

1 **AN ACT** *to amend* 980.09 (intro.) of the statutes; **relating to:** a petition for discharge
 2 from commitment as a sexually violent person under ch. 980.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council’s Special Committee on Supervised Release and Discharge of Sexually Violent Persons.

Chapter 980 of the Wisconsin statutes provides a statutory scheme for the involuntary civil commitment of individuals who have completed their criminal sentences and are determined to be “sexually violent persons”. In general, a sexually violent person (SVP) is an individual who has been convicted of a sexually violent offense and who is dangerous because he or she suffers from a mental disorder that makes it likely the person will engage in future acts of sexual violence. Current law contains provisions for the discharge or supervised release of individuals committed under ch. 980.

This draft changes the pleading requirement a committed individual must meet to receive a discharge trial.

COMMENT: This draft was requested by members of the special committee at the October 4, 2012 meeting. The statutory provision amended by this draft is also amended by the draft of recommendations submitted by the Wisconsin department of justice (DOJ). The committee must decide whether to recommend the changes made by this draft, whether to recommend the changes made by SECTION 9 of WLC: 0032/1, containing the DOJ recommendations, or whether to recommend language that selects specific aspects of each.

3 **SECTION 1.** 980.09 (intro.) of the statutes is amended to read:

4 **980.09 Petition for discharge.** (intro.) A committed person may petition the
 5 committing court for discharge at any time. The court shall deny the petition under this section
 6 without a hearing unless the petition alleges facts from which the court or jury may conclude
 7 the person’s condition has changed since ~~the date of his or her initial commitment order~~ the

1 most recent order denying a petition for discharge after a hearing on the merits so that the
2 person ~~does not meet~~ no longer meets the criteria for commitment as a sexually violent person.

NOTE: Alters the pleading requirement which a committed person must meet in his discharge petition before receiving a discharge trial. Under current law, a committed person must allege facts from which a jury may conclude that his condition has changed since the date of his or her initial commitment order such that he no longer qualifies as an SVP. The draft requires a committed person to show that his condition has changed *since the most recent order* denying a petition for discharge, rather than requiring the person to show a change at any time since the person was initially committed.

COMMENT: The draft presents an alternative to the DOJ recommendation contained in SECTION 9 of WLC: 0032/1. Under current law, a committed person must allege facts showing that his condition has changed such that he no longer qualifies as an SVP before receiving a trial on his discharge petition. This draft alters the time period within which the alleged change must have occurred, but does not alter the remainder of the pleading requirement. SECTION 9 of WLC: 0032/1 alters both the time period and the pleading requirement itself.

Specifically, this draft retains current language requiring a committed person to allege facts from which a court or jury *may* conclude that his condition has changed such that he no longer qualifies as an SVP before the person may receive a discharge trial. In contrast, in SECTION 9 of WLC: 0032/1, the committed person must allege facts from which a court or jury *would likely* conclude that his condition has sufficiently changed.

This draft also provides that a committed person must show his condition has changed since the *most recent order* denying a petition for discharge after a hearing on the merits. In contrast, in SECTION 9 of WLC: 0032/1, the committed person must show his condition has changed since initial commitment *or* since the most recent order denying a discharge petition after a hearing on the merits.

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(END)