

1 **AN ACT** *to create* 973.09 (1) (ag) (intro.), 1. and 2. and (ar) of the statutes; **relating**
 2 **to:** permitting defendants to be assigned to treatment courts outside of their county
 3 of residence as a condition of probation.

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 Study Committee on Problem–Solving Courts, Alternatives, and Diversions.

At the committee meeting on August 20, 2014, some committee members expressed concerns that treatment courts are not available to offenders in all counties in the state. Some members stated that counties should not be mandated to provide treatment courts because of the necessity for “buy in” from the community to ensure treatment court success. However, it was also expressed that it is unfair to preclude participation by offenders who might be successful in such a program, due to geographic unavailability of the program.

This draft permits a court to assign a defendant to a treatment court project offered in a county that is not the defendant’s county of residence, provided that certain conditions are met, including treatment court project consent, reimbursement by the nonresident defendant’s county of residence for expenses incurred by the nonresident defendant; capacity of the project to serve the nonresident defendants; and the ability of the defendant to fully participate in the project’s requirements.

4 **SECTION 1.** 973.09 (1) (ag) (intro.), 1. and 2. and (ar) of the statutes are created to read:

5 973.09 (1) (ag) (intro.) In sub. (1) (ar):

6 1. “Treatment court” means a court that has jurisdiction over a treatment court project
 7 participant.

8 2. “Treatment court project” means a county or tribal court project that operates within
 9 the continuum from arrest to discharge from supervision and provides alternatives to

1 prosecution, incarceration, or both, for criminal offenders, including suspended and deferred
2 prosecution projects or community-based corrections.

3 (ar) As a condition of probation, a defendant may be assigned to participate in a
4 treatment court project. A defendant may be assigned to a treatment court project that is
5 offered in a county that is not the defendant's county of residence, provided that the following
6 conditions are met:

7 1. The treatment court project consents to the nonresident defendant's admission to the
8 program.

9 2. The nonresident defendant's county of residence agrees to reimburse the treatment
10 court project for any expenses incurred by the nonresident defendant's participation in the
11 treatment court project that are not paid by the nonresident defendant.

12 3. The treatment court project has the capacity to serve the nonresident defendant.

13 4. The nonresident defendant is able to fully participate in the treatment court project's
14 treatment, testing, and other requirements.

COMMENT: Does this provision reflect the committee's intent to provide more equal access to treatment court projects for defendants who reside in counties that do not have projects available? Further, is this provision appropriately placed in ch. 973? Should a similar provision also be placed in s. 971.37, stats., relating to deferred prosecution, for those individuals who are placed in treatment court prior to sentencing?