



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0227/2
CMH:wlj

2021 ASSEMBLY BILL 426

June 25, 2021 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT to amend** 980.08 (4) (dm) 1. (intro.), 980.08 (4) (dm) 2. and 980.08 (6m)
2 of the statutes; **relating to:** notification to tribal chairs and tribal law
3 enforcement agencies for a sexually violent person being placed on supervised
4 release in a county in which the tribe is located.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on State-Tribal Relations.

Under current law, a person who has been found to be a sexually violent person may be involuntarily committed to the Department of Health Services for control, care, and treatment. If a person is committed and placed in institutional care, the person may periodically petition the court for supervised release to the community. If a court approves the petition, the court must order the person's county of residence to prepare a report that identifies one appropriate residential option for the person. Among other requirements, when preparing the report, the county must consult with a local law enforcement agency having jurisdiction over the residential option and include in its report any report prepared by the local law enforcement agency.

The bill requires that the court notify the tribal chair of any tribe with tribally owned lands located within any county that has been ordered to prepare a residential option report. The bill also requires that the county consult with any tribal law enforcement agency located within the county and include in its report any report prepared by the tribal law enforcement agency.

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Current law also requires that, before a person is placed on supervised release by the court, the court notify the municipal police department and county sheriff for the municipality and county in which the person will be residing unless the municipal police department or county sheriff waives its notification rights. The bill provides that, unless waived by a tribal law enforcement agency, the court must also notify any tribal law enforcement agency located in the county in which the person will be residing of the placement.

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

1 **SECTION 1.** 980.08 (4) (dm) 1. (intro.) of the statutes is amended to read:
2 980.08 (4) (dm) 1. (intro.) If the court finds that all of the criteria in par. (cg)
3 are met, the court shall order the county of the person's residence, as determined by
4 the department of health services under s. 980.105, to prepare a report and, if any
5 tribally owned lands are located in that county, shall notify each tribal chair in that
6 county that the county has been ordered to prepare a report. The county shall create
7 a temporary committee to prepare the report for the county. The committee shall
8 consist of the county department under s. 51.42, a representative of the department
9 of health services, a local probation or parole officer, the county corporation counsel
10 or his or her designee, and a representative of the county that is responsible for land
11 use planning or the department of the county that is responsible for land
12 information. In the report, the county shall identify an appropriate residential
13 option in that county while the person is on supervised release. In counties with a
14 population of 750,000 or more, the committee shall select a residence in the person's
15 city, village, or town of residence, as determined by the department of health services
16 under s. 980.105 (2m). The report shall demonstrate that the county has contacted
17 the landlord for that residential option and that the landlord has committed to enter
18 into a lease. The county shall do all of the following when identifying an appropriate
19 residential option:

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1 **SECTION 2.** 980.08 (4) (dm) 2. of the statutes is amended to read:

2 980.08 (4) (dm) 2. When preparing the report, the county shall consult with a
3 local law enforcement agency having jurisdiction over the residential option and, if
4 any tribally owned lands are located in the county, with any tribal law enforcement
5 agency having jurisdiction in the county. The law enforcement agency and tribal law
6 enforcement agency may submit a written report that provides information relating
7 to the residential option, and, if ~~the law enforcement agency submits a report is~~
8 submitted under this subdivision, the county department shall include the ~~agency's~~
9 report when the county department submits its report to the department of health
10 services.

11 **SECTION 3.** 980.08 (6m) of the statutes is amended to read:

12 980.08 (6m) An order for supervised release places the person in the custody
13 and control of the department. The department shall arrange for control, care and
14 treatment of the person in the least restrictive manner consistent with the
15 requirements of the person and in accordance with the plan for supervised release
16 approved by the court under sub. (4) (g). A person on supervised release is subject
17 to the conditions set by the court and to the rules of the department. Within 10 days
18 of imposing a rule, the department shall file with the court any additional rule of
19 supervision not inconsistent with the rules or conditions imposed by the court. If the
20 department wants to change a rule or condition of supervision imposed by the court,
21 the department must obtain the court's approval. Before a person is placed on
22 supervised release by the court under this section, the court shall so notify the
23 municipal police department and county sheriff for the municipality and county in
24 which the person will be residing and, if any tribally owned lands are located in the
25 county, all tribal law enforcement agencies having jurisdiction in the county in which

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1 the person will be residing. The notification requirement under this subsection does
2 not apply if a municipal police department ~~or~~, county sheriff, or tribal law
3 enforcement agency submits to the court a written statement waiving the right to be
4 notified.

5 **SECTION 4. Initial applicability.**

6 (1) This act first applies to court orders under s. 980.08 (4) (dm) 1. made on the
7 effective date of this subsection.

8 (END)