



For Immediate Release
February 26, 2018
Contact: Rep. Spreitzer, 608-313-4509

Rep. Mark Spreitzer proposes bipartisan solution to close sex offender loophole

Today, State Rep. Mark Spreitzer (D-Beloit) proposed legislation to close a loophole in the Sexually Violent Persons commitment statutes (“Ch. 980”). The bill, co-authored by Sen. Janis Ringhand (D-Evansville) and Rep. Amy Loudenbeck (R-Clinton), was drafted in consultation with local law enforcement to address concerns that children are being put at risk due to flaws in current law. The bill changes the definition of “serious child sex offenders” in Ch. 980 to cover all sexually violent crimes against children under age 16, including those considered by a court as part of sentencing when an offender pleads guilty to a lesser crime.

“The safety of our community is my number one priority in the legislature,” Rep. Spreitzer said. “Current law is too limited in what child sex crimes lead to a sexually violent offender being restricted from living next to children. This bill will help protect our children from potential threats and ensure safety in our communities.”

This legislation directly addresses issues that have occurred locally. A convicted violent sex offender from La Crosse, civilly committed under Ch. 980, was recently placed in a Beloit home. Although the offender’s victims had been children, he was placed next door to a child. The offender’s placement was possible for two reasons: (1) he was charged with 2nd -degree sexual assault, rather than 2nd degree sexual assault of a child (even though the victim was a child), and (2) he accepted a plea deal to dismiss the 2nd -degree sexual assault charge and instead plead guilty to a 3rd -degree sexual assault charge. This meant his classification under Ch. 980 did not prevent placement near a child as it otherwise would have. The Department of Health Services recently moved to place a second sexually violent offender with child victims into the same home, using the same loophole.

“Beloit has suffered two unfair sex offender placements in just the last few months, and I am fighting to make sure we fix loopholes in our laws to ensure this doesn’t happen again,” Rep. Spreitzer added.

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AB 539, recently passed by the Assembly and Senate (although in different forms), also affects Ch. 980 commitments by requiring sexually violent offenders to be placed in the county they come from. This bill makes an additional needed change to Ch. 980 placement to ensure that sexually violent offenders with child victims are not placed in a residence next to the home of a child, and would require a new placement to be found where this has already been done.

For more information and details on the legislation, please refer to the attached co-sponsorship memo and bill draft.

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TO: Members of the Wisconsin State Legislature

FROM: Rep. Mark Spreitzer, Sen. Janis Ringhand, Rep. Amy Loudenbeck

DATE: February 26, 2018

RE: Co-sponsorship of LRB 5179/1, relating to definition of serious child sex offender for purposes of placing a sexually violent person on supervised release.

This bill is designed to close a loophole in the Sexually Violent Persons (SVP) Commitment Statute – Chapter 980. This chapter of the statutes affects how sex offenders may be civilly committed *after* serving their criminal sentences. This bill was drafted in consultation with local law enforcement to address concerns that children in their communities are put at greater risk due to flaws in current law regarding the definition of “serious child sex offenders” in Ch. 980.

Under current law, “serious child sex offender” is a designation under Ch. 980 that refers to a person determined in need of civil commitment following a conviction of one of the following: first-degree sexual assault of a child under age 13, second-degree sexual assault of a child under age 13, repeated sexual assault of a child under the age of 13, or sexual assault of a child under the age of 13 placed in substitute care.

Criminal conviction and Ch. 980 commitment are separate processes. After a sex offender’s criminal conviction, he or she may be civilly committed under Ch. 980 and may be granted supervised release if they meet certain criteria. After a court determines a criminal is eligible for supervised release, DHS must prepare a supervised release plan that identifies a proposed residence. Among other restrictions, a serious child sex offender may not be placed into a residence which is on a property adjacent to the primary residence of a child.

Despite this provision, a convicted sex offender who had been committed under Ch. 980 was recently placed in a home in Beloit right next to the residence of a child, even though his victims had been children. The placement was possible for two reasons: (1) the offender was charged with 2nd-degree sexual assault, rather than 2nd-degree sexual assault of a child (even though the victim was a child), and (2) the offender accepted a deal to dismiss the 2nd-degree sexual assault charge and instead plead guilty to a 3rd-degree sexual assault charge.

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To fix that loophole, LRB 5179 does a number of things:

- applies the serious child sex offender designation to individuals who commit specified child sex crimes against victims under the age of 16, as opposed to under age 13
- adds all sexually violent crimes to the list of offenses triggering a “serious child sex offender” designation if the victim was under 16
- applies the “serious child sex offender” designation to an offender if, due to a plea bargain, a charge that would have triggered the designation is uncharged or dismissed and that crime was considered by the court at sentencing
- provides that if a placement occurred under current law that would have otherwise been prohibited under this bill, then another supervised release plan must be prepared and considered by the court as soon as practically possible.

AB 539, which is currently awaiting resolution between the Senate and Assembly versions, also affects Ch. 980 commitments. However, AB 539 affects how the placement is determined and who has input on that decision. This bill makes an additional needed change to Ch. 980 placement that would prevent a criminal from avoiding the consequences and public safety measures put into place to protect children.

This bill will not cause anyone else to be labeled a sex offender who isn't one already, nor will it cause anyone new to be committed under Ch. 980 who wouldn't have been otherwise. This bill simply provides additional protections for children against those who would target them.



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-5179/1
CMH:klm&ahe

2017 BILL

1 **AN ACT** *to renumber and amend* 980.01 (4m); and *to create* 980.01 (4m) (b) of
2 the statutes; **relating to:** definition of serious child sex offender for purposes
3 of placing a sexually violent person on supervised release.

Analysis by the Legislative Reference Bureau

Under current law, a person who has been found to be a sexually violent person may be involuntarily committed to the Department of Health Services for control, care, and treatment. If a person is committed and placed in institutional care, the person may periodically petition the court for supervised release. If a court determines that supervised release is appropriate, DHS must prepare for the court a supervised release plan for the person that identifies a proposed residence. If the person is a serious child sex offender, the person may not be placed into a residence on a property that is adjacent to a property where a child's primary residence exists. Under current law a "serious child sex offender" is a person who has been convicted of first-degree or second-degree sexual assault of a child under the age of 13, repeated sexual assault of a child under the age of 13, or sexual assault of a child under the age of 13 placed in substitute care. Under this bill, the definition of serious child sex offender is expanded to include a person who has been convicted of any sexually violent offense against a person under the age of 16. This bill also adds that a person is a serious child sex offender if the person was convicted of an offense and,

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as part of a plea agreement, a sexually violent offense was uncharged or dismissed and the victim of the sexually violent offense was under the age of 16.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 980.01 (4m) of the statutes is renumbered 980.01 (4m) (intro.) and
2 amended to read:

3 980.01 (**4m**) (intro.) “Serious child sex offender” means ~~a~~ any of the following:

4 (a) A person who has been convicted, adjudicated delinquent or found not guilty
5 or not responsible by reason of insanity or mental disease, defect or illness for
6 committing a violation of a crime specified in s. ~~948.02 (1) or (2), 948.025 (1), or~~
7 ~~948.085~~ sexually violent offense against a child who had not attained the age of 13
8 16 years.

9 **SECTION 2.** 980.01 (4m) (b) of the statutes is created to read:

10 980.01 (**4m**) (b) A person who has been convicted for committing an offense if
11 a sexually violent offense was uncharged or dismissed as part of a plea agreement,
12 the victim of that sexually violent offense was a child who had not attained the age
13 of 16 years, and that sexually violent offense was considered by the court at the time
14 of sentencing the person for the offense for which the person was convicted.

15 **SECTION 3. Nonstatutory provisions.**

16 (1) If the residence of a serious child sex offender, as defined in section 980.01
17 (4m) of the statutes, does not comply with section 980.08 (4) (f) 4. of the statutes
18 beginning on the effective date of this subsection, the court shall direct the
19 preparation of another supervised release plan under section 980.08 (4) (f) of the

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1 statutes to be considered by the court under section 980.08 (4) (g) of the statutes as
2 soon as practically possible.

3 (END)