



State of Wisconsin
1999 - 2000 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 95**

September 14, 1999 - Offered by COMMITTEE ON CORRECTIONS AND THE COURTS.

1 **AN ACT to amend** 51.37 (9), 51.37 (10) (c), 302.114 (5) (d), 304.02 (2), 971.17 (3)
2 (e), 973.01 (5), 975.18, 980.06 (2) (d) and 980.08 (6); and **to create** 302.11 (5m),
3 304.02 (4g), 973.09 (1c) and 975.10 (1m) of the statutes; **relating to:**
4 prohibiting or restricting use of or access to the Internet or certain electronic
5 communication systems by persons who are on parole, probation or other type
6 of supervised or conditional release after being convicted of a crime.

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

7 **SECTION 1.** 51.37 (9) of the statutes is amended to read:
8 51.37 (9) If in the judgment of the director of Mendota mental health institute,
9 Winnebago mental health institute or the Milwaukee county mental health complex,
10 any person who is committed under s. 971.14 or 971.17 is not in such condition as
11 warrants his or her return to the court but is in a condition to receive a conditional
12 transfer or discharge under supervision, the director shall report to the department

1 of health and family services, the committing court and the district attorney of the
2 county in which the court is located his or her reasons for the judgment. If the court
3 does not file objection to the conditional transfer or discharge within 60 days of the
4 date of the report, the director may, with the approval of the department of health
5 and family services, conditionally transfer any person to a legal guardian or other
6 person, subject to the rules of the department of health and family services. If the
7 person being conditionally transferred or discharged under supervision was
8 committed under s. 971.17, the department of health and family services shall decide
9 whether to restrict or prohibit the person's use of or access to the Internet or any
10 electronic communication system that is available through the use of computer
11 modem or both as a condition of the transfer or discharge. Before a person is
12 conditionally transferred or discharged under supervision under this subsection, the
13 department of health and family services shall so notify the municipal police
14 department and county sheriff for the area where the person will be residing. The
15 notification requirement does not apply if a municipal department or county sheriff
16 submits to the department of health and family services a written statement waiving
17 the right to be notified. The department of health and family services may contract
18 with the department of corrections for the supervision of persons who are transferred
19 or discharged under this subsection.

20 **SECTION 2.** 51.37 (10) (c) of the statutes is amended to read:

21 51.37 (10) (c) Any patient who is granted a home visit or leave under this
22 subsection shall be restricted to the confines of this state unless otherwise
23 specifically permitted. The patient may, in addition, be restricted to a particular
24 geographic area. If a patient granted a home visit or leave was committed under s.
25 971.17 or ch. 975, the department shall decide whether to restrict or prohibit the

1 patient's use of or access to the Internet or any electronic communication system that
2 is available through the use of computer modem or both as a condition of the home
3 visit or leave. Other conditions appropriate to the person's treatment may also be
4 imposed upon the home visit or leave.

5 **SECTION 3.** 302.11 (5m) of the statutes is created to read:

6 302.11 **(5m)** When an inmate is released on parole under sub. (1) or (1g) (b),
7 the department shall decide whether to restrict or prohibit the parolee's use of or
8 access to the Internet or any electronic communication system that is available
9 through the use of computer modem or both as a condition of parole.

10 **SECTION 4.** 302.114 (5) (d) of the statutes is amended to read:

11 302.114 **(5)** (d) If the court grants the inmate's petition for release to extended
12 supervision, the court may impose conditions on the term of extended supervision.
13 When deciding whether to impose conditions on the term of extended supervision,
14 the court shall decide whether to restrict or prohibit the inmate's use of or access to
15 the Internet or any electronic communication system that is available through the
16 use of computer modem or both as a condition of extended supervision. If the court
17 decides not to impose such a condition, the department may restrict or prohibit the
18 inmate's use of or access to the Internet or any electronic communication system that
19 is available through the use of computer modem or both as a condition of extended
20 supervision as provided under sub. (8).

21 **SECTION 5.** 304.02 (2) of the statutes is amended to read:

22 304.02 **(2)** The department shall promulgate rules for the special action release
23 program, including eligibility criteria, procedures for the secretary to decide whether
24 to grant a prisoner a special action release to parole supervision, procedures for
25 notifying persons, offices or agencies under s. 304.06 (1) (c) and (g) of releases, and,

1 subject to sub. (4g), conditions of release. If applicable, the department shall also
2 comply with s. 304.063.

3 **SECTION 6.** 304.02 (4g) of the statutes is created to read:

4 304.02 (4g) When an inmate is released on parole under this section, the
5 department shall decide whether to restrict or prohibit the parolee's use of or access
6 to the Internet or any electronic communication system that is available through the
7 use of computer modem or both as a condition of parole.

8 **SECTION 7.** 971.17 (3) (e) of the statutes is amended to read:

9 971.17 (3) (e) An order for conditional release places the person in the custody
10 and control of the department of health and family services. A conditionally released
11 person is subject to the conditions set by the court and to the rules of the department
12 of health and family services. If the court orders a person to be placed on conditional
13 release, the court shall decide whether to restrict or prohibit the person's use of or
14 access to the Internet or any electronic communication system that is available
15 through the use of computer modem or both as a condition of conditional release. If
16 the court decides not to impose such a condition, the department of health and family
17 services may restrict or prohibit a person's use of or access to the Internet or any
18 electronic communication system that is available through the use of computer
19 modem or both as a condition of conditional release.

20 (f) Before a person is conditionally released by the court under this subsection,
21 the court shall so notify the municipal police department and county sheriff for the
22 area where the person will be residing. The notification requirement under this
23 paragraph does not apply if a municipal department or county sheriff submits to the
24 court a written statement waiving the right to be notified.

1 (g) If the department of health and family services alleges that a released
2 person has violated any condition or rule, or that the safety of the person or others
3 requires that conditional release be revoked, he or she may be taken into custody
4 under the rules of the department. The department of health and family services
5 shall submit a statement showing probable cause of the detention and a petition to
6 revoke the order for conditional release to the committing court and the regional
7 office of the state public defender responsible for handling cases in the county where
8 the committing court is located within 48 hours after the detention. The court shall
9 hear the petition within 30 days, unless the hearing or time deadline is waived by
10 the detained person. Pending the revocation hearing, the department of health and
11 family services may detain the person in a jail or in a hospital, center or facility
12 specified by s. 51.15 (2). The state has the burden of proving by clear and convincing
13 evidence that any rule or condition of release has been violated, or that the safety of
14 the person or others requires that conditional release be revoked. If the court
15 determines after hearing that any rule or condition of release has been violated, or
16 that the safety of the person or others requires that conditional release be revoked,
17 it may revoke the order for conditional release and order that the released person be
18 placed in an appropriate institution under s. 51.37 (3) until the expiration of the
19 commitment or until again conditionally released under this section.

20 **SECTION 8.** 973.01 (5) of the statutes is amended to read:

21 973.01 (5) EXTENDED SUPERVISION CONDITIONS. Whenever the court imposes a
22 bifurcated sentence under sub. (1), the court may impose conditions upon the term
23 of extended supervision. When deciding whether to impose conditions upon the term
24 of extended supervision, the court shall decide whether to restrict or prohibit the
25 person's use of or access to the Internet or any electronic communication system that

1 is available through the use of computer modem or both as a condition of extended
2 supervision. If the court decides not to impose such a condition, the department may
3 restrict or prohibit the person’s use of or access to the Internet or any electronic
4 communication system that is available through the use of computer modem or both
5 as a condition of extended supervision as provided under s. 302.113 (7).

6 **SECTION 9.** 973.09 (1c) of the statutes is created to read:

7 973.09 (1c) If a court places a person on probation, the court shall decide
8 whether to restrict or prohibit the person’s use of or access to the Internet or any
9 electronic communication system that is available through the use of computer
10 modem or both as a condition of probation. If the court decides not to impose such
11 a condition, the department may restrict or prohibit a person’s use of or access to the
12 Internet or any electronic communication system that is available through the use
13 of computer modem or both as a condition of probation.

14 **SECTION 10.** 975.10 (1m) of the statutes is created to read:

15 975.10 (1m) When a person is paroled under this section, the department shall
16 decide whether to restrict or prohibit the person’s use of or access to the Internet or
17 any electronic communication system that is available through the use of computer
18 modem or both as a condition of parole.

19 **SECTION 11.** 975.18 of the statutes is amended to read:

20 **975.18 Establishment of regulations.** The Subject to s. 975.10 (1m), the
21 department may promulgate rules concerning parole, revocation of parole,
22 supervision of parolees, and any other matters necessary for the administration of
23 this chapter.

24 **SECTION 12.** 980.06 (2) (d) of the statutes is amended to read:

1 980.06 (2) (d) An order for supervised release places the person in the custody
2 and control of the department. If a court places a person on supervised release, the
3 court shall decide whether to restrict or prohibit the person's use of or access to the
4 Internet or any electronic communication system that is available through the use
5 of computer modem or both as a condition of supervised release. If the court decides
6 not to impose such a condition, the department may restrict or prohibit a person's use
7 of or access to the Internet or any electronic communication system that is available
8 through the use of computer modem or both as a condition of supervised release. A
9 person on supervised release is also subject to the any other conditions set by the
10 court and to the rules of the department.

11 (e) Before a person is placed on supervised release by the court under this
12 section, the court shall so notify the municipal police department and county sheriff
13 for the municipality and county in which the person will be residing. The notification
14 requirement under this paragraph does not apply if a municipal police department
15 or county sheriff submits to the court a written statement waiving the right to be
16 notified.

17 (f) If the department alleges that a released person has violated any condition
18 or rule, or that the safety of others requires that supervised release be revoked, he
19 or she may be taken into custody under the rules of the department. The department
20 shall submit a statement showing probable cause of the detention and a petition to
21 revoke the order for supervised release to the committing court and the regional
22 office of the state public defender responsible for handling cases in the county where
23 the committing court is located within 48 hours after the detention. The court shall
24 hear the petition within 30 days, unless the hearing or time deadline is waived by
25 the detained person. Pending the revocation hearing, the department may detain

1 the person in a jail or in a hospital, center or facility specified by s. 51.15 (2). The state
2 has the burden of proving by clear and convincing evidence that any rule or condition
3 of release has been violated, or that the safety of others requires that supervised
4 release be revoked. If the court determines after hearing that any rule or condition
5 of release has been violated, or that the safety of others requires that supervised
6 release be revoked, it may revoke the order for supervised release and order that the
7 released person be placed in an appropriate institution until the person is discharged
8 from the commitment under s. 980.09 or until again placed on supervised release
9 under s. 980.08.

10 **SECTION 13.** 980.08 (6) of the statutes is amended to read:

11 980.08 (6) The provisions of s. 980.06 (2) (d), (e) and (f) apply to an order for
12 supervised release issued under this section.

13 **SECTION 14. Initial applicability.**

14 (1) CONDITIONS OF PAROLE. The treatment of sections 302.11 (5m) and 304.02
15 (4g) of the statutes first applies to persons who are released on parole on the effective
16 date of this subsection.

17 (2) BIFURCATED SENTENCES; CONDITIONS OF EXTENDED SUPERVISION. The treatment
18 of section 973.01 (5) of the statutes first applies to persons who are given a bifurcated
19 sentence on December 31, 1999, or on the effective date of this subsection, whichever
20 is later.

21 (3) CONDITIONS OF PROBATION. The treatment of section 973.09 (1c) of the
22 statutes first applies to persons who are placed on probation on the effective date of
23 this subsection.

24 (4) CONDITIONS OF RELEASE OF PERSONS FOUND NOT GUILTY BY REASON OF MENTAL
25 DISEASE OR DEFECT. The treatment of sections 51.37 (9) and (10) (c) and 971.17 (3) (e)

1 of the statutes first applies to persons who are granted conditional release, a
2 conditional transfer, a discharge under supervision or a temporary home visit or
3 temporary leave on the effective date of this subsection.

4 (5) CONDITIONS OF RELEASE OF PERSONS FOUND TO BE SEXUALLY VIOLENT PERSONS.
5 The treatment of section 980.06 (2) (d) of the statutes first applies to persons who are
6 granted supervised release on the effective date of this subsection.

7 (6) CONDITIONS OF RELEASE OF PERSONS COMMITTED UNDER THE SEX CRIMES LAW.
8 The treatment of section 975.10 (1m) of the statutes first applies to persons who are
9 released on parole on the effective date of this subsection.

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(END)