

CR 94-137

CERTIFICATE

STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Gerald Whitburn, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to qualifications of persons who conduct evaluations of persons alleged to be sexually violent were duly approved and adopted by this Department on November 7, 1994.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 7th day of November, 1994.



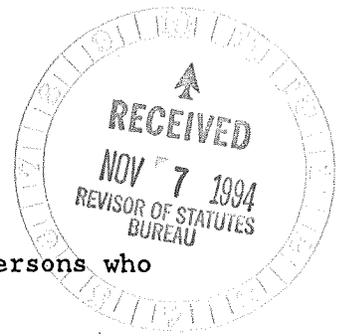
SEAL:

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Gerald Whitburn, Secretary  
Department of Health and Social Services



1-1-95

ORDER OF THE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
ADOPTING RULES



To create chapter HSS 99, relating to qualifications of persons who conduct evaluations of persons alleged to be sexually violent.

Analysis Prepared by the Department of Health and Social Services

Chapter 980, Stats., recently created by 1993 Wisconsin Act 479, establishes a procedure for the involuntary commitment to the custody of the Department of certain persons who are currently incarcerated for sexually violent offenses and are soon to be released. A district attorney or the Attorney General may file a petition for commitment of a person as a sexually violent person. If the court finds in the petition cause to believe that the subject of the petition is eligible for commitment, the court must hold a hearing to determine whether there is probable cause to believe that the subject of the petition is a sexually violent person. If the court finds probable cause, the court must order an evaluation as to whether the person has a mental disorder that creates a substantial probability that the person will engage in acts of sexual violence. The results of this evaluation must be available before the trial on the petition, which is required to start no later than 45 days after the probable cause hearing. The new statute requires the Department of Health and Social Services to promulgate rules that set forth the qualifications of persons conducting these evaluations. Chapter 980, Stats., became effective June 2, 1994, and applies to persons released from incarceration on or after that date.

Identical emergency rules have been in effect since June 18, 1994.

The Department's authority to create these rules is found in s. 980.04(4), Stats., as created by 1993 Wisconsin Act 479. The rules interpret s. 980.04(3) and (4), Stats., as created by 1993 Wisconsin Act 479.

Chapter HSS 99

PERSONS QUALIFIED TO CONDUCT EVALUATIONS  
OF PERSONS ALLEGED TO BE SEXUALLY VIOLENT

- HSS 99.01 Authority and Purpose
- HSS 99.02 Applicability
- HSS 99.03 Definitions
- HSS 99.04 Qualifications

HSS 99.01 AUTHORITY AND PURPOSE. This chapter is promulgated under the authority of s. 980.04(4), Stats., to provide rules that state the qualifications of persons who may conduct an evaluation of a person for whom a petition has been filed alleging that the individual is a sexually violent person, and therefore should be committed to the custody of the department of health and social services, and for whom the court has determined that there is probable cause to believe that the individual is a sexually violent person.

HSS 99.02 APPLICABILITY. This chapter applies to facilities at which evaluations under s. 980.04(3), Stats., are conducted, to persons conducting evaluations under s. 980.04(3), Stats., and to all persons ordered by a court

under s. 980.04(3), Stats., to be transferred to an appropriate facility for an evaluation.

HSS 99.03 DEFINITIONS. In this chapter:

(1) "Licensed psychologist" means a psychologist licensed under ch. 455, Stats.

(2) "Mental disorder" means a congenital or acquired condition affecting the emotional or volitional capacity that predisposes a person to engage in acts of sexual violence.

(3) "Psychiatrist" means a physician licensed under ch. 448, Stats., to practice medicine and surgery who has completed 3 years of residency training in psychiatry in a program approved by the accreditation council for graduate medical education and is either certified or eligible for certification by the American board of psychiatry and neurology.

(4) "Sexually violent offense" has the meaning prescribed in s. 980.01(6), Stats.

(5) "Sexually violent person" means a person who has been convicted of a sexually violent offense, has been adjudicated delinquent for a sexually violent offense, or has been found not guilty of or not responsible for a sexually violent offense by reason of insanity or mental disease, defect or illness, and who is dangerous because he or she suffers from a mental disorder that makes it substantially probable that the person will engage in acts of sexual violence.

HSS 99.04 QUALIFICATIONS. A person conducting an evaluation under s. 980.04(3), Stats., shall be either a psychiatrist or a licensed psychologist.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Wisconsin Department of Health and  
Social Services

Dated: November 7, 1994

By:   
Gerald Whitburn  
Secretary

SEAL:

