



HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

February 11, 2021

Senate Committee on Judiciary and Public Safety Testimony on Senate Bill 28

Thank you Chairman Wanggaard and committee members for hearing Senate Bill (SB) 28, which clarifies state law for patients at Sand Ridge Secure Treatment Center (Sand Ridge) who commit battery.

SB 28 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.**

SB 28 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.



TONY KURTZ

STATE REPRESENTATIVE • 50th ASSEMBLY DISTRICT

2021 Senate Bill 28

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

Public Hearing: Senate Committee on Judiciary and Public Safety
Thursday, February 11, 2021

Thank you, Chairman Wanggaard for holding a public hearing on Senate Bill 28 (SB 28) 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.

SB 28 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. Last session, this bill passed 14-0 out of the Assembly Committee on Criminal Justice and Public Safety. The bill also unanimously passed the entire Wisconsin State Assembly last session.

Thank you again for taking my testimony.

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**VICTIM/WITNESS COORDINATOR:
MICHELE MEHNE**

Dear Sen. Wanggaard and Committee members,

I am writing to ask you to support 2020 Senate Bill 28. This bill will amend Wis. Stat. §940.20(1 g), which is the statute that governs any battery committed by a person committed to “a facility” under Wis. Stat. §980.065, which is the commitment of sexually violent persons. This statute uniquely affects Juneau County, as Sand Ridge Treatment Center, which is located in the City of Mauston, Juneau County, houses all persons committed under Wis. Stat. §980.065 in the State of Wisconsin. This statute is necessary to help ensure the protection of all parties who work at Sand Ridge to include counsellors, staff, visitors, and all others who come into contact with patients at Sand Ridge and ensure their security, and that of the facility, generally.

The issue that has recently come to light is that the statute, as written, requires that in order to be charged under this statute, a person must already be formally committed pursuant to Wis. Stats. §980.065 and §980.06, meaning that a jury or a court has already made the ultimate finding of fact that the person is sexually violent and placed under commitment. The problem is that Sand Ridge not only houses patients already formally committed under Wis. Stat. §980.06, but also patients whom have had a finding of probable cause against them that they are sexually violent per Wis. Stat. §980.04, but who have not yet been adjudicated as sexually violent under Wis. Stat. §980.06, and are still awaiting trial but being held at Sand Ridge. This process is lengthy, and can often take years. During this time, these individuals are housed at Sand Ridge and managed by staff, but not formally committed under Wis. Stat. §980.06. As the law is presently written, it would not seem to cover these patients being held in Sand Ridge, who, per Sand Ridge staff, usually compromise around fifteen to twenty percent of their population at any given time. There is therefore a gap in the protection offered to Sand

Ridge treatment staff when they deal with these particular patients, and the ability for the State to charge such patients has recently been challenged in Juneau County Circuit Court.

What Senate Bill 28 seeks to accomplish is to fix this oversight in the statute by making §940.20(1 g) cover all patients being held pursuant to Wis. Stat. §980 at Sand Ridge. The bill does this by expanding the definition of "persons committed," to include anyone formally committed under Wis. Stat. §980.06, or who is in the process of adjudication under §980.04. This change will help ensure the safety of staff and other patients by extending this violation to all patients at Sand Ridge who commit batteries. I therefore respectfully ask you to consider supporting this bill.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "K Hamm", with a long horizontal flourish extending to the right.

Kenneth Hamm
Juneau County District Attorney