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To: The Senate Committee on Judiciary and Public Safety  
From: Sen. Dan Feyen  
Re: Senate Bill 60

Mr. Chair, members of the committee, thank you for holding this hearing today.

Last session the Legislature passed a bill that requires sexually violent persons to be placed in their county of origin upon release. This bill was signed into law as 2017 WI Act 184. However, due to a veto by Governor Walker and a Racine County Judge misinterpreting the legislative intent of the word "pending" in 2017 WI Act 184, we are back again!

This bill clarifies that if a plan for supervised release has not been approved yet, then the sexually violent person must return to their county of origin. This bill is intended to reassert the legislative intent of Act 184 and ensure that sexually violent persons return to their county of origin.

Additionally, this bill removes the current statutory 1500 foot rule. Last session's legislation also made this change however it was vetoed by Governor Walker. Counties are now charged with placing SVPs and we believe no one knows their county better than the local government entities involved in these decisions. We believe local control is appropriate and will ensure the most positive outcomes for all Wisconsin residents and local government officials involved in the SVP placement process.

As an example, in Portage County the Sheriff's Department has a vacant building directly across the street from their office. They would ideally like to use this vacant building as SVP housing due to the proximity to the Sheriff's Office. However, due to the 1500 foot rule they are unable to utilize that housing.

I would like to note that when 2017 Act 184 came before this committee last session, every member of the committee voted in favor of these same changes.

We have introduced one amendment today with the blessing of the Public Defender and the Department of Health Services. This amendment states that individuals incorrectly placed outside of their county of origin will stay in their current placement until their county of origin goes through the process to place them.

Thank you for your time today. I welcome any questions you may have.



# MICHAEL SCHRAA

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## SB 60 Testimony

Thank you Chairman Wanggaard, Vice Chair Jacque, and members of the committee for the opportunity to provide testimony on this bill to clarify the appropriate placement of sexually violent persons.

As you are aware, after an individual has served a criminal sentence for a violent sex crime, that individual may have a civil commitment for treatment at Sandridge Secure Treatment Center, which is run by the Department of Health Services. When an individual is no longer considered dangerous, that individual has a constitutional right to be returned to society, although under strict rules and supervision.

Last year, the issue of where to place these violent sex offenders was finally resolved with Act 184, authored by Senator Testin and Representative Krug. Under the new state statutes, individuals released from civil commitments at Sandridge are to be placed in their county of residence, commonly called county of origin. Unfortunately, several judges intentionally misinterpreted the clear legislative intent of this law. There were individuals in process, who had already had their court date, but had not been physically moved. Some judges still ordered their placement to a residence outside of the county of origin. We are here today to right that wrong.

Senate Bill 60 clarifies the definition of a pending petition. An offender who had not been physically placed by the effective date of Act 184 must be placed in the county of origin.

The bill also reinstates language from Act 184 that was vetoed. Current law says that certain placements not be adjacent or within 1500 feet of particular residents or facilities. That usually makes sense. On the other hand, allowing for local control is even better. Urban areas simply are not able to meet these requirements. This bill replaces the requirement of the 1500 foot rule and "adjacent" with the word "near." Local committees are going to have the flexibility to determine the best site.

Most importantly, we need to move violent sexual offenders who have been inappropriately placed. Under SB 60 as it was introduced, these offenders would be revoked to be immediately removed from the inappropriate placement. We are drafting an amendment to simplify that process.

In closing, I never expected to become an expert in 980 statutes on sexually violent persons. This issue might very well come to your district. The DHS website has excellent information on the history and process for chapter 980.

Thank you so much for your attention to this serious matter. I will be happy to answer any questions from the committee.



# PATRICK TESTIN

## STATE SENATOR

**DATE:** May 7, 2019  
**RE:** Testimony on 2019 Senate Bill 60  
**TO:** The Senate Committee on Judiciary and Public Safety  
**FROM:** Senator Patrick Testin

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Thank you Chairman Wanggaard and the members of the committee for reading my testimony on Senate Bill (SB) 60, which clarifies that a petition for supervised release of a sexually violent person which was pending when 2017 Wisconsin Act 184 was enacted, means that person's release must be in their county of origin, as was laid out on Wisconsin Act 184.

In my first day on the job, I was informed that a Chapter 980 offender from Washington County was being placed in Alban, a small town in northeastern Portage County. The community was understandably upset. Most municipalities are reticent to have sexually violent persons (SVPs) within their borders, even if those persons have fulfilled their state ordered commitment and are approved for supervised release. It becomes even more distressing when the SVPs are shipped in from other distant counties. Under the law at that time, rural counties were concerned they were becoming a convenient place for more urban and suburban counties to place their SVPs.

I attempted to assuage these very real concerns by authoring 2017 Wisconsin Act 184, ensuring that each county is responsible for the housing of their released offender(s). If supervised release is approved, the court shall order the SVP's county of residency to create a temporary committee to prepare a report that identifies one appropriate residence for the SVP.

However, despite the passage and clear legislative intent of Wisconsin Act 184, some judges chose to misinterpret the legislative intent of the law and continued to try and place released offenders from larger, more populated counties into more rural counties. So, unfortunately, there is a need for Senate Bill 60 to clarify to judges that any offender

who was not physically laced before March 30, 2018 is still subject to the rules of Wisconsin Act 184 and that those rules apply to the placement of those offenders.

I want to thank Senator Feyen and Representative Schraa for their work on this bill and hope you can join me in support of Senate Bill 60. Thank you for your consideration.



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## MEMORANDUM

**TO:** Honorable Members of the Assembly Committee on Judiciary

**FROM:** Sarah Diedrick-Kasdorf, Deputy Director of Government Affairs

**DATE:** May 7, 2019

**SUBJECT:** Support for Senate Bill 60

The Wisconsin Counties Association (WCA) supports Senate Bill 60, which makes modifications to 2017 Wisconsin Act 184 relating to the placement of sexually violent persons.

2017 Wisconsin Act 184 transferred certain responsibilities regarding the placement of sexually violent persons on supervised release from the state to the counties. Under the Act, counties are required to create a local committee charged with submitting a report to the Department of Health Services identifying a residence for the individual to be released to from Sand Ridge, as well as demonstrating that a landlord has been contacted and has committed to entering into a lease.

While counties are not happy with this new responsibility, counties are finding a way to comply with the new law. There are portions of Act 184, however, that counties all across the state would like to see modified.

Under 2017 Wisconsin Act 184, counties have 180 days to prepare its report for the court. Beginning April 1, 2019, counties have only 120 days to prepare its report. If a county fails to prepare its report on time, counties are subject to monetary damages. Counties have raised concerns with these provisions in Act 184 as it is a difficult task to identify a landlord willing to accept an individual as a tenant who has been convicted of a sexually violent offense. Counties that have had to make placement recommendations to date have reported that it takes significant staff time to identify a placement option that meets all of the restrictions included in the law.

Counties support modifications included in 2019 Senate Bill 60 that (1) eliminates the shortening of the timeframe to prepare a report to 120 days beginning in April 2019, and (2) allows a county to request a court make a finding that the county is making a good faith effort to find a placement and prepare the report which would, in essence, remove a county's liability for damages. While the language replacing the 1,500 foot restriction with language requiring counties to consider the proximity of the placement to certain places specified in law appears to be a positive change, WCA has heard some concerns from counties regarding this provision.

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Adoption of these modifications to Chapter 980 of the statutes would go a long way in easing county concerns with the new process for the placement of sexually violent offenders created in 2017 Wisconsin Act 184.

Thank you for considering our comments.



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Senate Committee on Judiciary & Public Safety  
Tuesday, May 7, 2019  
Senate Bill 60

Chairman Wanggaard & Members,

Thank you for the opportunity to provide feedback on Senate Bill (SB) 60 which makes changes to the supervised release placement process for those committed for treatment under Chapter 980 of the Wisconsin Statutes. The State Public Defender would like to thank both Senator Feyen and Representative Schraa for their work on this issue. We appreciate the opportunity to work with Senator Feyen on the amendment offered today on SB 60.

The amendment makes a key change to the bill to avoid litigation and constitutional challenges to the bill as originally drafted. The original language would have removed individuals who were placed in a county other than their home county after 2017 Act 184 took effect and placed them back at Sand Ridge Treatment Facility pending identification of a placement in their county of origin. Depriving an individual of their liberty in this manner presents significant constitutional concerns. The amendment changes this process to instead restart the 180 day deadline to find a placement in their county of origin which addresses the constitutional concerns.

In addition, SB 60 removes the 1500 foot residency restriction from state statute. This is a critical change to statute that will make both Act 184 and SB 60 possible to operate in practice. In nearly every attempted placement in the county of origin since Act 184, the 1500 foot barrier was the primary reason that an individual was ultimately placed in another county. Because Act 184 requires counties to find placement options, each county has discretion to identify placement in a location that is best determined by officials within those counties.

Finally, we look forward to ongoing conversations with the authors about proposed changes in Section 3 of SB 60 that would remove "good cause" language from the ability to consider sanctions against a county which has not fulfilled its statutory obligation to identify a community placement location. It is important to note that sanctions are not automatically imposed after the 180 day period has expired. A motion must be brought before a judge who ultimately decides whether or not to impose sanctions and in what amount. A motion under this provision has rarely been filed, and has yet to be granted. The incentive represented by this statute is important to ensure that the constitutionality of Chapter 980 is preserved by ensuring a meaningful opportunity at release can be obtained.

Thank you for your consideration of Senate Bill 60 and to the authors for their diligent work to craft carefully considered legislation. For additional information, please contact Adam Plotkin at 608-264-8572.