

1 **AN ACT** *to amend* 980.08 (4) (f), 980.08 (4) (g) and 980.105 (2m) (intro.) of the
 2 statutes; **relating to:** placement of sexually violent person in municipality of
 3 residence.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the Joint Legislative Council’s Special Committee on Placement of Sex Offenders.

Under the provisions of ch. 980, Stats., [sexually violent persons (SVPs) commitment chapter] relating to release of an SVP on supervised release, if the court finds that all of the statutorily specified criteria for supervised release are met, the court must select a county to prepare a report relating to placement of the SVP. Unless the court has good cause to select another county, the court must select the person’s county of residence, as determined by the department of health and family services (DHFS), to prepare the report. The court may not select a county where there is a facility in which persons committed to institutional care under ch. 980 are placed unless that county is also that person’s county of residence. A person’s county of residence is determined by: (a) considering residence as the voluntary concurrence of physical presence with intent to remain in a place of fixed habitation; and (b) considering physical presence as a prima facie evidence of intent to remain. DHFS must apply these criteria to the facts that existed on the date that the person committed the sexually violent offense. [s. 980.105, stats.] The county department under s. 51.42, stats., in the county of intended placement prepares the report, either independently or with DHFS services. The court is required to authorize the petitioner, the person’s attorney, the district attorney, any law enforcement agency in the county of intended placement, and any local governmental unit in the county of intended placement to submit prospective residential options for community placement to DHFS within 60 days following the selection of the county as described above. The court then directs DHFS to use the reports and submissions, above, to prepare a supervised release plan for the person. Based on the DHFS plan, the court then decides whether to approve the plan or require a new plan. [s. 980.08 (4) (cm) to (g), stats., as created by 2005 Wisconsin Act 434.]

The bill draft creates a new provision relating to the DHFS plan. Under the draft, if the plan provides for the person to be placed in his or her county of residence, the plan must provide for placement in a residential facility or dwelling that is in the person's city, village, or town of residence, except that the plan may provide for placement of the person outside his or her city, village, or town if DHFS approves placement of the person with the person's spouse, parent, or adult sibling. In any plan for placement under this new provision, DHFS must make every effort to ensure that the person is not placed within close proximity to his or her victim or victims.

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

2 980.08 (4) (f) 1. The court shall direct the department to use any submissions under par.
3 (d), the report submitted under par. (e), or other residential options identified by the
4 department to prepare a supervised release plan for the person. ~~The Subject to subd. 2., the~~
5 department shall prepare a supervised release plan that identifies the proposed residence. The
6 plan shall address the person's need, if any, for supervision, counseling, medication,
7 community support services, residential services, vocational services, and alcohol or other
8 drug abuse treatment. The supervised release plan shall be submitted to the court within 90
9 days of the finding under par. (cg). The court may grant extensions of this time period for good
10 cause.

11 2. If the plan provides for the person to be placed in his or her county of residence, the
12 department's plan shall provide for placement in a residential facility or dwelling that is in the
13 person's city, village, or town of residence, except that the department's plan may provide for
14 placement of the person outside his or her city, village, or town if the department approves
15 placement of the person with the person's spouse, parent, or adult sibling. In any plan for
16 placement under this subdivision, the department shall make every effort to ensure that the
17 person is not placed within close proximity, as determined by the department, to his or her
18 victim or victims.

