



PATRICK TESTIN

STATE SENATOR

DATE: January 16, 2018
RE: **Testimony on 2017 Senate Bill 446**
TO: The Senate Committee on Judiciary and Public Safety
FROM: Senator Patrick Testin

Thank you Chairman Wanggaard and fellow members of the committee for accepting my written testimony on Senate Bill (SB) 446 which puts the decision of where to place sexually violent offenders on the counties from where they originated.

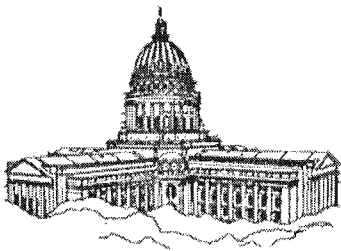
In my first day on the job, I was informed that a Chapter 980 offender from Washington County was being placed in Alban, a small town in northeastern Portage County. The town was understandably upset. No municipality wants to have sexually violent persons (SVPs) in their community, even though that person has fulfilled their state ordered commitment and are approved for supervised release. However, when the SVPs are shipped in from other distant counties, it becomes more distressing. Rural counties worry they will become a convenient place for more urban and suburban counties to place their SVPs.

SB 446 attempts to assuage these very real concerns by making sure that each county is responsible for the housing of their released offender(s). If supervised release is approved, the court shall order the SVP's county of residency to create a temporary committee to prepare a report that identifies one appropriate residence for the SVP.

This temporary committee shall consist of a representative of the department of health services, a local probation or parole officer, the county corporation counsel or his/her designee, and a representative of the county that is responsible for land use planning. This will be a group of individuals who cannot be influenced by public opinion and threats of being voted out of office.

This legislation is supported by the League of Wisconsin Municipalities and the Wisconsin Towns Association. And the Wisconsin Counties Association was consulted during the formulation and drafting of this legislation.

Thank you for your consideration.



LENA C. TAYLOR

Wisconsin State Senator • 4th District

HERE TO SERVE YOU!

**Testimony of State Senator Lena C. Taylor
Senate Committee on Judiciary and Public Safety
Senate Bill 446
January 16, 2018**

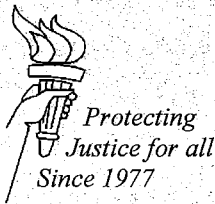
Good morning, Chairman Wanggaard and fellow committee members. I want to thank the committee for the opportunity to submit written testimony regarding Senate Bill 446, relating to supervised release of sexually-violent persons.

This bill is an important step toward enforcing current law – which requires counties, the courts, and the Department of Health Services to create and implement a supervised release program for individuals deemed appropriate for community release by a court. A July 2017 story printed by the *Green Bay Press-Gazette* described the long journey of an individual who had been held in custody for two years after a judge ordered the Department of Health Services to prepare a plan for supervised release. This two year delay resulted in unnecessary court, administrative, and agency expenses, given the individual's treatment progress, noted by his treating doctors, his doctors' certification that the individual would not engage in sexually-violent activities, and the individual's old age – which correlates with decreased risks of recidivism for crimes in general.

Under this bill, we are creating an enforcement mechanism for counties to be responsive to the court. We are also securing rights for individuals who are already statutorily entitled to certain procedures relating to supervised release. I believe that this bill will not only decrease delays, backlogs, and costs borne by our criminal justice system, but that it may actually create better outcomes in terms of increased likelihood of successful rehabilitation back into the community. According to a 2010 paper published by the *American Journal of Public Health*, some measures intended to protect the public from sexually-violent individuals may create unintended consequences. The paper notes that “by creating an ominous environment that inhibits successful reintegration, [the environment] may contribute to an increasing risk for recidivism. In fact, evidence on the effectiveness of these laws suggests that they may not prevent recidivism or sexual violence and result in more harm than good.” This bill will help generate accountability for counties to respond to courts and help reduce this “ominous background” that some citizens face when returning from incarceration.

As a legislator, I have fought for data-driven strategies and policies that implement best practices, especially in the realms of corrections and public safety. I believe that this bill is a step toward best practices, as the bill increases accountability for government authorities to keep their promises defined by law in return for accountability by sexually-violent persons. I ask for your support of Senate Bill 446. Thank you for your time and consideration.

Senator Lena C. Taylor
4th Senate District



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Senate Committee on Judiciary & Public Safety
Senate Bill 446
Tuesday, January 16, 2018

Good morning Chairman Wanggaard and members,

Thank you for having this hearing on Senate Bill 446 which makes changes to the supervised release process of individuals committed for treatment under Chapter 980 of the statutes. SPD thanks Senator Testin and Representative Krug for introducing this important legislation. We also appreciated the opportunity to work with Representative Born on an earlier version of this proposal. Earlier this week, the Assembly Committee on Corrections gave unanimous approval to the bill.

Chapter 980 creates a post-incarceration commitment for treatment system for people judged to be sexually violent persons. Courts have determined that the constitutionality of Chapter 980 rests on the reasonable ability to achieve release from commitment. Practically, this takes many considerations. The person's risk to re-offend, their making meaningful progress in treatment, and the ability to continue treatment while in the community. This last consideration is what is known as the supervised release and discharge from commitment process in statute. Without it, the constitutional framework of Chapter 980 is severely undermined.

One of the fundamental needs to provide treatment in the community on supervised release is an appropriate placement. Under current law, the Department of Health Services creates both a treatment plan and identifies a community placement option which is subject to approval by a judge. There are many factors that DHS must legally consider as it looks for a community placement option. This has become an increasingly difficult challenge despite DHS's best efforts. The current system sees people being granted release but continuing to be held at the Sand Ridge Secure Treatment Facility. Sometimes this process takes months, in the most extreme case, an individual was granted release two years ago but is still waiting for community placement.

For those not involved in the treatment and commitment process, it can be unnerving to learn that a former sex offender may be placed in their community. By not having a meaningful opportunity to achieve release, however, the entire commitment process is placed in jeopardy.

What Senate Bill 446 seeks to do is ensure that community placement is an accessible option. One of the concerns we've heard statewide is that local communities do not have enough input in the placement before it is being considered by a judge. Working counties and municipalities, SB 446 changes the process so that the placement option is identified by a team at the county level. This redirects the process so that it is locally controlled.

SB 446 does this by giving counties the maximum flexibility to pick a placement that is appropriate for all parties. For instance, current law mandates a 1500 foot placement barrier based on certain criteria. SB 446 makes those barriers advisory rather than mandatory. Here is a good example of why this would be helpful. A proposed placement in Portage County was not allowed because it was within the 1500 foot limit but local officials were comfortable because it was also directly next door to a police station.

We also want to address the section of the bill which would change the way individuals qualify for SPD representation. Under current law, people facing a Chapter 980 proceeding must meet financial eligibility requirements to receive a public defender attorney. Nearly all people facing an original commitment or supervised release petition meet those eligibility criteria. For people on supervised release filing for discharge, they generally have just enough money to fall outside SPD eligibility criteria, but not enough to retain private counsel. Unfortunately those appointments are then being made at county expense. This is neither cost effective nor efficient. The change in SB 446 would allow all Chapter 980 individuals to qualify for SPD representation regardless of income but the court and agency could order payments at the end of the case based on the ability to pay. This is similar to the current appointment process for juvenile and mental health commitments. The goal is to provide consistent, cost effective representation statewide. Because of the relatively low number of people who would be affected by this change, SPD anticipates that it would be able to absorb these cases without additional funding.

Thank you for taking our testimony. Ensuring placement in the county of origin is a necessary component for the continued constitutionality of the Chapter 980 commitment process. We ask that the committee support Senate Bill 446.



Department of Administration
Intergovernmental Relations Division

Tom Barrett
Mayor

Sharon Robinson
Director of Administration

La Keisha W. Butler
Director of Intergovernmental Relations

City of Milwaukee Written Testimony on SB 446: Relating to: plans for supervised release of sexually violent persons, representation of sexually violent persons by the state public defender, and making an appropriation.
Senate Committee on Judiciary and Public Safety
January 16, 2018

The City of Milwaukee supports Senate Bill 446 with the following amendment which has been adopted unanimously via Assembly Amendment 1 during the Assembly Committee on Corrections' passage of the bill:

"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 City of Milwaukee believes it is in the interest of public safety to designate an offender to a residence within his or her initial municipality of residence, and that strong ties to one's place of worship, former place of employment, close proximity to family and friends, and accountability to local law enforcement reduce the chance of recidivism and increases the likeliness an offender will be successfully and safely reintegrated into society.

The City of Milwaukee supports Senate Bill 446 with the proposed amendment described above. Please do not hesitate to contact Danielle Decker at 414-286-5589 or ddecke@milwaukee.gov for further information.