

1        **AN ACT** to create 971.39 (3) and 973.09 (1) (ag) (intro.), 1. and 2. and (ar) of the  
 2                    statutes; **relating to:** permitting defendants to be assigned to treatment courts outside  
 3                    of their county of residence as a condition of probation.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This draft was prepared for the Joint Legislative Council’s Study Committee on Problem–Solving Courts, Alternatives, and Diversions.

At the committee meeting on August 20, 2014, some committee members expressed concerns that treatment courts are not available to offenders in all Wisconsin counties. Some members stated that a county should not be mandated to provide treatment courts because “buy in” from the community is necessary to ensure treatment court success. However, it was also expressed that it is unfair to preclude the participation of an offender who might be successful in such a program, due to geographic unavailability of the program.

This draft permits a defendant to be assigned to a treatment court project through deferred prosecution or as a condition of probation. The draft also allows a defendant to be assigned to a treatment court project offered in a county that is not the defendant’s county of residence, provided that the project has the capacity to serve the nonresident defendant, and the defendant is able to fully participate in the project’s requirements.

4                    **SECTION 1.** 971.39 (3) of the statutes is created to read:

5                    971.39 (3) A defendant may be assigned to a treatment court project as defined in s.  
 6                    973.09 (1) (ag) if an agreement is entered into under this section. If the treatment court project  
 7                    that is offered in a county that is not the defendant’s county of residence, the defendant may  
 8                    not be assigned to the treatment court project unless the following conditions are also met:

9                    1. The treatment court project has the capacity to serve the nonresident defendant.

1           2. The nonresident defendant is able to fully participate in the treatment court project's  
2 treatment, testing, and other requirements.

**NOTE:** This SECTION allows a defendant to be assigned to a treatment court project as a condition of probation if the defendant enters into a deferred prosecution agreement. In addition to this requirement, if the treatment court project is offered in a county that is not the defendant's county of residence, the defendant may not be assigned to the treatment court project unless both of the following conditions are also met: (1) the treatment court project has the capacity to serve the nonresident defendant; and (2) the nonresident defendant is able to fully participate in the treatment court project's treatment, testing, and other requirements.

3           **SECTION 2.** 973.09 (1) (ag) (intro.), 1. and 2. and (ar) of the statutes are created to read:  
4 973.09 (1) (ag) (intro.) In this paragraph:

5           1. "Treatment court" means a court that has jurisdiction over a treatment court project  
6 participant.

7           2. "Treatment court project" means a county or tribal court project that operates within  
8 the continuum from arrest to discharge from supervision and provides alternatives to  
9 prosecution, incarceration, or both, for criminal offenders, including suspended and deferred  
10 prosecution projects or community-based corrections.

11           (ar) As a condition of probation, a defendant may be assigned to participate in a  
12 treatment court project. If the treatment court project is offered in a county that is not the  
13 defendant's county of residence, a defendant may not be assigned to the treatment court project  
14 unless the following conditions are met:

15           1. The treatment court project has the capacity to serve the nonresident defendant.

16           2. The nonresident defendant is able to fully participate in the treatment court project's  
17 treatment, testing, and other requirements.

**NOTE:** This SECTION allows a defendant to be assigned to a treatment court project as a condition of probation. If the treatment court project is

offered in a county that is not the defendant's county of residence, a defendant may not be assigned to the treatment court project unless the following conditions are met: (1) the treatment court project has the capacity to serve the nonresident defendant; and (2) the nonresident defendant is able to fully participate in the treatment court project's treatment, testing, and other requirements.

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(END)