



WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

August 15, 2019

Wisconsin Department of Justice
Attn: Attorney General Josh Kaul
17 W Main Street, Madison, WI, 53703

Mr. Attorney General,

We write to you today with great concern over a recent court case from Kenosha County, numbered 2013CI000002, heard and decided by Judge Mary Wagner, and prosecuted by Wisconsin Department of Justice Assistant Attorney General Devra Ayala. The case has to do with Wisconsin State Statutes referenced under chapter 980, specifically related to the civil commitment process for sex offenders under state law.

As you are aware, state law provides a civil commitment process under chapter 980 statutes for sex offenders who meet certain criteria and have completed their criminal sentences. Offenders determined to be "sexually violent persons" after a court process are committed to a civil treatment facility for an indeterminate amount of time, and sexually violent persons may petition for supervised release from commitment, which a court may grant if the sexually violent person meets specified statutory criteria.

In recent years, there has been ongoing concern from residents throughout the state, namely from individuals and families that live in the more rural and less densely populated communities of our state, that judges who represent more densely populated municipalities in the southeast portion of our state (Milwaukee County, Kenosha County, Racine County, etc.) are placing sexually violent offenders on supervised release in their rural communities, and not the offender's community of origin. Continuing this trend, a convicted sexually violent offender from Kenosha County was recently ordered to be placed in Monroe County by Judge Wagner.

Although we understand that a rehabilitation of this nature is a complex issue and one where the state has constitutional obligations to offenders, we believe that the aforementioned concern and discontent from rural residents is understandable and warranted. So much so, in fact, that we authored legislation last session that was intended to remedy this issue.

2017 Wisconsin Act 184, was enacted on March 28, 2018, and published March 29, 2018. According to a Wisconsin Legislative Council Memo on Wisconsin Act 184, dated April 30, 2018, "Act 184 makes changes related to placement of an SVP determined eligible for supervised release by a court. The changes concern the ability of a court to place an SVP outside his county of residence, how a court determines county of residence, the report of prospective housing prepared by a county, and what a



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court may order if it disapproves of DHS's supervised release plan for an SVP." Furthermore, the enacted legislation, "eliminates the ability of a court to place a SVP outside of his or her home county."

We are asking you and the state Department of Justice to provide your appraisal of this matter. Specifically, we desire to learn how the Department of Justice interprets the decision rendered by Judge Wagner in Kenosha County Case Number 2013CI000002 as it relates to 2017 Wisconsin Act 184. According to the Wisconsin Court System Consolidated Court Automation Programs (CCAP), on April 24, 2019, Judge Wagner and Department of Justice Assistant Attorney General Ayala agree that, "this case predates the 184 rules."

Do you believe that the decision rendered in this instance honors Wisconsin Act 184 and is in adherence with current state law? If so, how? If you do not believe that the decision honors Wisconsin Act 184, we would like to know why a more vigorous effort was not undertaken by the Department of Justice to adhere to our state statutes.

Your attention to this matter would be greatly appreciated. Again, we understand that the underlying matter is a complex situation that the state is unfortunately forced to deal with. However, we do not believe that the rural residents of our state should be subject to southeastern Wisconsin judges placing sexually violent offenders in our communities. More so, in order to avoid this occurrence, a duly elected State Assembly, State Senate, and Governor enacted legislation in the 2017-2018 legislative session to remedy the issue, and it appears that legislation is being ignored or disregarded.

Sincerely,

A handwritten signature in black ink that reads "Nancy Vander Meer". The signature is written in a cursive style.

Representative Nancy Vander Meer
70th Assembly District

A handwritten signature in black ink that reads "Patrick Testin". The signature is written in a cursive style.

Senator Patrick Testin
24th Senate District