



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2015 Senate Bill 409	Senate Substitute Amendment 1 and Senate Amendment 1 to Senate Substitute Amendment 1
<i>Memo published:</i> February 8, 2016	<i>Contact:</i> Michael Queensland, Staff Attorney (266-3810)

2015 Senate Bill 409 relates to residency requirements for sexually violent persons on supervised release.

CURRENT LAW

Current 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, the court must choose a county to prepare a report identifying prospective residential options for community placement of the SVP. The report can be prepared either independently by the county or in cooperation with the Department of Health Services (DHS). DHS is the agency responsible for supervising an SVP during commitment and while 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 in creating a supervised release plan that identifies a proposed residence for the SVP.

SENATE SUBSTITUTE AMENDMENT 1

Distance Restrictions

Senate Substitute Amendment 1 prevents the DHS supervised release plan from placing an SVP in a residence within 1,500 feet of certain locations. First, 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. Second, 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. Finally, 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 Ordinances

Senate Substitute Amendment 1 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. The substitute amendment 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

Senate Substitute Amendment 1 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 substitute amendment, 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; and (d) the county of commitment.

The substitute amendment 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

Senate Substitute Amendment 1 provides that local sex offender residency restrictions 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

Senate Substitute Amendment 1 provides that the bill first applies to petitions for supervised release that are made on the date the bill becomes effective.

SENATE AMENDMENT 1 TO SENATE SUBSTITUTE AMENDMENT 1

Senate Amendment 1 to Senate Substitute Amendment 1 relates to the initial applicability of the bill. The amendment provides that the provisions apply to SVPs who have applied for

supervised release before the effective date of the bill, but whose supervised release is not yet authorized.

BILL HISTORY

Senator Wanggaard offered Senate Substitute Amendment 1 on January 19, 2016 and Senate Amendment 1 to Senate Substitute Amendment 1 on January 26, 2016. On January 27, 2016, the Senate Committee on Judiciary and Public Safety voted to recommend adoption of Senate Amendment 1 to Senate Substitute Amendment 1, adoption of the substitute amendment as amended, and passage of the bill, as amended, on votes of Ayes, 5; Noes, 0.

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