



1997 ASSEMBLY BILL 577

October 28, 1997 – Introduced by Representatives KAUFERT, FOTI, DOBYNS, WARD, LADWIG, GARD, GUNDERSON, ZIEGELBAUER, OLSEN, STASKUNAS, SERATTI, HOVEN, KELSO, ALBERS, F. LASEE, GREEN, LAZICH, VRAKAS and JESKEWITZ, cosponsored by Senators A. LASEE, ROESSLER and ZIEN. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT to renumber** 980.12; **to amend** 302.11 (1g) (b) 2., 980.06 (2) (b), 980.06
2 (2) (c), 980.08 (4) and 980.08 (5); and **to create** 301.03 (11), 304.06 (1q), 980.01
3 (4m) and 980.12 (2) of the statutes; **relating to:** pharmacological treatment for
4 persons convicted of certain child sex offenses and certain persons found to be
5 sexually violent persons, and affecting parole.

Analysis by the Legislative Reference Bureau

This bill authorizes pharmacological treatment, using an antiandrogen (a substance that inhibits the biological effects of male hormones, such as testosterone), of persons convicted of certain child sex offenses and of certain persons who have been found to be sexually violent persons. Specifically, the bill does the following:

Persons convicted of certain child sex offenses

Under current law, a person sentenced to imprisonment in a state prison is generally entitled to mandatory release once he or she has served two-thirds of his or her sentence. However, if a person is sentenced to imprisonment for certain serious felonies, including sexual assault of a child, the person is not automatically entitled to release when he or she reaches his or her mandatory release date. Instead, the parole commission may deny the person mandatory release if it is necessary to protect the public or if the person refuses to participate in counseling or treatment. In addition, the parole commission and the department of corrections (DOC) may set rules and conditions of parole with which any person who is on parole must comply.

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Current law also provides that, when a court places a person who has been convicted of a crime on probation, the court may impose any conditions which appear to be reasonable and appropriate. A person placed on probation is under the supervision of DOC and thus is also subject to rules and conditions of probation established by DOC.

This bill specifies that a person sentenced to imprisonment for sexual assault of a child under the age of 13 years (a serious child sex offender) may be denied mandatory release if the person refuses to participate in pharmacological treatment using an antiandrogen. The bill also authorizes the parole commission and DOC to require a serious child sex offender to undergo pharmacological treatment using an antiandrogen as a condition of the person's parole. The bill further specifies that DOC may require a serious child sex offender to undergo pharmacological treatment using an antiandrogen as a condition of the person's probation. Finally, the bill requires DOC to submit a report to the legislature concerning the extent to which DOC has required pharmacological treatment using an antiandrogen as a condition of probation or parole and the effectiveness of the treatment in the cases in which its use has been required. The report must be submitted 3 years from the date on which the bill takes effect.

Sexually violent persons

Current law provides a procedure for the involuntary civil commitment of sexually violent persons. A person who has been found to be a sexually violent person is committed to the department of health and family services (DHFS) for control, care and treatment. The person may be committed to institutional care in an appropriate facility or the court may order the person to be placed on supervised release. When deciding whether a sexually violent person should be placed on supervised release, a court may consider several factors, including what arrangements are available to ensure that the person has access to and will participate in necessary treatment. If the court finds that the person is appropriate for supervised release, a plan identifying the person's needs for treatment and services must be prepared by DHFS and by the social services department of the county in which the person will reside, and the plan must be approved by the court.

This bill provides that, in deciding whether to place a sexually violent person on supervised release, a court may consider what arrangements are available to ensure that the person has access to and will participate in pharmacological treatment using an antiandrogen if the person has been convicted of, adjudicated delinquent for, or found not guilty by reason of mental disease or defect of, a sexual assault against a child under the age of 13. In addition, if the court decides that such a person is appropriate for supervised release, the bill requires that the treatment and services plan prepared by DHFS and the county department address the person's need for pharmacological treatment using an antiandrogen. Finally, the bill requires DHFS to submit a report to the legislature concerning the extent to which pharmacological treatment using an antiandrogen has been required as a condition of supervised release of sexually violent persons and the effectiveness of the treatment in the cases in which its use has been required. The report must be submitted 3 years from the date on which the bill takes effect.

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For further information see the *state* 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.** 301.03 (11) of the statutes is created to read:

2 301.03 (11) By the first day of the 37th month beginning after the effective date
3 of this subsection [revisor inserts date], submit a report to the legislature under
4 s. 13.172 (2) concerning the extent to which the department has required
5 pharmacological treatment using an antiandrogen or the chemical equivalent of an
6 antiandrogen as a condition of probation or parole and the effectiveness of the
7 treatment in the cases in which its use has been required.

8 **SECTION 2.** 302.11 (1g) (b) 2. of the statutes is amended to read:

9 302.11 (1g) (b) 2. Refusal by the inmate to participate in counseling or
10 treatment that the social service and clinical staff of the institution determines is
11 necessary for the inmate, including pharmacological treatment using an
12 antiandrogen or the chemical equivalent of an antiandrogen if the inmate is a serious
13 child sex offender as defined in s. 304.06 (1q) (a).

14 **SECTION 3.** 304.06 (1q) of the statutes is created to read:

15 304.06 (1q) (a) In this subsection, “serious child sex offender” means a person
16 who has been convicted of committing a crime specified in s. 948.02 (1) or (2) or
17 948.025 (1) against a child who had not attained the age of 13 years.

18 (b) The parole commission or the department may require as a condition of
19 parole that a serious child sex offender undergo pharmacological treatment using an
20 antiandrogen or the chemical equivalent of an antiandrogen. This paragraph does
21 not prohibit the department from requiring pharmacological treatment using an

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1 antiandrogen or the chemical equivalent of an antiandrogen as a condition of
2 probation.

3 **SECTION 4.** 980.01 (4m) of the statutes is created to read:

4 980.01 (4m) "Serious child sex offender" means a person who has been
5 convicted, adjudicated delinquent or found not guilty or not responsible by reason of
6 insanity or mental disease, defect or illness for committing a violation of a crime
7 specified in s. 948.02 (1) or (2) or 948.025 (1) against a child who had not attained the
8 age of 13 years.

9 **SECTION 5.** 980.06 (2) (b) of the statutes is amended to read:

10 980.06 (2) (b) An order for commitment under this section shall specify either
11 institutional care in a secure mental health unit or facility, as provided under s.
12 980.065, or other facility or supervised release. In determining whether
13 commitment shall be for institutional care in a secure mental health unit or facility
14 or other facility or for supervised release, the court may consider, without limitation
15 because of enumeration, the nature and circumstances of the behavior that was the
16 basis of the allegation in the petition under s. 980.02 (2) (a), the person's mental
17 history and present mental condition, where the person will live, how the person will
18 support himself or herself, and what arrangements are available to ensure that the
19 person has access to and will participate in necessary treatment, including
20 pharmacological treatment using an antiandrogen or the chemical equivalent of an
21 antiandrogen if the person is a serious child sex offender. The department shall
22 arrange for control, care and treatment of the person in the least restrictive manner
23 consistent with the requirements of the person and in accordance with the court's
24 commitment order.

25 **SECTION 6.** 980.06 (2) (c) of the statutes is amended to read:

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1 980.06 (2) (c) If the court finds that the person is appropriate for supervised
2 release, the court shall notify the department. The department and the county
3 department under s. 51.42 in the county of residence of the person, as determined
4 under s. 980.105, shall prepare a plan that identifies the treatment and services, if
5 any, that the person will receive in the community. The plan shall address the
6 person's need, if any, for supervision, counseling, medication, community support
7 services, residential services, vocational services, and alcohol or other drug abuse
8 treatment. If the person is a serious child sex offender, the plan shall address the
9 person's need for pharmacological treatment using an antiandrogen or the chemical
10 equivalent of an antiandrogen. The department may contract with a county
11 department, under s. 51.42 (3) (aw) 1. d., with another public agency or with a private
12 agency to provide the treatment and services identified in the plan. The plan shall
13 specify who will be responsible for providing the treatment and services identified
14 in the plan. The plan shall be presented to the court for its approval within 21 days
15 after the court finding that the person is appropriate for supervised release, unless
16 the department, county department and person to be released request additional
17 time to develop the plan. If the county department of the person's county of residence
18 declines to prepare a plan, the department may arrange for another county to
19 prepare the plan if that county agrees to prepare the plan and if the person will be
20 living in that county. If the department is unable to arrange for another county to
21 prepare a plan, the court shall designate a county department to prepare the plan,
22 order the county department to prepare the plan and place the person on supervised
23 release in that county, except that the court may not so designate the county
24 department in the county where the facility in which the person was committed for

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1 institutional care is located unless that county is also the person's county of
2 residence.

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

4 980.08 (4) The court, without a jury, shall hear the petition within 30 days after
5 the report of the court-appointed examiner is filed with the court, unless the
6 petitioner waives this time limit. Expenses of proceedings under this subsection
7 shall be paid as provided under s. 51.20 (18). The court shall grant the petition unless
8 the state proves by clear and convincing evidence that the person is still a sexually
9 violent person and that it is still substantially probable that the person will engage
10 in acts of sexual violence if the person is not confined in a secure mental health unit
11 or facility. In making a decision under this subsection, the court may consider,
12 without limitation because of enumeration, the nature and circumstances of the
13 behavior that was the basis of the allegation in the petition under s. 980.02 (2) (a),
14 the person's mental history and present mental condition, where the person will live,
15 how the person will support himself or herself and what arrangements are available
16 to ensure that the person has access to and will participate in necessary treatment,
17 including pharmacological treatment using an antiandrogen or the chemical
18 equivalent of an antiandrogen if the person is a serious child sex offender.

19 **SECTION 8.** 980.08 (5) of the statutes is amended to read:

20 980.08 (5) If the court finds that the person is appropriate for supervised
21 release, the court shall notify the department. The department and the county
22 department under s. 51.42 in the county of residence of the person, as determined
23 under s. 980.105, shall prepare a plan that identifies the treatment and services, if
24 any, that the person will receive in the community. The plan shall address the
25 person's need, if any, for supervision, counseling, medication, community support

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1 services, residential services, vocational services, and alcohol or other drug abuse
2 treatment. If the person is a serious child sex offender, the plan shall address the
3 person's need for pharmacological treatment using an antiandrogen or the chemical
4 equivalent of an antiandrogen. The department may contract with a county
5 department, under s. 51.42 (3) (aw) 1. d., with another public agency or with a private
6 agency to provide the treatment and services identified in the plan. The plan shall
7 specify who will be responsible for providing the treatment and services identified
8 in the plan. The plan shall be presented to the court for its approval within 60 days
9 after the court finding that the person is appropriate for supervised release, unless
10 the department, county department and person to be released request additional
11 time to develop the plan. If the county department of the person's county of residence
12 declines to prepare a plan, the department may arrange for another county to
13 prepare the plan if that county agrees to prepare the plan and if the person will be
14 living in that county. If the department is unable to arrange for another county to
15 prepare a plan, the court shall designate a county department to prepare the plan,
16 order the county department to prepare the plan and place the person on supervised
17 release in that county, except that the court may not so designate the county
18 department in the county where the facility in which the person was committed for
19 institutional care is located unless that county is also the person's county of
20 residence.

21 **SECTION 9.** 980.12 of the statutes is renumbered 980.12 (1).

22 **SECTION 10.** 980.12 (2) of the statutes is created to read:

23 980.12 (2) By the first day of the 37th month beginning after the effective date
24 of this subsection [revisor inserts date], the department shall submit a report to
25 the legislature under s. 13.172 (2) concerning the extent to which pharmacological

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SECTION 10

1 treatment using an antiandrogen or the chemical equivalent of an antiandrogen has
2 been required as a condition of supervised release under s. 980.06 or 980.08 and the
3 effectiveness of the treatment in the cases in which its use has been required.

4 (END)