

**OUTAGAMIE COUNTY BOARD MEETING
APRIL 16, 2019**

RESOLUTION NO. 9—2019-20

Supervisor Gabrielson moved, seconded by Supervisor Patience, for adoption.

RESOLUTION NO. 9—2019-20 IS ADOPTED.

4/16/2019 4:23:16 PM RotCall Systems, Inc



Voting Results for RES. NO. 9

County Position on Proposed State Legislation to Modify Procedures for Placement of Default, Violent Person on Supervised Release under Wis. Stat. 513

Passed By Majority Vote

YES: **33** NO: **0** ABSTAIN: 0 ABSENT: **3**

1 - THOMPSON	YES	19 - MARCKS	YES
2 - MILLER	YES	20 - THOMAS	YES
3 - GRADY	ABSENT	21 - T. THYSSEN	YES
4 - PATIENCE	YES	22 - HAGEN	ABSENT
5 - GABRIELSON	YES	23 - KLEMP	YES
6 - KONETZKE	YES	24 - IVERSON	YES
7 - HAMMEN	YES	25 - NOOYEN	YES
8 - N. THYSSEN	YES	26 - DUNCAN	YES
9 - KRUEGER	ABSENT	27 - CULBERTSON	YES
10 - LAMERS	YES	28 - STURN	YES
11 - DILLENBERG	YES	29 - BUCHMAN	YES
12 - MC DANIEL	YES	30 - WOODZICKA	YES
13 - WEGAND	YES	31 - CLEGG	YES
14 - DE GROOT	YES	32 - VANDERHEIDEN	YES
15 - PETERSON	YES	33O'Connor-Schevers	YES
16 - SCHROEDER	YES	34 - RETTLER	YES
17 - CROATT	YES	35 - MELCHERT	YES
18 - SPEARS	YES	36 - SUPRISE	YES



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0210/2
CMH:cjs&amn

2019 ASSEMBLY BILL 55

February 28, 2019 - Introduced by Representatives SCHRAA, KRUG, BROOKS, EDMING, KITCHENS, KUGLITSCH, KULP, MURPHY, MURSAU, SPIROS, THIESFELDT, TUSLER, WICHGERS and ZIMMERMAN, cosponsored by Senators FEYEN, TESTIN, COWLES and MARKLEIN. Referred to Committee on Judiciary.

1 **AN ACT to amend** 980.08 (4) (dm) 1. (intro.), 980.08 (4) (dm) 1. a., b. and c. and
2 980.08 (4) (dm) 4. of the statutes; and **to affect** 2017 Wisconsin Act 184, section
3 9320 (1); **relating to:** applicability of 2017 Wisconsin Act 184; time frame for
4 reports for sexually violent persons petitioning for supervised release; and
5 placement of sexually violent persons on supervised release.

Analysis by the Legislative Reference Bureau

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 the Department of Health Services to identify any person on supervised release whose residence is not in his or her county of residence and who had been physically placed in a residence on supervised release on or after March 30, 2018. If DHS identifies any such person, DHS must notify the court, and the court must revoke the person's supervised release and order the person's county of residence to prepare a new report.

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CMH:cjs&amn

ASSEMBLY BILL 55

Under 2017 Wisconsin Act 184, a county was required to prepare its report for the court within 180 days of the court order if the order was made on or after March 30, 2018, and before April 1, 2019, and within 120 days if the order was made on or after April 1, 2019. If the county failed to prepare its report in that time frame, the county would violate the person's rights as a patient and would be subject to enforcement and damages for each violation. This bill eliminates the shortening of the time frame beginning on April 1, 2019, so that a county is required to prepare its report for the court within 180 days of the court order. This bill also allows a county, if it fails to prepare its report within 180 days, to request that the court make a finding that the county is making a good faith effort to prepare the report, and, if the court makes such a finding, the county is not subject to enforcement and damages.

Under current law, when a sexually violent person is placed on supervised release, he or she may not be placed within 1,500 feet of a school, child care facility, place of worship, park, youth center, or other specified places. Under the bill, the county must consider the proximity of the placement to the places specified under current law, but the bill removes the exact distance.

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

1 **SECTION 1.** 980.08 (4) (dm) 1. (intro.) of the statutes is amended to read:
2 980.08 (4) (dm) 1. (intro.) If the court finds that all of the criteria in par. (cg)
3 are met, the court shall order the county of the person's residence, as determined by
4 the department of health services under s. 980.105, to prepare a report. The county
5 shall create a temporary committee to prepare the report for the county. The
6 committee shall consist of the county department under s. 51.42, a representative of
7 the department of health services, a local probation or parole officer, the county
8 corporation counsel or his or her designee, and a representative of the county that
9 is responsible for land use planning or the department of the county that is
10 responsible for land information. In the report, the county shall identify an
11 appropriate residential option in that county while the person is on supervised
12 release. In counties with a population of 750,000 or more, the committee shall select
13 a residence in the person's city, village, or town of residence, as determined by the

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CMH:cjs&amn
SECTION 1

ASSEMBLY BILL 55

1 department of health services under s. 980.105 (2m). The report shall demonstrate
2 that the county has contacted the landlord for that residential option and that the
3 landlord has committed to enter into a lease. The county shall consider the following
4 factors when identifying an appropriate residential option:

5 SECTION 2. 980.08 (4) (dm) 1. a., b. and c. of the statutes are amended to read:

6 980.08 (4) (dm) 1. a. ~~Ensure that~~ The distance between the person's placement
7 ~~is into a residence that is not less than 1,500 feet from~~ and any school premises, child
8 care facility, public park, place of worship, or youth center. A person is not in violation
9 of a condition or rule of supervised release under sub. (7) (a) if any school premises,
10 child care facility, public park, place of worship, or youth center is established ~~within~~
11 ~~1,500 feet from~~ near the person's residence after he or she is placed in the residence
12 under this section.

13 b. If the person committed a sexually violent offense against an adult at risk,
14 as defined in s. 55.01 (1e), or an elder adult at risk, as defined in s. 46.90 (1) (br),
15 ~~ensure that~~ the distance between the person's placement ~~is into a residence that is~~
16 ~~not less than 1,500 feet from~~ and a nursing home or an assisted living facility. A
17 person is not in violation of a condition or rule of supervised release under sub. (7)
18 (a) if a nursing home or an assisted living facility is established ~~within 1,500 feet from~~
19 near the person's residence after he or she is placed in the residence under this
20 section.

21 c. If the person is a serious child sex offender, ~~ensure that~~ the distance between
22 the person's placement ~~is into a residence that is not on a property adjacent to~~ and
23 a property where a child's primary residence exists. ~~For the purpose of this~~
24 ~~subdivision, adjacent properties are properties that share a property line without~~
25 ~~regard to a public or private road if the living quarters on each property are not more~~

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CMH:cjs&amn

ASSEMBLY BILL 55**SECTION 2**

1 ~~than 1,500 feet apart.~~ A person is not in violation of a condition or rule of supervised
2 release under sub. (7) (a) if a child establishes primary residence in a property
3 ~~adjacent to~~ near the person's residence after the person is placed in the residence
4 under this section.

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

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

15 **SECTION 4.** 2017 Wisconsin Act 184, section 9320 (1) is amended to read:

16 [2017 Wisconsin Act 184] Section 9320 (1) SUPERVISED RELEASE. The treatment
17 of sections 20.435 (2) (gz), 51.61 (1) (z), 980.08 (4) (cm), (d), (dm) 3., (e), (em), (f)
18 (intro.), 1., 2., 3., and 4., and (g) and (5m), and 980.105 (2) and (2m) (intro.) of the
19 statutes and SECTION 9120 (1) of this act first apply to petitions pending under section
20 980.08 of the statutes on the effective date of this subsection. Under this subsection,
21 a petition is pending if the person who filed the petition has not been physically
22 placed in a residence on supervised release under section 980.08 of the statutes.

23 **SECTION 5. Nonstatutory provisions.**

24 (1) The department of health services shall identify any person on supervised
25 release whose residence or proposed residence does not conform with 2017 Wisconsin

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CMH:cjs&amn
SECTION 5

ASSEMBLY BILL 55

1 Act 184, section 9320 (1), as affected by this act, and shall notify the court of the
2 nonconforming residence or proposed residence. If a court is so notified under this
3 subsection, the court shall revoke the order for the person's supervised release and
4 order the county of the person's residence, as determined by the department of health
5 services under s. 980.105, to prepare a new report under s. 980.08 (4) (dm) and the
6 department of health services to prepare a new supervised release plan under s.
7 980.08 (4) (f).

8

(END)

RESOLUTION NO.: 9—2019-20

TO THE HONORABLE, THE OUTAGAMIE COUNTY BOARD OF SUPERVISORS

LADIES AND GENTLEMEN:

MAJORITY

1 2017 Wisconsin Act 184 modified the procedure for determining the placement of a
2 sexually violent person on supervised release under Chapter 980, Wis. Stats., shifting the
3 burden of finding suitable housing from the State Department of Health Services to a
4 county-based committee. This Act required counties to identify an appropriate
5 residential option that meets siting criteria, including that the residential option be at
6 least 1,500 feet from schools, child care facilities, public parks, places of worship, and
7 youth centers; and in some cases from the primary residence of a minor child and
8 nursing homes or assisted living facilities. Since Act 184's adoption, counties have
9 incurred significant personnel costs and face penalties of up to \$1,000 per day should the
10 county not be able to identify an appropriate residential option within the statutorily
11 mandated period (180 days from the date of the court order for 1 year following Act 184
12 adoption; 120 days for court orders entered on or after April 1, 2019). This penalty
13 applies even if an appropriate residential option does not exist or cannot be identified.
14 To implement the Act, Outagamie County established the Chapter 980 Sexually Violent
15 Person – Release to Community Placement – Ad Hoc Committee, by Resolution 147—
16 2018-19. The State of Wisconsin provides no funding to the county to perform this
17 work.

18
19 2019 SB 60 and 2019 AB 55 were drafted to remedy some of the issues counties have
20 faced while implementing WI Act 184. This includes expanding the deadline for a
21 county to submit its report to 180 days on orders entered on or after April 1, 2019;
22 allowing a court the authority to make a finding that the county has made a good faith
23 effort to conform to the deadline and subsequently is not subject to financial sanctions.
24 The proposed legislation also eliminates the state-determined minimum 1,500 feet
25 distance requirements from schools, child care facilities, places of worship, parks, youth
26 centers, or other specified places, and instead requires each county to subjectively
27 determine what an appropriate distance is between the identified appropriate residential
28 option and the aforementioned sites.

29
30 NOW THEREFORE, the undersigned members of the Health and Human Services Committee
31 recommend adoption of the following resolution.

32 BE IT RESOLVED, that the Outagamie County Board of Supervisors does go on record in
33 support of extending the housing report preparation period to 180 days and allowing the courts to make
34 a finding that the county has made a “good faith effort” to conform to the deadline, and

1 BE IT FURTHER RESOLVED, that the Outagamie County Board of Supervisors does go on
2 record in opposition of eliminating state-defined distance requirements for placement of Chapter 980
3 Supervised Release offenders, and

4 BE IT STILL FURTHER RESOLVED, that the Outagamie County Board of Supervisors does
5 go on record that it is opposed to counties being the entity responsible for identifying an appropriate
6 residential option for State Chapter 980 offenders, and requests that the State resume this function, and

7 BE IT STILL FURTHER RESOLVED, that the Outagamie County Board of Supervisors does
8 go on record to request that the State fully reimburse the county for all costs related to finding suitable
9 residential options for Chapter 980 offenders, should the county-based placement process remain, and

10 BE IT FINALLY RESOLVED, that the Outagamie County Clerk be directed to forward a copy
11 of this resolution to the Outagamie County Lobbyist for distribution to Governor Evers and the state
12 legislators, Outagamie County Corporation Counsel, Outagamie County Development & Land Services
13 Director, Outagamie County Health & Human Services Director, Wisconsin Counties Association, and
14 the Outagamie County Executive.

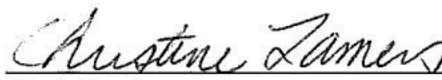
15 Dated this 14th day of April 2019

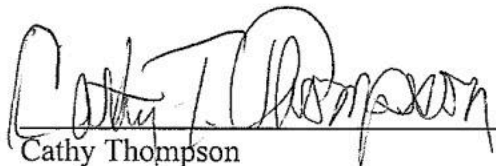
16 Respectfully Submitted,

17
18 HEALTH AND HUMAN SERVICES
19 COMMITTEE
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22 
23 _____
24 Dan Gabrielson

25 _____
26 Justin Krueger

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29 _____
30 Christine Lamers

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Cathy Thompson

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Kelly Schroeder
Kelly Schroeder

Duly and officially adopted by the County Board on: April 16, 2019

Signed: [Signature]
Board Chairperson

[Signature]
County Clerk

Approved: _____

Vetoed: _____

Signed: _____
County Executive



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1299/2
CMH:amn

2019 SENATE BILL 60

March 1, 2019 - Introduced by Senators FEYEN, TESTIN, COWLES and MARKLEIN, cosponsored by Representatives SCHRAA, KRUG, BROOKS, EDMING, KITCHENS, KUGLITSCH, KULP, MURPHY, MURSAU, SPIROS, THIESFELDT, TUSLER, WICHGERS and ZIMMERMAN. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT to amend** 980.08 (4) (dm) 1. (intro.), 980.08 (4) (dm) 1. a., b. and c. and
2 980.08 (4) (dm) 4. of the statutes; and **to affect** 2017 Wisconsin Act 184, section
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This bill also requires the Department of Health Services to identify any person on supervised release whose residence is not in his or her county of residence and who had been physically placed in a residence on supervised release on or after March 30, 2018. If DHS identifies any such person, DHS must notify the court, and the court must revoke the person's supervised release and order the person's county of residence to prepare a new report.

SENATE BILL 60

Under 2017 Wisconsin Act 184, a county was required to prepare its report for the court within 180 days of the court order if the order was made on or after March 30, 2018, and before April 1, 2019, and within 120 days if the order was made on or after April 1, 2019. If the county failed to prepare its report in that time frame, the county would violate the person's rights as a patient and would be subject to enforcement and damages for each violation. This bill eliminates the shortening of the time frame beginning on April 1, 2019, so that a county is required to prepare its report for the court within 180 days of the court order. This bill also allows a county, if it fails to prepare its report within 180 days, to request that the court make a finding that the county is making a good faith effort to prepare the report, and, if the court makes such a finding, the county is not subject to enforcement and damages.

Under current law, when a sexually violent person is placed on supervised release, he or she may not be placed within 1,500 feet of a school, child care facility, place of worship, park, youth center, or other specified places. Under the bill, the county must consider the proximity of the placement to the places specified under current law, but the bill removes the exact distance.

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

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3 are met, the court shall order the county of the person's residence, as determined by
4 the department of health services under s. 980.105, to prepare a report. The county
5 shall create a temporary committee to prepare the report for the county. The
6 committee shall consist of the county department under s. 51.42, a representative of
7 the department of health services, a local probation or parole officer, the county
8 corporation counsel or his or her designee, and a representative of the county that
9 is responsible for land use planning or the department of the county that is
10 responsible for land information. In the report, the county shall identify an
11 appropriate residential option in that county while the person is on supervised
12 release. In counties with a population of 750,000 or more, the committee shall select
13 a residence in the person's city, village, or town of residence, as determined by the

SENATE BILL 60

1 department of health services under s. 980.105 (2m). The report shall demonstrate
2 that the county has contacted the landlord for that residential option and that the
3 landlord has committed to enter into a lease. The county shall consider the following
4 factors when identifying an appropriate residential option:

5 SECTION 2. 980.08 (4) (dm) 1. a., b. and c. of the statutes are amended to read:

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9 of a condition or rule of supervised release under sub. (7) (a) if any school premises,
10 child care facility, public park, place of worship, or youth center is established ~~within~~
11 ~~1,500 feet from~~ near the person's residence after he or she is placed in the residence
12 under this section.

13 b. If the person committed a sexually violent offense against an adult at risk,
14 as defined in s. 55.01 (1e), or an elder adult at risk, as defined in s. 46.90 (1) (br),
15 ~~ensure that~~ the distance between the person's placement ~~is into a residence that is~~
16 ~~not less than 1,500 feet from~~ and a nursing home or an assisted living facility. A
17 person is not in violation of a condition or rule of supervised release under sub. (7)
18 (a) if a nursing home or an assisted living facility is established ~~within 1,500 feet from~~
19 near the person's residence after he or she is placed in the residence under this
20 section.

21 c. If the person is a serious child sex offender, ~~ensure that~~ the distance between
22 the person's placement ~~is into a residence that is not on a property adjacent to~~ and
23 a property where a child's primary residence exists. ~~For the purpose of this~~
24 ~~subdivision, adjacent properties are properties that share a property line without~~
25 ~~regard to a public or private road if the living quarters on each property are not more~~

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CMH:amn

SENATE BILL 60

SECTION 2

1 ~~than 1,500 feet apart.~~ A person is not in violation of a condition or rule of supervised
 2 release under sub. (7) (a) if a child establishes primary residence in a property
 3 ~~adjacent to~~ near the person's residence after the person is placed in the residence
 4 under this section.

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

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

15 **SECTION 4.** 2017 Wisconsin Act 184, section 9320 (1) is amended to read:

16 [2017 Wisconsin Act 184] Section 9320 (1) SUPERVISED RELEASE. The treatment
 17 of sections 20.435 (2) (gz), 51.61 (1) (z), 980.08 (4) (cm), (d), (dm) 3., (e), (em), (f)
 18 (intro.), 1., 2., 3., and 4., and (g) and (5m), and 980.105 (2) and (2m) (intro.) of the
 19 statutes and SECTION 9120 (1) of this act first apply to petitions pending under section
 20 980.08 of the statutes on the effective date of this subsection. Under this subsection,
 21 a petition is pending if the person who filed the petition has not been physically
 22 placed in a residence on supervised release under section 980.08 of the statutes.

23 **SECTION 5. Nonstatutory provisions.**

24 (1) The department of health services shall identify any person on supervised
 25 release whose residence or proposed residence does not conform with 2017 Wisconsin

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CMH:amn

SECTION 5

SENATE BILL 60

1 Act 184, section 9320 (1), as affected by this act, and shall notify the court of the
2 nonconforming residence or proposed residence. If a court is so notified under this
3 subsection, the court shall revoke the order for the person's supervised release and
4 order the county of the person's residence, as determined by the department of health
5 services under s. 980.105, to prepare a new report under s. 980.08 (4) (dm) and the
6 department of health services to prepare a new supervised release plan under s.
7 980.08 (4) (f).

8

(END)