and a representative of the county that
9 is responsible for land use planning or the department of the county that is
10 responsible for land information. In the report, the county shall identify an
11 appropriate residential option in that county while the person is on supervised
12 release. In counties with a population of 750,000 or more, the committee shall select
13 a residence in the person's city, village, or town of residence, as determined by the

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1 department of health services under s. 980.105 (2m). The report shall demonstrate
2 that the county has contacted the landlord for that residential option and that the
3 landlord has committed to enter into a lease. The county shall consider the following
4 factors when identifying an appropriate residential option:

5 **SECTION 2.** 980.08 (4) (dm) 1. a., b. and c. of the statutes are amended to read:

6 980.08 (4) (dm) 1. a. ~~Ensure that~~ The distance between the person's placement
7 ~~is into a residence that is not less than 1,500 feet from~~ and any school premises, child
8 care facility, public park, place of worship, or youth center. A person is not in violation
9 of a condition or rule of supervised release under sub. (7) (a) if any school premises,
10 child care facility, public park, place of worship, or youth center is established ~~within~~
11 ~~1,500 feet from~~ near the person's residence after he or she is placed in the residence
12 under this section.

13 b. If the person committed a sexually violent offense against an adult at risk,
14 as defined in s. 55.01 (1e), or an elder adult at risk, as defined in s. 46.90 (1) (br),
15 ~~ensure that~~ the distance between the person's placement ~~is into a residence that is~~
16 ~~not less than 1,500 feet from~~ and a nursing home or an assisted living facility. A
17 person is not in violation of a condition or rule of supervised release under sub. (7)
18 (a) if a nursing home or an assisted living facility is established ~~within 1,500 feet from~~
19 near the person's residence after he or she is placed in the residence under this
20 section.

21 c. If the person is a serious child sex offender, ~~ensure that~~ the distance between
22 ~~the person's placement is into a residence that is not on a property adjacent to~~ and
23 a property where a child's primary residence exists. ~~For the purpose of this~~
24 ~~subdivision, adjacent properties are properties that share a property line without~~
25 ~~regard to a public or private road if the living quarters on each property are not more~~

BILL**SECTION 2**

1 ~~than 1,500 feet apart.~~ A person is not in violation of a condition or rule of supervised
2 release under sub. (7) (a) if a child establishes primary residence in a property
3 ~~adjacent to~~ near the person's residence after the person is placed in the residence
4 under this section.

5 **SECTION 3.** 980.08 (4) (dm) 4. of the statutes is amended to read:

6 980.08 (4) (dm) 4. The county shall submit its report to the department of
7 health services within ~~120~~ 180 days following the court order. ~~A~~ Unless a court, upon
8 the county's request, determines that the county is making a good faith effort to
9 conform to the deadline, a county that does not submit its report within ~~120~~ 180 days
10 violates the person's rights under s. 51.61, and each day that the county does not
11 submit the report after the ~~120~~ 180 days have expired constitutes a separate
12 violation under s. 51.61. Notwithstanding s. 51.61 (7), any damages beyond costs and
13 reasonable actual attorney fees recovered by the person for a violation shall be
14 deposited into the appropriation account under s. 20.435 (2) (gz).

15 **SECTION 4.** 2017 Wisconsin Act 184, section 9320 (1) is amended to read:

16 [2017 Wisconsin Act 184] Section 9320 (1) SUPERVISED RELEASE. The treatment
17 of sections 20.435 (2) (gz), 51.61 (1) (z), 980.08 (4) (cm), (d), (dm) 3., (e), (em), (f)
18 (intro.), 1., 2., 3., and 4., and (g) and (5m), and 980.105 (2) and (2m) (intro.) of the
19 statutes and SECTION 9120 (1) of this act first apply to petitions pending under section
20 980.08 of the statutes on the effective date of this subsection. Under this subsection,
21 a petition is pending if the person who filed the petition has not been physically
22 placed in a residence on supervised release under section 980.08 of the statutes.

23 **SECTION 5. Nonstatutory provisions.**

24 (1) The department of health services shall identify any person on supervised
25 release whose residence or proposed residence does not conform with 2017 Wisconsin

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1 Act 184, section 9320 (1), as affected by this act, and shall notify the court of the
2 nonconforming residence or proposed residence. If a court is so notified under this
3 subsection, the court shall revoke the order for the person's supervised release and
4 order the county of the person's residence, as determined by the department of health
5 services under s. 980.105, to prepare a new report under s. 980.08 (4) (dm) and the
6 department of health services to prepare a new supervised release plan under s.
7 980.08 (4) (f).

8

(END)