MARK SPREITZER

STATE REPRESENTATIVE

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 <u>not</u> cause anyone else to be labeled a sex offender who isn't one already, <u>nor</u> 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.