



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2005 Wisconsin Act 434
[2005 Senate Bill 318]

Sexually Violent Persons

2005 Wisconsin Act 434 extensively revises ch. 980, Stats., relating to sexually violent person commitments. In general, the Act does the following:

1. Revises the definition of “sexually violent person” (SVP) for purposes of ch. 980, Stats., to define the term “act of sexual violence” that appears in the definition, to add certain criminal offenses to the definition of “sexually violent offense,” and to revise the meaning of the term “sexually motivated.”
2. Revises and creates, in general, various provisions relating to the commencement of, and general proceedings in, ch. 980 proceedings, including filing the petition, the probable cause hearing, experts appointed for examinations, jury requirements, and use of presentence reports by specified persons.
3. Creates a change of venue procedure specific to SVP proceedings.
4. Creates specific discovery provisions applicable to ch. 980 proceedings and provides that the general discovery process applicable in other civil actions does not apply in these proceedings.
5. Allows certain records, including juvenile, pupil, mental health commitment and patient health care records, to be open for inspection by specified state agencies or a district attorney for use in the evaluation or prosecution of any SVP proceeding, if the records relate to a person who is subject to or who is being evaluated for an SVP proceeding.
6. Makes a person’s juvenile delinquency dispositions admissible for a hearing, trial, or other SVP proceeding relating to the person.
7. Creates an additional exception to a patient’s privileged communications with a health care provider for communications and information relevant to an issue in proceedings for control, care, and treatment of an SVP.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.

8. Revises the period for periodic reexamination of the mental condition of a committed SVP to within 12 months after the date of the initial commitment order and every 12 months thereafter.
9. Revises the process for granting supervised release, adding a requirement that a court may order supervised release only if it finds that all of the specified conditions in the law have been met.
10. Modifies provisions relating to the revocation of supervised release to specify the conditions and procedures for petitioning for revocation, detaining the person on release, and court revocation of the release order.
11. Modifies provisions relating to petitions for discharge from custody or supervision without the approval of the Secretary of the Department of Health and Family Services.
12. Modifies the prior criminal escape statute to include: (1) persons who are in actual custody in a facility used for the detention of persons committed as SVPs; and (2) the constructive custody of a person placed on supervised release.
13. Creates a special battery statute relating to a battery caused by an SVP committed to an institution.

For further information see the notes provided to 2005 Senate Bill 318 by the Joint Legislative Council and a Legislative Council Amendment Memo, found at www.legis.state.wi.us/lc, describing amendments adopted to Senate Bill 318.

Effective Date: The Act takes effect on August 1, 2006.

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RS:jb