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.

<table>
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RESOLUTION NO.: 9—2019-20

TO THE HONORABLE, THE OUTAGAMIE COUNTY BOARD OF SUPERVISORS

LADIES AND GENTLEMEN: MAJORITY

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

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

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

BE IT RESOLVED, that the Outagamie County Board of Supervisors does go on record in support of extending the housing report preparation period to 180 days and allowing the courts to make a finding that the county has made a “good faith effort” to conform to the deadline, and
Resolution No. 9—2019-20

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

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

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

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

Dated this __________day of April 2019

Respectfully Submitted,

HEALTH AND HUMAN SERVICES COMMITTEE

Dan Gabrielson
Christine Lamers

Justin Krueger
Cathy Thompson
Resolution No. 9—2019-20

Duly and officially adopted by the County Board on: April 11, 2019

Signed: ____________________________  ____________________________
Board Chairperson                  County Clerk

Approved: ____________________________  Vetoed: ______________

Signed: ____________________________
County Executive
2019 SENATE BILL 60

March 1, 2019 - Introduced by Senators FEYEN, TESTIN, COWLES and MARKLEIN, cospersoned 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.

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

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

980.08 (4) (dm) 1. (intro.) If the court finds that all of the criteria in par. (cm)
are met, the court shall order the county of the person's residence, as determined by
the department of health services under s. 980.105, to prepare a report. The county
shall create a temporary committee to prepare the report for the county. The
committee shall consist of the county department under s. 51.42, a representative of
the department of health services, a local probation or parole officer, the county
corporation counsel or his or her designee, and a representative of the county that
is responsible for land use planning or the department of the county that is
responsible for land information. In the report, the county shall identify an
appropriate residential option in that county while the person is on supervised
release. In counties with a population of 750,000 or more, the committee shall select
a residence in the person's city, village, or town of residence, as determined by the
department of health services under s. 980.105 (3m). The report shall demonstrate
that the county has contacted the landlord for that residential option and that the
landlord has committed to enter into a lease. The county shall consider the following
factors when identifying an appropriate residential option:

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

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

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

c. If the person is a serious child sex offender, ensure that the distance between
the person’s placement is into a residence that is not on a property adjacent to and
a property where a child’s primary residence exists. For the purposes of this
subdivision, adjacent properties are properties that share a property line without
regard to a public or private road if the living quarters on each property are not more
than 1,500 feet apart. A person is not in violation of a condition or rule of supervised release under sub. (7) (a) if a child establishes primary residence in a property adjacent to near the person’s residence after the person is placed in the residence under this section.

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

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

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

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

SECTION 5. Nonstatutory provisions.

(1) The department of health services shall identify any person on supervised release whose residence or proposed residence does not conform with 2017 Wisconsin
Act 184, section 9320 (1), as affected by this act, and shall notify the court of the nonconforming residence or proposed residence. If a court is so notified under this subsection, the court shall revoke the order for the person's supervised release and order the county of the person's residence, as determined by the department of health services under s. 980.105, to prepare a new report under s. 980.08 (4) (dm) and the department of health services to prepare a new supervised release plan under s. 980.08 (4) (f).
2019 ASSEMBLY BILL 55

February 28, 2019 - Introduced by Representatives SCHRAA, KULIG, BROOKS, EDMING, KITCHENS, KUGLITSCH, KULP, MURPHY, MURSAU, SPRIOS, THIESFELD, TUSLER, WICHERS 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.
2019 - 2020 Legislature

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:

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are met, the court shall order the county of the person's residence, as determined by
the department of health services under s. 980.105, to prepare a report. The county
shall create a temporary committee to prepare the report for the county. The
committee shall consist of the county department under s. 51.42, a representative of
the department of health services, a local probation or parole officer, the county
corporation counsel or his or her designee, and a representative of the county that
is responsible for land use planning or the department of the county that is
responsible for land information. In the report, the county shall identify an
appropriate residential option in that county while the person is on supervised
release. In counties with a population of 750,000 or more, the committee shall select
a residence in the person's city, village, or town of residence, as determined by the
department of health services under s. 980.105 (2m). The report shall demonstrate
that the county has contacted the landlord for that residential option and that the
landlord has committed to enter into a lease. The county shall consider the following
factors when identifying an appropriate residential option:

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

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

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

c. If the person is a serious child sex offender, ensure that the distance between
the person’s placement is into a residence that is not on a property adjacent to and
a property where a child’s primary residence exists. For the purpose of this
subdivision, adjacent properties are properties that share a property line without
regard to a public or private road if the living quarters on each property are not more
than 1,500 feet apart. A person is not in violation of a condition or rule of supervised
release under sub. (7) (a) if a child establishes primary residence in a property
adjacent to near the person's residence after the person is placed in the residence
under this section.

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

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

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

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

SECTION 5. Nonstatutory provisions.

(1) The department of health services shall identify any person on supervised
release whose residence or proposed residence does not conform with 2017 Wisconsin
Act 184, section 9320 (1), as affected by this act, and shall notify the court of the nonconforming residence or proposed residence. If a court is so notified under this subsection, the court shall revoke the order for the person's supervised release and order the county of the person's residence, as determined by the department of health services under s. 980.105, to prepare a new report under s. 980.08 (4) (dm) and the department of health services to prepare a new supervised release plan under s. 980.08 (4) (f).