



2019 ASSEMBLY BILL 900

February 11, 2020 - Introduced by Representatives SUMMERFIELD and SHANKLAND.
Referred to Committee on Corrections.

1 **AN ACT** *to renumber* 980.08 (4) (dm) 1. a., b. and c.; *to amend* 980.08 (4) (dm)
2 1. (intro.), 980.08 (4) (dm) 4., 980.08 (4) (f) and 980.08 (4) (g); *to create* 165.25
3 (20) and 980.08 (4) (dm) 1e. of the statutes; and *to affect* 2017 Wisconsin Act
4 184, section 9320 (1); **relating to:** applicability of 2017 Wisconsin Act 184 and
5 placement of sexually violent persons on supervised release.

Analysis by the Legislative Reference Bureau

RESIDENCES OF PERSONS PLACED ON SUPERVISED RELEASE

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. If a court determines that supervised release is appropriate, the court must order the person's county of residence to prepare a report that identifies an appropriate residence for the person. Under current law, the county may not identify a residence that is within 1,500 feet of a school, child care facility, place of worship, park, youth center, or, depending on the offense the person committed, other specified places. This bill allows the county to identify a residence that does not comply with the 1,500-foot radius requirements if the county demonstrates that it made a reasonable effort to identify a residential option that complied with the requirements and the residential option in the report complies with all other requirements, is in the interest of public safety, and works in the best interest of citizens with regard to community safety.

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Under current law, the county submits the report to DHS, and DHS uses the report to prepare a supervised release plan. Under this bill, if DHS includes in its plan a residential option that is not the one identified by the county in the report, the county may appeal to the Department of Justice to review the plan. Under the bill, DOJ has 30 days to review the plan. If DOJ rejects the county's appeal, DHS is responsible for identifying a residential option for the person.

IMPLEMENTING 2017 WISCONSIN ACT 184

2017 Wisconsin Act 184 modified the procedure for determining the placement of a sexually violent person on supervised release. One change eliminated the ability of the court to choose a county other than the person's county of residence to prepare a report identifying appropriate residential options for the person. Prior law had allowed the court, with good cause, to choose another county. The effect of this change was that the person could not be placed in a county that was not his or her county of residence. The changes made in 2017 Wisconsin Act 184 applied to any petition for supervised release pending as of March 30, 2018. This bill clarifies that a petition for supervised release was pending if the person had not been physically placed in a residence on supervised release.

This bill also requires DHS to identify any person who was placed on supervised release in a residence outside his or her county of residence on or after March 30, 2018. If DHS identifies any such person, DHS must notify the court, and the court must order the person's county of residence to prepare a new report.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 165.25 (20) of the statutes is created to read:

2 165.25 **(20)** REVIEW APPEALS OF SUPERVISED RELEASE PLANS. Review appeals of
3 supervised release plans as provided under s. 980.08 (4) (f).

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

5 980.08 **(4)** (dm) 1. (intro.) If the court finds that all of the criteria in par. (cg)
6 are met, the court shall order the county of the person's residence, as determined by
7 the department of health services under s. 980.105, to prepare a report. The county
8 shall create a temporary committee to prepare the report for the county. The
9 committee shall consist of the county department under s. 51.42, a representative of

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1 the department of health services, a local probation or parole officer, the county
2 corporation counsel or his or her designee, and a representative of the county that
3 is responsible for land use planning or the department of the county that is
4 responsible for land information, and, after a city, village, or town is selected under
5 this subdivision, the chief executive officer, or his or her designee, of that city, village,
6 or town. In the report, the county shall identify an appropriate residential option in
7 that county while the person is on supervised release. In counties with a population
8 of 750,000 or more, the committee shall select a residence in the person's city, village,
9 or town of residence, as determined by the department of health services under s.
10 980.105 (2m). The report shall demonstrate that the county has contacted the
11 landlord for that residential option and that the landlord has committed to enter into
12 a lease.

13 1c. The county shall do all of the following when identifying an appropriate
14 residential option:

15 **SECTION 3.** 980.08 (4) (dm) 1. a., b. and c. of the statutes are renumbered 980.08
16 (4) (dm) 1c. a., b. and c.

17 **SECTION 4.** 980.08 (4) (dm) 1e. of the statutes is created to read:

18 980.08 (4) (dm) 1e. If a county is unable to identify a residential option that
19 complies with the applicable requirements under subd. 1c., the county shall prepare
20 a report with a noncompliant residential option and shall demonstrate the following:

21 a. The county made a reasonable effort to identify a landlord of a residential
22 option that complies with the applicable requirements under subd. 1c.

23 b. The residential option in the report otherwise complies with this paragraph
24 and is in the interest of public safety.

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1 c. The residential option in the report works in the best interest of citizens with
2 regard to community safety.

3 **SECTION 5.** 980.08 (4) (dm) 4. of the statutes is amended to read:

4 980.08 (4) (dm) 4. The county shall submit its report to the department of
5 health services within ~~120~~ 180 days following the court order. ~~A~~ Unless a court, upon
6 the county's request, determines that the county is making a good faith effort to
7 conform to the deadline, a county that does not submit its report within ~~120~~ 180 days
8 violates the person's rights under s. 51.61, and each day that the county does not
9 submit the report after the ~~120~~ 180 days have expired constitutes a separate
10 violation under s. 51.61. Notwithstanding s. 51.61 (7), any damages beyond costs and
11 reasonable actual attorney fees recovered by the person for a violation shall be
12 deposited into the appropriation account under s. 20.435 (2) (gz).

13 **SECTION 6.** 980.08 (4) (f) of the statutes is amended to read:

14 980.08 (4) (f) The court shall direct the department to use the report submitted
15 under par. (dm) to prepare a supervised release plan for the person that identifies
16 the residential option the county identified in its report. If the supervised release
17 plan does not include the residential option the county identified in its report, the
18 county may appeal to the department of justice. The department of justice has 30
19 days to review the appeal. If the department of justice rejects the county's appeal,
20 the department of health services shall be responsible for identifying another
21 residential option.

22 (fm) The supervised release plan shall also address the person's need, if any,
23 for supervision, counseling, medication, community support services, residential
24 services, vocational services, and alcohol or other drug abuse treatment. The
25 supervised release plan shall be submitted to the court within 30 days after the

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1 county submitted its report under par. (dm). The court may grant one extension of
2 up to 30 days of this time period for good cause and shall grant an extension of 30 days
3 if the county appeals to the department of justice under par. (f).

4 **SECTION 7.** 980.08 (4) (g) of the statutes is amended to read:

5 980.08 (4) (g) The court shall review the plan submitted by the department
6 under par. (f) (fm). If the details of the plan adequately meet the treatment needs
7 of the individual and the safety needs of the community, then the court shall approve
8 the plan and determine that supervised release is appropriate. If the details of the
9 plan do not adequately meet the treatment needs of the individual or the safety needs
10 of the community, then the court shall determine that supervised release is not
11 appropriate or direct the preparation of another supervised release plan to be
12 considered by the court under this paragraph. If the plan is inadequate under this
13 paragraph due to the residential option, the court shall order the county to identify
14 and arrange to lease another residential option and to prepare a new report under
15 par. (dm). If the plan is inadequate under this paragraph due to the treatment
16 options, the court shall order the department to prepare another plan ~~under par. (f)~~.

17 **SECTION 8.** 2017 Wisconsin Act 184, section 9320 (1) is amended to read:

18 [2017 Wisconsin Act 184] Section 9320 (1) SUPERVISED RELEASE. The treatment
19 of sections 20.435 (2) (gz), 51.61 (1) (z), 980.08 (4) (cm), (d), (dm) 3., (e), (em), (f)
20 (intro.), 1., 2., 3., and 4., and (g) and (5m), and 980.105 (2) and (2m) (intro.) of the
21 statutes and SECTION 9120 (1) of this act first apply to petitions pending under section
22 980.08 of the statutes on the effective date of this subsection. Under this subsection,
23 a petition is pending if the person who filed the petition has not been physically
24 placed in a residence on supervised release under section 980.08 of the statutes.

25 **SECTION 9. Nonstatutory provisions.**

ASSEMBLY BILL 900**SECTION 9**

1 (1) The department of health services shall identify any individual who was
2 physically placed in a residence outside of his or her county of residence after March
3 30, 2018. The department shall notify the court that approved the placement and
4 that court shall order the person's county of residence, as determined by the
5 department under s. 980.105, to prepare a report identifying an appropriate
6 residential option under s. 980.08 (4) (dm).

7 **SECTION 10. Initial applicability.**

8 (1) The treatment of s. 980.08 (4) (dm) 1. (intro.), a., b., and c. and 4., (f), and
9 (g) first applies to petitions pending under s. 980.08 on the effective date of this
10 subsection. Under this subsection, a petition is pending if the person who filed the
11 petition has not been physically placed in a residence on supervised release under
12 s. 980.08.

13 (END)