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(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2001-02

(session year)

### Assembly

(Assembly, Senate or Joint)

### Committee on ... Corrections and Courts (AC-CC)

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

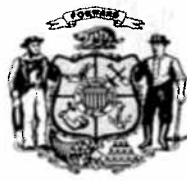
#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Mike Barman (LRB) (May/2012)

**Scott McCallum**  
Governor

**Jon E. Litscher**  
Secretary



**State of Wisconsin**  
**Department of Corrections**

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NOV 13 2001

November 8, 2001

The Honorable Robert Jauch, Chairperson  
Senate Committee on Economic Development and Corrections  
Room 313 South, State Capitol  
Madison, Wisconsin 53707

The Honorable Scott Walker, Chairperson  
Assembly Committee on Corrections and the Courts  
Room 308 North, State Capitol  
Madison, Wisconsin 53708

Re: Clearinghouse Rule 00-140  
Proposed rule relating to classification, assessment and evaluation and program review

Gentlemen:

On July 5, 2001, the Department submitted Clearinghouse Rule 00-140, relating to classification, assessment and evaluation and program review, to the presiding officers of the Legislature for review by standing committees. Subsequently, the proposed rules were referred to your committees. The Senate Committee held a hearing on August 30, 2001. Following two meetings with Senators Moore and Jauch, the Department agreed to make germane modifications. Today, the Department is resubmitting the proposed rules, with germane modifications, to the committees. A copy of the revised CR 00-140 is attached to this letter.

Following are the modifications the Department has made in CR 00-140. These are:

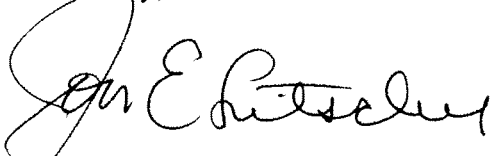
- (1) Sec. 302.07(9): clarify language to state that the department, when assessing an inmate's risk within a community, may consider the general public's perception.
- (2) Sec 302.12 (1): delete "as expeditiously as possible" and insert language stating that initial A&E shall be completed "not more than 8 weeks following the inmate's arrival."
- (3) Sec. 302.13(2): add language to grant the director the authority to make the final program, treatment and institution placement decisions as well as establish a date for program recall that will not exceed 12 months.

- (4) Sec. 302.15(9): this was moved from the section on "Purpose of program review" to sec. 302.17 (11) to more accurately fit under "Program review procedure."
- (5) Sec. 302.17(11): delete "To permit program review" and insert "PR may occur" so that the language is consistent with the section.
- (6) Sec. 302.17 (11)(b): delete words "order of" and insert "request by."
- (7) Sec. 302.17(11)(d): created to read "An inmate request for PR, made to an assigned social worker, who shall deliver the request to the PRC."
- (8) Sec. 302.16: insert "composed of the following members:"
- (9) Sec. 302.16(3): re-create to read "The warden shall designate at least one additional staff member to serve on the committee."
- (10) Sec. 302.17(1)(b): insert language "including the inmate's opinion of the appropriate security classification, program assignment or assignment to an institution."
- (11) Sec. 302.17(2)(d): created to read "The criteria for the review and the facts to be considered."
- (12) Sec 302.17(8): delete "approval of the director" and insert "director's approval."
- (13) Sec. 302.17(9): remove "written comments" and insert "If an inmate is unavailable to appear in person, the PRC may use interactive medium..."
- (14) Sec. 302.18: delete "procedural issues relating to."
- (15) Sec 302.19 is recreated in its entirety. Most noteworthy is the deletion of "302.19(2) The director may transfer an inmate based solely on the availability of beds and security needs of the department."

Please refer to the rule for specific language. This vast change was made at the Senators' request in order to make the section more clear and concise.

If you have any questions regarding the rule, please contact Julie Kane at (608) 240-5015.

Sincerely,



Jon E. Litscher  
Secretary

PROPOSED ORDER OF THE  
DEPARTMENT OF CORRECTIONS  
REPEALING AND RECREATING RULES

The Wisconsin department of corrections proposes an order to repeal and recreate DOC 302.01-302.14; to repeal DOC 302.145; to repeal and recreate DOC 302.15-302.20; and to create DOC 302.205, relating to classification, assessment and evaluation, and program review.

Statutory authority: ss. 301.02, 301.03 (2), 302.07 and 227.11 (2), Stats.

Statutes interpreted: ss. 301.046, 301.048, 302.045, 302.055, 302.07, 302.08, 302.15, 302.18, 302.27, 303.065 and 303.068, Stats.

Analysis by the Department of Corrections

After more than 20 years of experience with the rules related to classification, assessment and evaluation, and program review, the Department of Corrections proposes to update the rules.

**NEED FOR REVISION**

The need for these changes cannot be overstated. The current rule was written and enacted at a time when the classification unit was a part of the adult institution system and at a time when the entire adult institution population represented fewer than 4,500 inmates. That system included all maximum, medium and minimum security facilities. Personnel staffing committees and reviewing recommendations came from within the system and did not permit independent review or decision making. Often, conflicting program and custody decisions were settled by the same staff member affected by the outcome.

Chapter DOC 302 governs inmate classification, assessment and evaluation, and program review at state correctional institutions. As technology, science, population and government evolve over time, practices must adapt to those changes. We ultimately grow wiser and more efficient based on new knowledge and procedures. What was thought routine, necessary or even effective correctional practice in 1980 may not be accurate today.

For example, our prison population has grown from 1,930 in 1976 to more than 20,600 currently. This enormous increase in prisoners, along with their increased level of sophistication, has placed a greater burden on correctional staff. In many ways, Wardens and staff no longer enjoy the luxury of time that once afforded them the ability to maneuver bureaucratic requirements. The situations encountered and decisions that are made are infinitely different from those of 20 years ago when the current rule was promulgated.

While addressing the needs of the Department, including internal restructuring and reorganization, this rule change also retains and strengthens inmate involvement in the classification processes including the assignment of custody, program and placement. In general, the processes are

streamlined, require fewer mandatory reviews, and provide options for dealing with emergencies and situations when the offender is not accessible.

## **BACKGROUND**

This rule provides the Department a process for determining custody classification, program or treatment assignment, and transfer decisions concerning inmates. The Department uses classification to regulate the level of supervision and movement of inmates within and outside of an institution.

Assessment and Evaluation provides the Department a process for conducting the initial assessment on risk, criminal and social background, sentence structure, academic and vocational requirements; conducting certain kinds of evaluations; determining custody classification; assessing the motivation of an inmate; and formulating an individualized plan to coordinate custody classification and recommended programs for an inmate on arrival to the Department.

Program Review provides the Department an ongoing process for review of the custody, program and treatment assignments and placement.

## **DEFINITIONS**

This rule makes only the following definition change: "Security Classification" is changed to "Custody Classification."

This rule also changes "minimum security-community residential confinement (CRC)" to "community" custody.

## **CUSTODY CLASSIFICATION**

Unlike the current rule, this rule clearly establishes that custody classification is defined by an inmate's level of risk. This rule specifically provides that the custody classification function is to regulate the supervision and movement of inmates among institutions and between institutions and community programs and is defined by the risk associated with any of the following:

- Assaultive or predatory behavior;
- Escape, walk-away, or absconding;
- Misconduct;
- Disruption to the orderly processes of an institution;
- Participation and progress in program or treatment;
- Adjustment and history under community supervision; and
- Pending legal processes.

The higher the risk, the higher the inmate's overall custody level. Custody level is evaluated using a minimum of 14 different factors that summarize an offender's history as best possible. This includes the use of an objective risk rating system. This rule also adds community concerns relating to an offender's risk as one of the factors considered when determining custody classification. This rule also allows parole commission actions and stated expectations such as the

likelihood of release during the review period to be considered as factors in assigning a custody classification

This rule establishes that inmate's may be considered for programming if certain prerequisites are met and space is available. The rule clarifies that no offender can be forced into programming and that program refusal may have an impact on custody classification.

This rule condenses the current six custody classifications into five by combining "maximum security close" and "maximum security-general" to create "maximum."

For each custody level, this rule requires certain levels of monitoring relating to conduct, behavior and activities and removes restrictions in the current rule regarding inmate supervision, movement and programs. This change helps to more clearly separate institutional issues from classification issues. It is the institution's responsibility to determine housing, supervision and movement methods and policies. Classification is responsible for designating the level of custody.

Specifically, this rule provides that community custody requires limited monitoring of conduct, behavior and activities and removes restrictions regarding residence, placement, and purpose, thus allowing more flexibility within the custody classification. This rule provides that community custody is used for the following inmates who are in the community without Department of Corrections escort:

- Work or study release;
- Off-grounds projects under supervision of non-correctional staff;
- Driving institution vehicles;
- Leave for qualified inmates;
- Community residential confinement;
- Intensive sanctions; and
- Other programs which the department may establish.

This rule also guarantees that an inmate's custody classification shall be no greater than the institution's designated security classification except for pending transfers, declared emergencies or disturbances.

This rule removes the 10-year-old chart of institutions and their designated classifications because this information is continually changing due to new or altered institutions within the system.

This rule applies a consistent procedure for custody classification at the conclusion of A & E and deletes language distinguishing procedures at Waupun, Green Bay and Taycheedah.

## **LIFE SENTENCES**

This rule simplifies the process for determining minimum custody eligibility for inmates serving life sentences. Offenders with life sentences are no longer designated as one of four life categories. The current rule divides life sentence inmates into four categories based on various factors surrounding the nature of the crime, the inmate and the victim. This process is tedious, difficult, and uncertain at best. This new rule will simplify that process and treat all inmates

according to the same standards for determining eligibility for minimum custody. Inmates serving a life sentence who have reached the parole eligibility date will now be treated with the same procedures used for all other inmates.

This rule provides that an inmate serving a life sentence without the possibility of parole is not eligible for minimum or community custody classification.

## **ASSESSMENT AND EVALUATION**

Requires that the A & E process be done in 8 weeks following inmate's arrival. Obtaining certain information, such as sentencing transcripts and Pre-Sentence Investigation reports, often takes longer than six weeks. Without this change, inmates that do not have these necessary documents would have to be staffed and transferred. When these documents become available, the PRCs would need to conduct an early recall to consider the information. It is more efficient to permit the A & E process to complete the review even though it may take longer than the currently prescribed six week time period.

This rule extends the time period to no more than 12 months for A&E review. This will reduce the number of frivolous reviews and enable staff to set recall dates to correspond to significant changes in inmate plans.

Because housing, movement and supervision are institutional issues and should not be confused with classification issues, this rule removes language specifically authorizing restricted movement during the A & E process. Institutions maintain discretionary authority to separate an inmate from the general resident population via custody classification. See 302.07 and 302.12.

Provides that A & E reviews be conducted by a classification specialist with the assistance of other staff as needed and removes requirement that A & E be conducted by a committee comprised of not less than 3 permanent members. This change is necessary because the increased number of admissions add a tremendous burden on the limited resources of the institution to perform committee work. This change permits the classification specialist to work directly with the inmate in the process, thereby increasing A & E efficiency.

## **PROGRAM ASSIGNMENT**

This rule allows inmates to be considered for school assignments, vocational programs, or treatment assignments provided the following conditions are met:

- Inmate has an A & E or program review need in the area considered;
- Space available in the program;
- Inmate attains necessary and appropriate custody classification;
- State or federal laws do not exclude the inmate from participation; and
- Inmate meets program or treatment prerequisites.

This rule allows the department to consider more than the currently limiting list of factors regarding criteria for program assignment.

## **PROGRAM REVIEW**

This rule provides a simplified program review process by reducing the committee membership and allowing the offender to deal directly with the committee rather than a social worker. The current rule requires the social worker to make comments to an inmate regarding a process they have very little knowledge about. Often, the time between the social worker's interview with the inmate and the actual PR date may be several weeks, requiring information to be updated for the committee. Further, the social worker's comments may not clearly reflect the inmate's comments. This rule change reduces the duplication of work, shortens the time between the social worker's comments and the PR date, and permits the inmate to discuss issues directly with the committee.

This rule allows for alternative forms of communication including telephone conference calls, video, written comments and other electronic devices to greater involve the inmate and ensure that program review is completed in a more timely manner.

## **RECORDKEEPING**

This rule creates a process where the institution may, between regularly scheduled PR, record certain information concerning an inmate. Occasionally, inmate records need to be updated but the PR process is not required. This provision will allow the institution to keep more accurate records in a timely manner without confusing the need for a PR.

## **APPEALS**

This rule creates a process whereby an inmate may appeal custody classification, transfer, institution placement, and program or treatment assignment.

## **ORIENTATION**

Removes language allowing orientation sessions to be conducted by inmates. Orientation is an administrative process and should clearly be presented by staff so that policies, procedures and descriptions of the system are accurately stated. Inmates should not be in a position to explain these issues to other inmates. It is unmistakably the responsibility of the Department of Corrections.

This rule change removes language requiring specific orientation procedures, including those for handicapped and non-English speaking inmates, as these requirements are a part of the Department's continuing mission to provide resources consistent with state and federal laws and regulations including fundamental fairness and due process.

This rule removes requirement that each inmate, during A & E or transfer from another institution, receive written copy of the rules of conduct. Chapter DOC 303 already provides for this.





SECTION 1. DOC 302.01 through 302.14 are repealed and recreated to read:

CHAPTER DOC 302

CLASSIFICATION, ASSESSMENT AND EVALUATION,  
PROGRAM REVIEW

DOC 302.01	Applicability	DOC 302.10	Factors in assigning a program or treatment component
DOC 302.02	Purpose of classification	DOC 302.11	Purposes of A&E
DOC 302.03	Definitions	DOC 302.12	Applicability of the assessment and evaluation
DOC 302.04	Custody classification	DOC 302.13	Procedure for custody classification at conclusion of A&E
DOC 302.05	Custody classification levels	DOC 302.14	Applicability of program review
DOC 302.06	Institutional security classifications and relationship to custody classification	DOC 302.15	Purpose of program review
DOC 302.07	Factors in assigning a custody classification	DOC 302.16	Program review personnel
DOC 302.08	Requirements for assigning a minimum custody classification to an inmate serving a life sentence	DOC 302.17	Program review procedure
DOC 302.09	Program consideration	DOC 302.18	Appeals
		DOC 302.19	Transfers
		DOC 302.20	Recordkeeping
		DOC 302.205	Emergency suspension of rules

**DOC 302.01 Applicability.** Pursuant to authority vested in the department of corrections by ss. 227.11 (2), 301.02, 301.03 (2), and 302.07 Stats, the department adopts this chapter which applies to the department and all inmates in its legal custody for implementation of ss. 301.046, 301.048, 302.045, 302.055, 302.07, 302.08, 302.15, 302.18, 302.27, 303.065 and 303.068, Stats.

**DOC 302.02 Purpose of classification.** (1) The purpose of this chapter is to provide procedures for custody classification, program or treatment assignments, and transfers.

(2) The goals and objectives of this chapter are all of the following:

(a) To classify every inmate based upon risk factors relative to public safety, institutional security, and staff and inmate safety.

(b) To establish and review the custody classification, program or treatment assignments, and institution placement that ensures public, staff, and inmate safety.

(c) To involve inmates in the processes for custody classification, program or treatment assignments, and transfer consideration.

(d) To the extent possible, match inmate need to institution resources.

(e) To provide a documented current and historical reference of custody classification, program or treatment assignments, transfers and comments on each inmate.

**DOC 302.03 Definitions.** In this chapter:

(1) "A&E" or "assessment and evaluation" means assessment and evaluation as performed under s. DOC 302.12.

(2) "Classification section chief" means the section chief of the bureau of offender classification and movement.

(3) "Classification specialist" means the A&E or program review staff person from the bureau of offender classification and movement.

(4) "Custody classification" means the security rating applied to an inmate based on the procedures of ss. DOC 302.13 and 302.17.

(5) "DAI" means the division of adult institutions, department of corrections.

(6) "DCC" means the division of community corrections, department of corrections.

(7) "Department" means the department of corrections.

(8) "Director" means the director of the bureau of offender classification and movement, department of corrections, or his or her designee.

(9) "Disciplinary hearing" means a hearing authorized under ch. DOC 303 for the discipline of inmates for misconduct.

(10) "Institution" means a correctional institution, correctional facility, or center or a prison defined under intensive sanctions in ch. DOC 333 or a facility that the department contracts with for services to inmates.

(11) "IS" means intensive sanctions administered by the department of corrections.

(12) "PRC" means the program review committee.

(13) "Program needs" means the program or treatment needs of an individual inmate which reduce the risk to re-offend, escape, or be a security problem during confinement and promote readiness for community reintegration.

(14) "Program review" or "PR" means the ongoing process of monitoring of custody classification, institution placement and program or treatment assignments as performed under s. DOC 302.17.

(15) "Program or treatment" means the programs, treatment and services provided by an institution or the department such as education, alcohol and drug abuse treatment, sex offender treatment, and clinical and social service counseling.

(16) "Secretary" means the secretary of the department of corrections, or his or her designee.

(17) "Security classification" means the security level of an institution based upon the physical plant characteristics, staff resources and degree of supervision of inmates.

(18) "Superintendent" means a superintendent, or designee, at a correctional center as established under s. 301.13, Stats..

(19) "Warden" means the warden, or designee, at an institution.

(20) "Working days" means all days except Saturday, Sunday, and state legal holidays.

**DOC 302.04 Custody classification.** (1) The purpose of a custody classification is to determine the appropriate placement of an inmate in order to regulate the supervision and movement of inmates among institutions, and between institutions and community programs.

(2) Custody classification is determined by assessing the risk of each inmate regarding all of the following:

- (a) Assaultive or predatory behavior.
- (b) Escape, walk-away, and absconding occurrences.
- (c) Violation of inmate disciplinary rules under ch. DOC 303.
- (d) Disruption to the orderly processes of an institution.
- (e) Participation and progress in program or treatment.
- (f) Adjustment and history under community supervision.
- (g) Pending legal processes.

(3) The department initiates custody classification at A&E and changes it by an individualized assessment through the program review process using factors identified in s. DOC 302.07.

**DOC 302.05 Custody classification levels.** An inmate is classified under one of the following 5 custody classification levels based upon the result of an assessment of the inmate's risk under the A&E or PR process:

(1) Maximum custody requires very close monitoring of inmate conduct, behavior and activities.

(2) Medium custody requires moderate monitoring of inmate conduct, behavior and activities.

(3) Medium-out custody requires moderate monitoring of inmate conduct, behavior and activities inside the institution and permits placement outside the confines of the institution under supervision.

(4) Minimum custody requires general monitoring of inmate conduct, behavior and activities inside the institution and permits placement outside the confines of the institution.

(5) Community custody requires limited monitoring of inmate conduct, behavior and activities. This classification is used for the following activities:

(a) Work or study release under ch. DOC 324.

(b) Off-grounds projects under the supervision of non-correctional staff under ch. DOC 325.

(c) Driving institution vehicles under ch. DOC 325.

(d) Leave for qualified inmates under ch. DOC 326.

(e) Community residential confinement under ch. DOC 327.

(f) Intensive sanctions under ch. DOC 333.

(g) Other programs which the department may establish.

**DOC 302.06 Institutional security classifications and relationship to custody classification.**

(1) Except for inmates awaiting transfers, and institutions in which there is a declared emergency or disturbance, an inmate's custody classification shall be no greater than the designated security classification of the institution in which the inmate is placed.

(2) Segregation units at any facility are considered maximum security.

**DOC 302.07 Factors in assigning a custody classification.** The department may consider factors that include but are not limited to the following in assigning custody classification:

(1) The nature and seriousness of the offense the inmate was convicted of. In evaluating the seriousness of the offense, the department may consider the following:

(a) Potential of physical danger to another.

(b) Harm done to the victim in the commission of the offense.

- (c) Whether the inmate exhibited physical aggressiveness that exposed another to harm.
- (d) Aggravating or mitigating factors in the commission of the offense for which the inmate was convicted.
- (2) The inmate's criminal record and juvenile delinquency adjudications.
- (3) The length of sentence being served.
- (4) The inmate's motivation for the crime convicted of.
- (5) The inmate's attitude regarding the offense and sentence.
- (6) The inmate's record of adjustment and misconduct including any record of escape from a department facility, IS, a mental health facility, a local jail or any other confinement facility, or absconding from probation, parole, or extended supervision.
- (7) The length of time the inmate has been in a particular custody classification and overall time served during the current period of incarceration.
- (8) The inmate's medical and clinical needs, including physical or psychological treatment and observation.
- (9) The risk to a victim, witness, the general public or the inmate of placing the inmate in the community where the offense was committed or where the institution is located. In determining this risk, the department may consider the general public's perception of the offense and the inmate as evidenced by statements of elected officials, judges, sheriffs, district attorneys, a victim, or a witness.
- (10) The inmate's performance or refusal to participate in programs or treatment
- (11) A pending legal process, notification or detainer.
- (12) Parole commission actions and stated expectations, and in the absence of any stated expectations, the likelihood of a release during the review period.
- (13) The results of specially designed and researched risk rating instruments developed to assist with the individualized and objective assessment of a custody classification or program and treatment assignments and placements.
- (14) The inmate's vulnerability to physical assault by other inmates.

**DOC 302.08 Requirements for assigning a minimum custody classification to an inmate serving a life sentence.** (1) In this section, "life sentence" means a sentence of life imprisonment. An inmate sentenced to life imprisonment who is released on parole, violates a condition of parole and is returned to a state correctional institution with or without a new sentence is considered to be

serving a life sentence. If the governor pardons or commutes a life sentence, it is no longer a life sentence. The life sentence definition also applies to an inmate from another jurisdiction who is serving a sentence of life imprisonment under that jurisdiction's laws.

(2) To be eligible for a minimum custody classification, an inmate serving a life sentence shall have:

- (a) Reached parole eligibility or be within five years of extended supervision eligibility as defined in ss. 304.06 (1) and 973.014, Stats.
- (b) A recommendation for minimum custody classification made by the PRC under s. DOC 302.17.
- (c) Director's approval for minimum custody classification.

**DOC 302.09 Program consideration.** Unless otherwise specified by the rules of the department or by state and federal law, inmates may be considered for school assignments, vocational programs or treatment assignments within the Wisconsin correctional system if all of the following conditions are met:

- (1) The inmate has a program or treatment need that the program being considered would meet.
- (2) There is space available in the program.
- (3) The inmate attains the custody classification needed for transfer to the site where the program is available.
- (4) The inmate meets program or the treatment prerequisites.

**DOC 302.10 Factors in assigning a program or treatment component.** (1) The department may consider factors including but not limited to the following in assigning an inmate to a program or treatment component:

- (a) Factors under s. DOC 302.07.
  - (b) Program or treatment prerequisites.
  - (c) The inmate's past performance in programs.
  - (d) Federal or state law requirements.
- (2) The inmate may choose not to participate in program and treatment with an understanding that a refusal may affect custody classification and placement.

**DOC 302.11 Purposes of A&E.** The purposes of A&E shall be all of the following:

- (1) To assess an inmate's risk under s DOC 302.04 (2).
- (2) To determine an inmate's custody classification.
- (3) To provide an inmate with orientation to the department.
- (4) To assess an inmate's criminal and social background, sentence structure, and academic and vocational requirements.
- (5) To evaluate an inmate's academic, vocational, medical, social, and treatment needs.
- (6) To determine an inmate's treatment and program needs and priorities and coordinate these with custody classification and institution or program placement.

**DOC 302.12 Applicability of the assessment and evaluation.** (1) Every inmate shall participate in an assessment and evaluation or an alternative process as approved by the department. This process shall be completed not more than 8 weeks after the inmate's arrival.

(2) The director may alter the scope, purpose and duration of the assessment and evaluation process to meet security and bed needs of the department.

**DOC 302.13 Procedure for custody classification at conclusion of A&E.** (1) The classification specialist shall do all of the following:

- (a) Collect and review information pertaining to the inmate such as offense history, adjustment, risk factors, program goals and other relevant concerns.
- (b) Interview the inmate and afford the inmate an opportunity to provide information.
- (c) Document the inmate's views.
- (d) Prepare a report that includes all of the following:
  1. A summary of the information gathered through (a), (b) and (c).
  2. A recommendation of custody classification, program or treatment needs, institution placement, and a date for program review not to exceed 12 months.

(2) The director shall review the recommendations and make the final custody classification, program, treatment, and institution placement decisions and establish a date for program review not to exceed 12 months.

(3) The department shall make available to the inmate a written copy of the decision.



**DOC 302.14 Applicability of program review.** The department shall monitor custody classification, risk rating, institution placement and program or treatment assignments for every inmate.

SECTION 2. DOC 302.145 is repealed.

SECTION 3. DOC 302.15 through 302.20 are repealed and recreated to read:

**DOC 302.15 Purpose of program review.** The purpose of program review is the following:

(1) To provide systematic review of the inmate's needs relating to education, medical, clinical, social, offense-related and other treatment needs.

(2) To assess the inmate's custody classification.

(3) To assess the inmate's motivation to become involved in treatment and programs.

(4) To secure program or treatment space as needed to permit the inmate to complete an assignment.

(5) To provide the inmate with supplemental or alternative treatment or program assignments.

(6) To provide a review of the inmate's adjustment, conduct and program participation.

(7) To evaluate the inmate's risk.

(8) To establish a date not to exceed 12 months for the next program review.

(9) To recommend placement changes to accommodate program objectives.

**DOC 302.16 Program review personnel.** Every correctional institution and center shall have a program review committee composed of the following members:

(1) The director shall designate a classification specialist as the chairperson of the program review committee in a correctional institution.

(2) The superintendent shall designate a staff member to serve as the chairperson of the program review committee in a community correctional center.

(3) The warden shall designate at least one additional staff member to serve on the committee.

**DOC 302.17 Program review procedure.** (1) Before the scheduled program review, an institution staff member, designated by the Warden or Superintendent, shall do all of the following:

(a) Investigate and document the inmate's adjustment and conduct, program or treatment assignments and other relevant factors to make a determination of progress and accomplishments.

(b) Make written comments to the program review committee regarding custody classification, program or treatment assignment, and institution placement, including the inmate's opinion of the appropriate security classification, program assignment or assignment to an institution.

(2) Before the scheduled review, classification staff will inform the inmate of the following:

(a) The program review date.

(b) The inmate's option to waive the interview appearance.

(c) That if the inmate disrupts the interview or refuses to attend the interview, staff shall conduct the review procedure without the inmate being present.

(d) The criteria for the review and the facts to be considered.

(3) At the program review committee interview, staff shall inform the inmate of the following:

(a) The purpose of the review.

(b) The staff comments regarding custody classification, program or treatment assignments, and institution placement.

(4) The inmate may present additional information and state an opinion about the custody classification, program or treatment assignment, or institution placement at the PRC interview. The inmate may present the additional information in writing if the inmate is unavailable for the PRC interview.

(5) The program review chairperson may suspend the program review in order to investigate any issue affecting custody classification, institution placement and program or treatment assignment.

(6) Each member of the committee shall have one vote. A recommendation for a change in custody classification, transfer, or institution placement requires a unanimous vote. If the vote is not unanimous, the classification specialist shall refer the decision to the classification section chief and the warden for a recommendation. If they are not able to agree, the classification section chief shall refer the case with comments to the director, who will make the decision. A recommendation for program or treatment assignment requires a majority vote.

(7) The committee shall consider as factors in assigning custody classification those stated in s. DOC 302.07. In addition, the criteria under s. DOC 302.08 shall apply to the custody

classification of inmates serving a life sentence. Factors other than those in ss. DOC 302.07 and 302.08 may be considered to preserve the security and safety needs of inmates, staff, facilities or community.

(8) The committee's recommendation for custody or transfer requires the director's approval.

(9) If an inmate is unavailable to appear in person, the PRC may use interactive medium such as telephone conference calls, video or other electronic devices for program review.

(10) The classification specialist shall give the program review decision to the inmate in writing.

(11) PR may occur prior to the date set in s. DOC 302.15 (8) when one of the following occur:

(a) A significant change affecting custody, program or treatment assignments, or institution placement as determined by the classification specialist.

(b) A request by the director or warden.

(c) Referral by the institution adjustment committee as defined in s. DOC. 303.02(1).

(d) An inmate request for PR, made to an assigned social worker, who shall deliver the request to the PRC

**DOC 302.18 Appeals.** (1) An inmate may appeal custody classification, transfer, institution placement, and program or treatment assignment to the director within 30 days of the inmate's receipt of the written decision.

(2) The director shall respond to an appeal within 30 days following written receipt of the appeal.

**DOC 302.19 Transfers.** (1) The director may transfer an inmate to any facility authorized by the department under either of the following circumstances:

(a) Permanent assignment pursuant to ss. DOC 302.13 and 302.17.

(b) Temporary placement due to a clinical, medical or security emergency. PR shall be conducted according to the following:

1. Except as provided in subd. 2, the department shall conduct a PR as provided under s. DOC 302.17 within 10 working days following placement under par. (b).

2. When temporary placement is made pursuant to a disciplinary infraction the department shall complete the PR no later than 10 working days following the completion of the disciplinary process under ch. DOC 303.

(2) Notwithstanding ss. DOC 302.17 and 302.13, when the PRC screens an inmate to determine eligibility for transfer to another institution, or decides to transfer the inmate to another institution, the department shall notify the inmate of the criteria and factors upon which the decisions are based, unless the department determines that release of such information would threaten the security of the prison system.

**DOC 302.20 Recordkeeping.** (1) The director, section chief or a classification specialist may record information concerning an inmate between regularly scheduled PR regarding:

- (a) Program or treatment assignments.
- (b) Progress of program or treatment assignment.
- (c) Physical health.
- (d) Mental health.
- (e) Conduct and adjustment.
- (f) Placement.
- (g) Custody level.

(2) The classification specialist shall provide the inmate a copy of the record and shall permit the inmate to provide information at the next regularly scheduled program review.

SECTION 4. DOC 302.205 is created to read:

**DOC 302.205 Emergency suspension of rules.** The secretary may temporarily suspend the rules specified in this chapter if the warden determines that there is a disturbance or an emergency.

SECTION 5. DOC 302 Appendix is repealed and recreated to read:

## **APPENDIX**

Note: DOC 302.05. Section DOC 302.05 identifies the five custody classifications used in Wisconsin. Each of the five categories reflect the different level of risk portrayed by the inmate based on the purpose of custody classification as explained in s. DOC 302.04 and assessed on each

of the factors presented in ss. DOC 302.07 and 302.08. Each institution determines its own method for day to day supervision to respond to the risk presented by the inmate's behavior, conduct and activities.

Note: DOC 302.11. Among the objectives of the correctional system are protection of the public through appropriate correctional supervision and the reassimilation of the inmate into the community. These require an assessment of the inmate's needs and objectives, assignment to an appropriate institution and program, motivation of the inmate, and periodic review of the inmate's progress. The A&E process is the initial effort to orient, classify and assign inmates in the Wisconsin correctional system. Its purposes are stated in s. DOC 302.11.

Note: DOC 302.17. Section. DOC 302.17 states the procedure and decision making authority for decisions concerning the ongoing academic, vocational, medical, clinical, social, offense-related or other treatment needs of an inmate. The authority of staff to classify and transfer inmates is broad. To ensure a fair, informed decision, the process has the following elements:

1. A decision-making process that involves staff who are most informed about the inmate.
2. Centralized decision-making for the whole correctional system.
3. An opportunity for the inmate to be heard on the issues being addressed.
4. A written explanation of the decision provided to the inmate.
5. An appeal process (s. DOC 302.18).

Note: DOC 302.19. This section is intended to cover inmate transfers among state prisons, federal institutions, or a facility otherwise deemed appropriate, as well as inmate transfers to facilities located outside the state of Wisconsin.

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

Wisconsin Department of Corrections

Date: \_\_\_\_\_

By \_\_\_\_\_  
Jon E. Litscher  
Secretary

Seal: