



State of Wisconsin
2001 - 2002 LEGISLATURE

January 2002 Special Session

LRBb2657/1
RLR:hmh:jf

**ASSEMBLY AMENDMENT 22,
TO ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 1**

March 14, 2002 – Offered by Representatives YOUNG, WILLIAMS and MORRIS-TATUM.

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

2 **1.** Page 88, line 23: after that line insert:

3 “110n. Page 48, line 5: after that line insert:

4 “**SECTION 149r.** 51.30 (4) (b) 10m. of the statutes is amended to read:

5 51.30 (4) (b) 10m. To the department of justice or a district attorney under s.
6 980.015 (3) (b), if the treatment records are maintained by an agency with
7 jurisdiction, as defined in s. ~~980.015 (1)~~ 980.01 (1d), that has control or custody over
8 a person who may meet the criteria for commitment as a sexually violent person
9 under ch. 980.”.”.

10 **2.** Page 283, line 15: after that line insert:

11 “263n. Page 227, line 4: after that line insert:

1 **“SECTION 533v.** 938.78 (2) (e) of the statutes is amended to read:

2 938.78 (2) (e) Paragraph (a) does not prohibit the department from disclosing
3 information about an individual adjudged delinquent under s. 938.183 or 938.34 for
4 a sexually violent offense, as defined in s. 980.01 (6), to the department of justice, or
5 a district attorney or a judge acting under ch. 980 or to an attorney who represents
6 a person subject to a petition under ch. 980. The court in which the petition under
7 s. 980.02 is filed, or, if an action filed under s. 980.02 is transferred to another court
8 under s. 980.02 (6), the court to which the action is transferred, may issue any
9 protective orders that it determines are appropriate concerning information
10 disclosed under this paragraph.”.”.

11 **3.** Page 290, line 17: after that line insert:

12 “274n. Page 345, line 19: after that line insert:

13 **“SECTION 1151tb.** 980.01 (1) of the statutes is renumbered 980.01 (1r).

14 **SECTION 1151tc.** 980.01 (1g) of the statutes is created to read:

15 980.01 (1g) “County department” means a county department of community
16 programs created in accordance with s. 51.42 (3) (a).

17 **SECTION 1151td.** 980.01 (1m) of the statutes is created to read:

18 980.01 (1m) “County of residence” means the county in which a person is
19 considered to reside for purposes of this chapter as determined under s. 980.015 by
20 the agency with jurisdiction.

21 **SECTION 1151te.** 980.015 (1) of the statutes is renumbered 980.01 (1d) and
22 amended to read:

23 980.01 (1d) ~~In this section, “agency~~ “Agency with jurisdiction” means the
24 agency with the authority or duty to release or discharge ~~the a~~ a person.

1 **SECTION 1151tf.** 980.015 (2) (intro.) of the statutes is amended to read:

2 980.015 (2) (intro.) If an agency with jurisdiction has control or custody over
3 a person who may meet the criteria for commitment as a sexually violent person,
4 after determining the person's county of residence as provided under sub. (5), the
5 agency with jurisdiction shall inform each appropriate district attorney and the
6 department of justice regarding the person as soon as possible beginning 3 months
7 prior to the applicable date of the following:

8 **SECTION 1151tg.** 980.02 (1) (a) of the statutes is amended to read:

9 980.02 (1) (a) The department of justice at the request of the agency with
10 jurisdiction, ~~as defined in s. 980.015 (1)~~, over the person. If the department of justice
11 decides to file a petition under this paragraph, it shall file the petition before the date
12 of the release or discharge of the person.

13 **SECTION 1151th.** 980.02 (1) (am) of the statutes is created to read:

14 980.02 (1) (am) If the department of justice does not file a petition under par.
15 (a), the district attorney for the person's county of residence.

16 **SECTION 1151ti.** 980.02 (1) (b) (intro.) of the statutes is amended to read:

17 980.02 (1) (b) (intro.) If the department of justice does not file a petition under
18 par. (a), and the district attorney for the person's county of residence does not file a
19 petition under par. (am), the district attorney for one of the following:

20 **SECTION 1151tj.** 980.02 (4) (c) of the statutes is created to read:

21 980.02 (4) (c) The circuit court for the person's county of residence.

22 **SECTION 1151tk.** 980.02 (6) of the statutes is created to read:

23 980.02 (6) Upon request from the district attorney for the person's county of
24 residence, an action commenced by filing a petition under this section in a circuit

1 court for a county other than the person's county of residence shall be transferred to
2 the circuit court for the person's county of residence.

3 **SECTION 1151tL.** 980.03 (1) of the statutes is amended to read:

4 980.03 (1) The circuit court in which a petition under s. 980.02 is filed, or, if an
5 action is transferred under s. 980.02 (6), the circuit court to which the action was
6 transferred, shall conduct all hearings under this chapter. The court shall give the
7 person who is the subject of the petition reasonable notice of the time and place of
8 each such hearing. The court may designate additional persons to receive these
9 notices.

10 **SECTION 1151tm.** 980.05 (5) of the statutes is amended to read:

11 980.05 (5) If the court or jury determines that the person who is the subject of
12 a petition under s. 980.02 is a sexually violent person, the court shall enter a
13 judgment on that finding, shall notify the county department for the person's county
14 of residence of that finding, and shall commit the person as provided under s. 980.06.
15 If the court or jury is not satisfied beyond a reasonable doubt that the person is a
16 sexually violent person, the court shall dismiss the petition and direct that the
17 person be released unless he or she is under some other lawful restriction.

18 **SECTION 1151tn.** 980.07 (2) of the statutes is amended to read:

19 980.07 (2) Any examiner conducting an examination under this section shall
20 prepare a written report of the examination no later than 30 days after the date of
21 the examination. The examiner shall place a copy of the report in the person's
22 medical records and shall provide a copy of the report to the court that committed the
23 person under s. 980.06 and to the county department for the person's county of
24 residence.

25 **SECTION 1151to.** 980.08 (2) of the statutes is amended to read:

1 980.08 (2) If the person files a timely petition without counsel, the court shall
2 serve a copy of the petition on the district attorney or department of justice,
3 whichever is applicable, and on the county department for the person's county of
4 residence and, subject to s. 980.03 (2) (a), refer the matter to the authority for
5 indigency determinations under s. 977.07 (1) and appointment of counsel under s.
6 977.05 (4) (j). If the person petitions through counsel, his or her attorney shall serve
7 the district attorney or department of justice, whichever is applicable, and the county
8 department for the person's county of residence.

9 **SECTION 1151tp.** 980.08 (3) of the statutes is amended to read:

10 980.08 (3) Within 20 days after receipt of the petition, the court shall appoint
11 one or more examiners having the specialized knowledge determined by the court to
12 be appropriate, who shall examine the person and furnish a written report of the
13 examination to the court within 30 days after appointment. The examiners shall
14 have reasonable access to the person for purposes of examination and to the person's
15 past and present treatment records, as defined in s. 51.30 (1) (b), and patient health
16 care records, as provided under s. 146.82 (2) (c). If any ~~such~~ examiner appointed
17 under this subsection believes that the person is appropriate for supervised release
18 under the criterion specified in sub. (4), the examiner shall report on the type of
19 treatment and services that the person may need while in the community on
20 supervised release and shall furnish a copy of the written report of the examination
21 to the county department for the person's county of residence at the time that the
22 examiner furnishes the report to the court. The county shall pay the costs of an
23 examiner appointed under this subsection as provided under s. 51.20 (18) (a).

24 **SECTION 1151tq.** 980.08 (3m) of the statutes is created to read:

1 980.08 (3m) If an examiner appointed under sub. (3) finds that a person is
2 appropriate for supervised release and furnishes a copy of the examination report to
3 the county department for the person's county of residence, the county department
4 shall identify a residence in which the person may live if the court grants the person's
5 petition under this section for supervised release. The identification of a residence
6 by the county department is subject to approval by the department. The department
7 shall consider the proximity of the residence identified by the county department to
8 the residence of any other person who is the subject of a sex offender notification
9 bulletin issued under s. 301.46 (2m) (a) or (am) before approving the residence
10 identified by the county department. The county department shall provide the court
11 a written description of the residence before the hearing under sub. (4).

12 **SECTION 1151tr.** 980.08 (5) of the statutes, as affected by 2001 Wisconsin Act
13 16, is renumbered 980.08 (5) (a) and amended to read:

14 980.08 (5) (a) If the court finds that the person is appropriate for supervised
15 release, the court shall notify the department. ~~The department shall make its best~~
16 ~~effort to arrange for placement of the person in a residential facility or dwelling that~~
17 ~~is in the person's county of residence, as determined by the department under s.~~
18 ~~980.105 and the county department for the person's county of residence.~~ The
19 department and the county department under s. 51.42 in the county of residence of
20 the person shall prepare a plan that identifies for supervised release as provided
21 under par. (b). If any community organization or county resident has submitted a
22 written request to the county department to be notified whenever the county
23 department is required to prepare a plan under par. (b), the county department shall
24 notify that community organization or county resident within 5 days after the court
25 notifies the county of the person's approval for supervised release.

1 **(b) 1. Identifies** the treatment and services, if any, that the person will receive
2 in the community. ~~The plan shall address~~

3 **2. Addresses** the person's need, if any, for supervision, counseling, medication,
4 community support services, residential services, vocational services, and alcohol or
5 other drug abuse treatment. ~~In developing a plan for where the person may reside~~
6 ~~while on supervised release, the department shall consider the proximity of any~~
7 ~~potential placement to the residence of other persons on supervised release and to~~
8 ~~the residence of persons who are in the custody of the department of corrections and~~
9 ~~regarding whom a sex offender notification bulletin has been issued to law~~
10 ~~enforcement agencies under s. 301.46 (2m) (a) or (am). If the person is a serious child~~
11 ~~sex offender, the plan shall address~~

12 **3. Addresses** the person's need for pharmacological treatment using an
13 antiandrogen or the chemical equivalent of an antiandrogen. ~~The department may~~
14 ~~contract with a county department, under s. 51.42 (3) (aw) 1. d., with another public~~
15 ~~agency or with a private agency to provide the treatment and services identified in~~
16 ~~the plan. The plan shall specify if the person is a serious child sex offender.~~

17 **4. Specifies** who will be responsible for providing the treatment and services
18 identified in the plan. ~~The plan shall be presented~~

19 **(e) The county and the county department shall present the plan prepared**
20 **under par. (b)** to the court for its approval within 60 days after the court finding that
21 the person is appropriate for supervised release, unless the department, county
22 department, and person to be released request additional time to develop the plan.
23 ~~If the~~

24 **(f) The county department of for** the person's county of residence declines to
25 ~~prepare a plan, the department may arrange for another county to prepare the plan~~

1 ~~if that in cooperation with the department if the other~~ county agrees to prepare the
2 plan and if the person will be living in that county. If the department is unable to
3 arrange for another county to prepare a plan, the court shall designate a county
4 department to prepare the plan, order the county department to prepare the plan
5 and place the person on supervised release in that county, except that the court may
6 not so designate the county department in any county where there is a facility in
7 which persons committed to institutional care under this chapter are placed unless
8 that county is also the person's county of residence.

9 **SECTION 1151ts.** 980.08 (5) (b) (intro.) and 5. of the statutes are created to read:

10 980.08 (5) (b) (intro.) The department and the county department for the
11 person's county of residence shall prepare a plan for supervised release that does all
12 of the following:

13 5. Identifies a residence where the person shall live.

14 **SECTION 1151tt.** 980.08 (5) (c) of the statutes is created to read:

15 980.08 (5) (c) When designating a residence under par. (b) 5., the department
16 and the county department shall consider the proximity of the designated residence
17 to the residence of any other person who is the subject of a sex offender bulletin issued
18 under s. 301.46 (2m) (a) or (am).

19 **SECTION 1151tu.** 980.08 (5) (d) of the statutes is created to read:

20 980.08 (5) (d) The department may contract with a county department, another
21 public agency, or a private agency to provide the treatment and services identified
22 in the plan under par. (b).

23 **SECTION 1151tv.** 980.105 (title) of the statutes is repealed.

24 **SECTION 1151tw.** 980.105 (intro.) of the statutes, as affected by 2001 Wisconsin
25 Act 16, is renumbered 980.015 (5) and amended to read:

1 980.015 (5) The ~~court~~ agency with jurisdiction shall determine a person's
2 county of residence for the purposes of this chapter ~~by doing all of the following: in~~
3 accordance with the criteria set forth in this subsection. A person's county of
4 residence is the county in which a person's habitation was voluntarily fixed and in
5 which the person voluntarily intended to remain on the date on which the person
6 committed the sexually violent offense that resulted in the sentence, placement, or
7 commitment that is in effect when the determination under this subsection is made.
8 A person's physical presence at a place shall be considered prima facie evidence of
9 the person's intent to remain at that place.

10 **SECTION 1151tx.** 980.105 (1) and (2) of the statutes, as affected by 2001
11 Wisconsin Act 16, are repealed.”.”.

12 **4.** Page 347, line 11: after that line insert:

13 “451n. Page 444, line 11: after that line insert:

14 “(8f) PLACEMENT OF SEXUALLY VIOLENT PERSONS ON SUPERVISED RELEASE.

15 (a) The treatment of sections 980.015 (2) (intro.) and 980.105 (intro.), (1), and
16 (2) of the statutes and the repeal of section 980.105 (title) of the statutes first apply
17 to notices of persons who may meet the criteria for commitment as sexually violent
18 persons given on the effective date of this paragraph.

19 (b) The treatment of sections 938.78 (2) (e), 980.02 (1) (am) and (b) (intro.), (4)
20 (c), and (6), and 980.03 (1) of the statutes first applies to sexually violent persons
21 petitions filed on the effective date of this paragraph.

22 (c) The treatment of section 980.05 (5) of the statutes first applies to sexually
23 violent person trials initiated on the effective date of this paragraph.

