



2005 ASSEMBLY BILL 394

April 27, 2005 - Introduced by Representatives HONADEL, CULLEN, McCORMICK, SINICKI, STASKUNAS, STONE, VUKMIR, ZEPNICK and PRIDEMORE, cosponsored by Senators PLALE, CARPENTER, A. LASEE and REYNOLDS. Referred to Committee on Corrections and the Courts.

1 **AN ACT to repeal** 980.105; **to renumber and amend** 980.08 (5); and **to amend**
2 20.435 (2) (bj), 46.10 (2) and 301.03 (19) of the statutes; **relating to:** county of
3 placement for persons on supervised release.

Analysis by the Legislative Reference Bureau

Under current law, a person who has been committed to the custody of the department of health and family services (DHFS) as a sexually violent person may be placed on supervised release if the person no longer requires institutional care. If a court determines that supervised release is appropriate, DHFS must make its best effort to arrange that the person be placed in a residential facility or dwelling in the person's county of residence (generally the county where the person lived prior to committing the sexually violent offense), as determined by DHFS. If the person's county of residence declines to prepare a plan for supervised release, DHFS may arrange for another county to prepare a plan, and if no county agrees to prepare a plan, the court must order a county to prepare a plan. DHFS and the county in which the person will be released must prepare a plan for treating and monitoring the person while on supervised release.

This bill eliminates the requirement that DHFS make its best effort to place the person in his or her county of residence. Instead DHFS must designate the county of placement based on the type of treatment and services the person may need and the ability of the county, a public agency, or a private agency to provide the treatment and services and based on the proximity of other persons on supervised release and of persons in the custody of the Department of Corrections regarding whom a sex offender notification bulletin has been issued to law enforcement agencies.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 20.435 (2) (bj) of the statutes is amended to read:

2 20.435 (2) (bj) *Competency examinations and conditional and supervised*
3 *release services.* Biennially, the amounts in the schedule for outpatient competency
4 examinations and for payment by the department of costs for treatment and services
5 for persons released under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d) or (4) (e)
6 or 980.08 (5) (b), for which the department has contracted with county departments
7 under s. 51.42 (3) (aw) 1. d., with other public agencies, or with private agencies to
8 provide the treatment and services.

9 **SECTION 2.** 46.10 (2) of the statutes is amended to read:

10 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
11 including but not limited to a person admitted, committed or placed under s. 975.01,
12 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 51.10, 51.13,
13 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.06, 971.14
14 (2) and (5), 971.17 (1), 975.06 and 980.06, receiving care, maintenance, services and
15 supplies provided by any institution in this state including University of Wisconsin
16 Hospitals and Clinics, in which the state is chargeable with all or part of the person's
17 care, maintenance, services and supplies, any person receiving care and services
18 from a county department established under s. 51.42 or 51.437 or from a facility
19 established under s. 49.73, and any person receiving treatment and services from a
20 public or private agency under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d) or (4)
21 (e) or 980.08 (5) (b) and the person's property and estate, including the homestead,

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1 and the spouse of the person, and the spouse's property and estate, including the
2 homestead, and, in the case of a minor child, the parents of the person, and their
3 property and estates, including their homestead, and, in the case of a foreign child
4 described in s. 48.839 (1) who became dependent on public funds for his or her
5 primary support before an order granting his or her adoption, the resident of this
6 state appointed guardian of the child by a foreign court who brought the child into
7 this state for the purpose of adoption, and his or her property and estate, including
8 his or her homestead, shall be liable for the cost of the care, maintenance, services
9 and supplies in accordance with the fee schedule established by the department
10 under s. 46.03 (18). If a spouse, widow surviving spouse, or minor, or an
11 incapacitated person may be lawfully dependent upon the property for their support,
12 the court shall release all or such part of the property and estate from the charges
13 that may be necessary to provide for those persons. The department shall make
14 every reasonable effort to notify the liable persons as soon as possible after the
15 beginning of the maintenance, but the notice or the receipt thereof is not a condition
16 of liability.

17 **SECTION 3.** 301.03 (19) of the statutes is amended to read:

18 301.03 (19) Work to minimize, to the greatest extent possible, the residential
19 population density of sex offenders, as defined in s. 302.116 (1) (b), who are on
20 probation, parole, or extended supervision or placed on supervised release under s.
21 980.06 (2) (c), 1997 stats., or s. 980.08 (5).

22 **SECTION 4.** 980.08 (5) of the statutes is renumbered 980.08 (5) (a) and amended
23 to read:

24 980.08 (5) (a) If the court finds that the person is appropriate for supervised
25 release, the court shall notify the department. The department shall ~~make its best~~

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1 effort to arrange for placement of the person in a residential facility or dwelling that
2 is in the person's ~~a~~ county of residence, as determined designated by the department
3 ~~under s. 980.105. The department shall designate the county of placement based on~~
4 the type of treatment and services identified in sub. (3) that the person may need
5 while on supervised release and the county's ability to provide the treatment and
6 services or the department's ability to contract with a public agency or with a private
7 agency for the provision of the treatment and services in the county and based on the
8 proximity of any potential placement to the residence of other persons on supervised
9 release and to the residence of persons who are in the custody of the department of
10 corrections and regarding whom a sex offender notification bulletin has been issued
11 to law enforcement agencies under s. 301.46 (2m) (a) or (am).

12 (b) The department and the county department under s. 51.42 in the county of
13 ~~residence of the person~~ designated by the department under par. (a) shall prepare
14 a plan that identifies the treatment and services, if any, that the person will receive
15 in the community. The plan shall address the person's need, if any, for supervision,
16 counseling, medication, community support services, residential services, vocational
17 services, and alcohol or other drug abuse treatment. ~~In developing a plan for where~~
18 ~~the person may reside while on supervised release, the department shall consider the~~
19 ~~proximity of any potential placement to the residence of other persons on supervised~~
20 ~~release and to the residence of persons who are in the custody of the department of~~
21 ~~corrections and regarding whom a sex offender notification bulletin has been issued~~
22 ~~to law enforcement agencies under s. 301.46 (2m) (a) or (am).~~ If the person is a serious
23 child sex offender, the plan shall address the person's need for pharmacological
24 treatment using an antiandrogen or the chemical equivalent of an antiandrogen. The
25 department may contract with a county department, under s. 51.42 (3) (aw) 1. d.,

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1 with another public agency or with a private agency to provide the treatment and
2 services identified in the plan. The plan shall specify who will be responsible for
3 providing the treatment and services identified in the plan. The plan shall be
4 presented to the court for its approval within 60 days after the court finding that the
5 person is appropriate for supervised release, unless the department, county
6 department, and person to be released request additional time to develop the plan.

7 (c) If the county department of the ~~person's county of residence~~ designated
8 under par. (a) declines to prepare a plan, the department may ~~arrange for~~ designate
9 another county to prepare the plan if the department determines that that county
10 meets the criteria under par. (a) and if that county agrees to prepare the plan ~~and~~
11 ~~if the person will be living in that county.~~ If the department is unable to ~~arrange for~~
12 designate another county to prepare a plan, the court shall designate a county
13 department to prepare the plan, order the county department to prepare the plan,
14 and place the person on supervised release in that county, except that the court may
15 not ~~so~~ designate the county department in any county where there is a facility in
16 which persons committed to institutional care under this chapter are placed ~~unless~~
17 ~~that county is also the person's county of residence.~~

18 **SECTION 5.** 980.105 of the statutes is repealed.

19 (END)