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# HOWARD MARKLEIN

STATE SENATOR • 17<sup>TH</sup> SENATE DISTRICT

**February 24, 2021**

## **Assembly Committee on Criminal Justice and Public Safety Testimony on Assembly Bill 98**

Thank you Chairman Spiros and committee members for hearing Assembly Bill (AB) 98, which clarifies state law for patients at Sand Ridge Secure Treatment Center (Sand Ridge) who commit battery.

AB 98 aligns penalties for those who commit battery and are being held at Sand Ridge awaiting trial with the penalties for those who are officially committed at the facility and commit battery. Sand Ridge is one of two secure treatments centers operated by the Wisconsin Department of Health Services (DHS). Established in 2001, it is the only facility that houses Wisconsin's Sexually Violent Persons Program. Commitment at Sand Ridge requires that the individual has a mental disorder that predisposes them to commit future acts of sexual violence.

Rep. Kurtz and I were alerted to the need for this legislation by the Juneau County District Attorney. The District Attorney's office is responsible for charging patients housed at Sand Ridge who commit crimes and found that a clarification to state law is necessary. Sand Ridge is responsible for housing all of Wisconsin's sexually violent persons who are committed under Chapter 980 of the statutes. This includes sexually violent persons who are moved from prison to Sand Ridge and are awaiting trial.

Generally, when a person commits simple battery they are guilty of a Class A misdemeanor. Under current law, when a sexually violent person who is committed at Sand Ridge commits battery against an officer, employee, agent, visitor, or other Sand Ridge patient, there is a penalty enhancer which allows these patients to be charged with a felony as opposed to a simple misdemeanor. This is an important tool that is used to protect the staff at Sand Ridge by promoting deterrence through the threat of potential additional prison time.

**However, under current law, this penalty enhancer does not apply to all patients held at Sand Ridge. Specifically, it does not apply to patients who are held at Sand Ridge, but are awaiting full adjudication of their case.** These patients, who are in "legal limbo", are not technically committed at Sand Ridge, but are still housed at the facility. The time between leaving prison, being sent to Sand Ridge, and having a trial is increasing and the process can often take years. **According to the Director of Sand Ridge, about 10-15% of the population (typically 25-35 patients) falls into this "pre-commitment" category at any one time.**

AB 98 simply clarifies state law to ensure that any patient housed at Sand Ridge, regardless of commitment status, can be charged with a felony for committing battery. This simple law change will continue to ensure the safety of employees, visitors, and other patients at Sand Ridge by providing a necessary deterrent. This helps ensure that patients are held responsible for their actions. Once again, this very narrowly tailored legislation only impacts Sand Ridge.

This bill is supported by the Wisconsin District Attorneys Association. Thank you again to the committee for hearing this proposal, and your timely action on the bill.



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# TONY KURTZ

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STATE REPRESENTATIVE • 50<sup>th</sup> ASSEMBLY DISTRICT

## 2021 Assembly Bill 98

Relating to: battery by a person detained while awaiting trial as a sexually violent person and providing a penalty.

Public Hearing: Assembly Committee on Criminal Justice and Public Safety  
Wednesday, February 24, 2021

Thank you, Chairman Spiros for holding a public hearing on Assembly Bill 98 (AB 98) and thank you to members of the committee for taking my testimony.

This bill is very unique as it pertains to individuals who will become patients at Sand Ridge Secure Treatment Center (Sand Ridge), which is the only treatment center in the State of Wisconsin for sexually violent persons. It just so happens that Sand Ridge is located in my Assembly District in Mauston, Wisconsin.

After a sexually violent person (SVP) completes his prison sentence, he is then sent to Sand Ridge to await a Chapter 980 trial for official commitment to Sand Ridge as a patient. This process can take a long time, sometimes years even. After a person is committed under Chapter 980, there are some additional statues that pertain to them as a patient, such as an enhancer when they commit battery on a member of the staff at Sand Ridge. However, when that SVP is not yet a committed patient and awaiting a Chapter 980 trial, he is in a bit of a legal limbo, which can make it difficult to prosecute if he happens to commit a violent act before being officially committed as a patient.

AB 98 seeks to correct this oversight and helps to address that limbo status so that the staff members of Sand Ridge have the same safety guarantees whether or not a person is actually a committed patient.

This bill was done at the request of the Juneau County District Attorney and the Director of Sand Ridge Treatment Center and is supported by the Wisconsin District Attorney's Association. AB 98 passed 7-0 out of the Senate Committee on Judiciary and Public Safety. The bill also already unanimously passed the entire Wisconsin State Senate.

Thank you again for taking my testimony.



OFFICE OF THE DISTRICT ATTORNEY

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February 23, 2021

Representative John Spiros  
Chair of Assembly Committee on Criminal Justice and Public Safety  
Madison, WI 53708  
C/O Representative Kurtz's Office ([Alex.Braaten@legis.wisconsin.gov](mailto:Alex.Braaten@legis.wisconsin.gov))

Re: Support of Assembly Bill 98

Dear Chair Spiros and Committee on Criminal Justice and Public Safety:

I write to you and the committee on Criminal Justice and Public Safety in support of AB 98, which would expand those protected by Wis. Stat. 940.20(1g). This issue is of a special interest to me because Fond du Lac County was experiencing numerous efforts by other counties to release their sexually violent offenders to my county. Our fight to ensure sexually violent offenders return to their county of residence, upon discharge from Sand Ridge, allowed me to become very familiar with the Sand Ridge Secure Treatment Center. I am grateful for the efforts of our legislature to help ensure these out of county placements have largely become a relic of the past through improvements to CH 980.

Currently, it is a Class H felony for a resident of Sand Ridge to batter an employee of that facility, if that subject has been formally committed under the CH. 980 process. The current law has a gap because when a CH 980 sexually violent person petition is filed with the court the subject of the petition will be placed at Sand Ridge, pending the outcome of the CH 980 petition. During this time, the subject is not a legally defined sexually violent person, thus if they commit a battery at Sand Ridge it would not fall under the same Class H felony provision. Instead, it would be a Class A misdemeanor battery, unless the injuries rose to a level which could allow a Class I substantial battery or a more serious battery to charge to be filed.

This bill would close the gap in the law and ensure that all victims of battery by a subject at Sand Ridge, regardless of the subject's status within the CH 980 commitment process, would be afforded equal opportunity for justice. The employees at Sand Ridge deal with some of the worst that our society has to offer and it is important that we ensure the law recognizes this and affords equal protection to them, regardless of the commitment stage the batterer is in.

Sincerely,

City-County Government Center, 160 South Macy Street, Fond du Lac, WI 54935  
Telephone: (920) 929-3048 Fax: (920) 929-7134

A handwritten signature in black ink, appearing to read "Eric J. Toney". The signature is fluid and cursive, with a prominent initial "E" and a long, sweeping underline.

Eric J. Toney  
District Attorney