



# PAT STRACHOTA

STATE REPRESENTATIVE

## REMARKS TO THE COMMITTEE ON TRANSPORTATION, PUBLIC SAFETY, AND VETERANS AND MILITARY AFFAIRS

### Supervised Release and Discharge of Sexually Violent Persons

September 5, 2013

Good morning and thank you for considering AB28 relating to the supervised release and discharge of sexually violent persons this morning after being unanimously voted out of the Joint Legislative Council in January. I was honored to chair the Legislative Council's Special Committee last summer because the committee's scope arose from concerns expressed to me by judges in Washington County.

The concerns raised by the Washington County judges were regarding the current process for Chapter 980 supervised release and discharge. Specifically the issue was that it is often easier for Sexually Violent Persons to be discharged from confinement completely than to be released under supervision. To clarify when a person is discharged, he is free to go without

any supervision. An individual on supervised release is closely monitored by DHS and cannot leave his residence without a DOC escort for the first year.

The committee members and the agencies agreed, and I think most of you would also agree, that public safety is our ultimate goal. A Sexually Violent Person who is going to be released under these proposed changes to the Chapter 980 Statute can be placed on supervised release for a period of time prior to a discharge or be discharged and immediately released to the street without any monitoring or support so long as they meet certain standards. With the changes made by the committee in the standard for supervised release it affords opportunities for judges to have more flexibility to allow Sexually Violent Persons to be released under supervision prior to discharge.

The narrow scope of the Special Committee was meant to address this issue by reviewing the current process for granting supervised release and discharge to Sexually Violent Persons, determining the appropriate level of judicial input, reviewing the supervised release criteria and determining whether the criteria should be modified, and reviewing the criteria for discharge from commitment.

The Special Committee met four times and received input from the Department of Justice, the Department of Health Services, the Department of Corrections, and from district attorneys, public defenders, and judges. The Committee carefully considered recommendations provided by the agencies and those that voted, unanimously approved one bill draft, AB 28, which is before you today.

**AB28** makes a number of changes to Chapter 980, the chapter addressing the involuntary commitment of Sexually Violent Persons. These changes primarily relate to the supervised release and discharge of sexually violent persons and many were proposed by the DOJ.

The bill codifies case law placing the burden on the Sexually Violent Person himself to show that he meets the criteria for supervised release. The bill also changes the pleading requirement that a Sexually Violent Person's discharge petition must meet before a court will grant him a discharge trial. In addition, the bill lengthens certain supervised release and discharge trial timelines and requires a court to consider supervised release after holding a discharge trial.

Further, the bill streamlines Chapter 980 by repealing and relocating certain provisions and modifies the list of activities for which a Sexually

Violent Person may leave his residence with a DOC escort while on supervised release. The bill also amends one of the criteria for supervised release which DOJ and others identified as a major obstacle. The change requires that a Sexually Violent Person show he is "making" significant progress in treatment, rather than requiring him to show he has already "made" significant progress. Finally, when a court orders discharge of a Sexually Violent Person, the bill requires the court to delay execution of its discharge order for a period of time to allow DHS to meet its statutory obligations to notify victims and to allow DOC time to arrange for GPS monitoring of the person.

Thank you for considering AB28 for introduction. I would be happy to answer any questions you may have. Katie Bender-Olson, of the Legislative Council, is also available to answer questions.



State of Wisconsin  
Department of Health Services

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Scott Walker, Governor  
Kitty Rhoades, Secretary

Senate Committee on Transportation, Public Safety, and Veterans and Military Affairs

**Public Hearing on Assembly Bill 28**

**Testimony of Lloyd Sinclair, Court Assessment and Community Programs Director**

*September 5, 2013*

Good Morning Chairman Petrowski and Committee Members, and thank you for allowing me the opportunity to testify in support of AB-28. I will highlight what I think are the key points in bill, but I will be happy take questions on all aspects of the bill after my testimony.

The Bill in front of us today was developed by the Legislative Council Special Committee on Supervised Release and Discharge of Sexually Violent Persons. With a focus on public safety, the Committee looked to improve upon the current system in place by putting more emphasis on supervised release over discharge, improvement on reintegration efforts, and creating greater public awareness prior to discharge.

Under current law, there are two ways in which a sexually violent person (SVP) can be released from confinement at Sand Ridge Secure Treatment Center: discharge or supervised release. Discharge means that the court has found that the person no longer meets criteria for commitment, and they are typically released without restrictions except that they wear a GPS tracking device and are registered as a sex offender. Supervised release means the person is still a civilly committed sexually violent person, but a court has found that restrictive placement in Sand Ridge Secure Treatment Center is no longer required; instead the individual can live in the community. Under supervised release, the SVP is under extreme restrictions, including, but not limited to:

- They are required to abide by restrictive rules
- They must actively participate in sex offender treatment
- Under GPS monitoring
- Polygraphed periodically
- Under the constant supervision of DOC staff

Under current law, many patients become eligible for discharge before they become eligible for supervised release. AB 28 seeks to change the threshold for supervised release in order to make it a more viable option for those committed under Chapter 980. Supervised release is a much safer alternative for the community in comparison to discharge.

Secondly, AB 28 will also slightly expand the list of activities a supervised release client can engage in during his first year on supervised release, to enable him, *only under the direct supervision of a staff escort*, to leave his residence for educational, volunteer, exercise or supervision purposes, and residence maintenance. This will allow for better integration back into the community once the patient is no longer committed by the court.

Lastly, AB 28 allows the court to delay the execution of court orders for discharge for up to ten days. This is important because law enforcement will often want to notify communities of such releases, and GPS installation must occur. When individuals are released immediately from court hearings, there is insufficient time to meet these requirements.

It is for these reasons that the Department is asking for your support of AB 28. This legislation takes on a difficult issue and provides a solution that will ultimately provide for greater public safety. Thank you, Chairman Petrowski and Committee Members for allowing me the time to testify this morning. I would be happy to answer any questions that you may have.