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Chairman Schraa,

Thank you for holding a hearing today on this very important bill that deals with a very serious issue with big implications for communities in rural WI.

It is very unpleasant to discuss but we are here talking about Sexually Violent Persons, a classification given to sex offenders who even after completing their sentences are placed into treatment beyond the end of their sentence. At some point these individuals are released and placed back into society. Our job as policy makers is to find the right balance in this process and I believe with help from many lawmakers over this session we are at the right balance in AB539/SB446.

From my time in Law Enforcement/Corrections and Alternative to Incarceration programs I know rehabilitation as a model ONLY works when released offenders have a support base and an out of county placement after release creates a more likely scenario for recidivism.

I'm here with Senator Patrick Testin who has had to deal with this issue since his early days in office. He can give you a good background on the impact of current policy in rural WI.

First, let's talk about what current policy is and what this bill aims to accomplish. The bill analysis and the fiscal estimates do a very good job at plain language description on what we are talking about. I'd like to highlight some of the differences.

Under current law, a person who has been found to be a sexually violent person

1) May be involuntarily committed to the Department of Health Services for control, care, and treatment. (Currently Sand Ridge in Juneau County houses over 300 individuals for treatment)
2) If a person is committed and placed in institutional care, the person may periodically petition the court for supervised release.

Current Law states, If a court determines that supervised release is appropriate,

1) The court must select a county to prepare a report that includes prospective residential options for the person.
2) Unless good cause exists, the court must select the person's county of residence,
   a) The county must prepare the report within 60 days
   b) DHS must then prepare for the court a supervised release plan for the person that identifies the residential option for the court to approve.
   c) Under current law, the plan must be submitted to the court within 90 days of the finding that supervised release is appropriate.

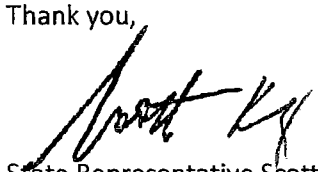
Under this bill, if a court determines that supervised release is appropriate,

1) The court must order the person's county of residence to prepare a report that identifies one appropriate residence for the person.
2) The county must create a temporary committee to prepare the report for the county and, under this bill, the county must prepare the report within 120 days of the order.
3) A county that does not comply violates the person's rights as a patient and the county is subject to enforcement and damages for each violation, and each day beyond the 120 days constitutes a separate violation.
4) Once DHS receives the report, DHS must submit to the court a supervised release plan within 30 days.
    a) As of August 2017, the Department of Corrections (DOC) provides community supervision services to 82 sexually violent persons on supervised release under §980.
5) This bill does not create any new crimes, alter prison sentences under existing crimes, nor does it alter probation sentences under existing crimes.

We are working with an amendment with the City of Milwaukee in conjunction with the League of Municipalities to further stress the importance of local decision making as much as possible.

With that I turn things over to Senator Testin and will be happy to take any questions afterwards.

Thank you,



State Representative Scott Krug

WI 72nd Assembly District

Wisconsin State Senate
24th Senate District

Serving Wood, Portage, Adams,
Waushara, Monroe, and Jackson

PATRICK TESTIN

STATE SENATOR

DATE: November 28, 2017

RE: **Testimony on 2017 Assembly Bill 539**

TO: The Assembly Committee on Corrections

FROM: Senator Patrick Testin

Thank you Chairman Schraa and the members of the committee for hearing my testimony on Assembly Bill (AB) 539, which gives the counties of origin decision making authority when it comes to the placement of sexually violent offenders.

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 community was understandably upset. Most municipalities are understandably reticent to have sexually violent persons (SVPs) within their borders, even if those persons have fulfilled their state ordered commitment and are approved for supervised release. It becomes even more distressing when the SVPs are shipped in from other distant counties. Under current law, rural counties worry they will become a convenient place for more urban and suburban counties to place their SVPs.

AB 539 attempts to assuage these very real concerns by ensuring 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. The Wisconsin Counties Association was consulted during the formulation and drafting of this legislation. We will be introducing an amendment at the request of the City of Milwaukee that states that when possible the committee should consider placement of the SVP in their municipality of origin. While this amendment is still in preliminary form, the concept has received the support of the League of Wisconsin Municipalities.

Thank you for your consideration.

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State of Wisconsin
2017 - 2018 LEGISLATURE

LRBa1603/P1
CMH:amn

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SENATE AMENDMENT ,

TO SENATE BILL 446

At the locations indicated, amend the bill as follows:

1. Page 9, line 14: delete "release and" and substitute "release. Unless the county can show good cause to select another community, the committee shall select a residence in the person's community of residence, as determined by the department of health services under s. 980.105 (2m). The report".

2. Page 13, line 11: delete that line and substitute:

"**SECTION 30c.** 980.105 (2m) (intro.) of the statutes is amended to read:

980.105 **(2m)** (intro.) The department shall determine a person's ~~city, village, or town~~ community of residence for the purposes of s. 980.08 ~~(5)~~ (4) (dm) 1. by doing all of the following:".

3. Page 13, line 23: after "(2m)" insert "(intro.)".

(END)

Jeff Mursau

STATE REPRESENTATIVE • 36TH ASSEMBLY DISTRICT

Assembly Committee on Corrections

AB 539 – Supervised Release of Sexually Violent Persons

November 28, 2017

Chairman Schraa and fellow committee members –

Thank you for the opportunity to testify in support of AB 539, related to plans for supervised release of sexually violent persons (SVP's).

I represent the 36th Assembly District, which is a rural area in the upper northeast part of Wisconsin. It's a beautiful place to live and raise a family, but recently it's become an ideal location for placing out-of-district sex offenders, which is why I'm here today.

This session I've received numerous contacts from concerned constituents because a location in their neighborhood, or in some cases directly next door to them, has been selected as a place of residence for a SVP. In several instances the offender wasn't a residents of the district, but they were being considered for placement because it was argued that no suitable location that meets state requirements could be found in their home district.

As a state representative I understand how difficult it is to place these individuals in an area that doesn't receive some opposition. I appreciate the hard, and often thankless, work of the people in our agencies who are tasked with making these difficult and unpopular decisions.

On the flipside, as a parent and grandfather, I also understand the fears and concerns of my constituents when an offender is placed in their neighborhood. Finding an appropriate balance, which also affords the SVP their constitutional rights, is not an easy task. I appreciate all the time the authors have invested in drafting a bill that tries to strike the right balance.

I know there isn't a perfect one-size-fits all approach, but I think keeping offenders in their county of residence is an important step and it will hopefully prevent rural areas from becoming a haven for sex offenders from all across the state.

Thank for the opportunity to testify in support of AB 539. I'd be happy to answer any questions you may have for me.

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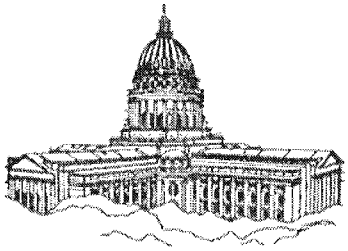

LENA C. TAYLOR

Wisconsin State Senator • 4th District

HERE TO SERVE YOU!

Testimony of State Senator Lena C. Taylor
Assembly Committee on Corrections
Assembly Bill 539
November 28, 2017

Good morning, Chairman Schraa and committee members. I want to thank the Assembly Committee on Corrections for the opportunity to submit written testimony regarding Assembly Bill 539, 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 Assembly Bill 539. Thank you for your time and consideration.

Senator Lena C. Taylor
4th Senate District

Wisconsin State Public Defender

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Protecting Justice for all Since 1977

Kelli S. Thompson
State Public Defender

Michael Tobin
Deputy State
Public Defender

Assembly Committee on Corrections
Assembly Bill 539
Tuesday, November 28, 2017

Good morning Chairman Schraa and members,

Thank you for having this hearing on Assembly Bill 539 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.

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 (to be read as locked) 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 Assembly Bill 539 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, AB 539 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.

AB 539 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. AB 539 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 AB 539 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 Assembly Bill 539.

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MEMORANDUM

TO: Honorable Members of the Assembly Committee on Corrections

FROM: Kyle Christianson, Director of Government Affairs
Sarah Diedrick-Kasdorf, Deputy Director of Government Affairs

DATE: November 28, 2017

SUBJECT: Comments on Assembly Bill 539 – Placement of Sexually Violent Persons

Assembly Bill 539 modifies the process for placing sexually violent offenders into the community under supervised release. Under current law, county human services departments or 51.42 boards are required to provide the Department of Health Services with potential placement options for sexually violent persons who have completed their treatment at Sand Ridge Secure Treatment Center and are eligible for supervised release. Under the bill, counties will be required to create a temporary committee consisting of the human services department or 51.42 agency, the county corporation counsel or his or her designee, a local probation and parole officer, a representative from the Department of Health Services (DHS), and a representative from the county land use or land information department to recommend a single placement option for the individual (county must show that the landlord has agreed to enter into a lease).

The Wisconsin Counties Association (WCA) worked with the authors and other legislators to address some of our counties' concerns with the legislation. However, WCA respectfully requests two additional modifications to the bill.

First, our counties would like the penalty provision removed from the bill. The bill assumes that counties have a blatant disregard for the law and will not comply if this legislation is enacted. That is insulting to many county officials. Under the current law provision, counties have experienced situations in which notices have been sent to the incorrect county agency or the state does not reply to county requests in a timely manner; therefore, it has been difficult for some county human services agencies, through no fault of their own, to provide DHS with placement options as required. If the penalty provision is not removed from the bill, counties request a one-time extension of up to 30 days for good cause. Second, our counties would like to specify that the DHS representative come from the Sand Ridge Secure Treatment Center.

There are a few items included in the legislation that counties request remains in the legislation as well, including the creation of the temporary committee (as opposed to a single county agency), requiring DHS to respond to county requests within 10 days, and the grace period for county reports.

Counties across the state understand that the placement of sexually violent persons on supervised release is a difficult issue to tackle. Some counties are not thrilled about the county role in this process; however, many counties understand why this legislation has been introduced and appreciate the efforts of several legislators to correct a process that has been manipulated to avoid the placement of sexually violent persons on supervised release in their home counties.

WCA appreciates the work the Legislature has done to date on this issue to make the process as smooth as possible for counties and we look forward to continued discussion moving forward.

Thank you for considering our comments.

City of Milwaukee

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 AB 539: Relating to: plans for supervised release of sexually violent persons, representation of sexually violent persons by the state public defender, and making an appropriation.
Assembly Committee on Corrections
November 28, 2017

The City of Milwaukee supports Assembly Bill 539, with the following amendment:

The committee shall consist of the county department under s. 51.42, a representative of the department of health services, a local probation or parole officer, the county corporation counsel or his or her designee, the local law enforcement or its designee, and a representative of the county that is responsible for land use planning or the department of the county that is responsible for land information. In the report, the county shall identify an appropriate residential option in that county while the person is on supervised release and shall demonstrate that the county has contacted the landlord for that residential option and that the landlord has committed to enter into a lease. Unless good cause to the contrary is shown, the committee shall give preference to the person's city, village or town of residence as determined by the department under 980.105 when identifying the appropriate residential option.

The City of Milwaukee believes it is in the interest of public safety to designate an offender to a residence within his or her municipality of residence at the time the offense occurred, 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 AB 539 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.