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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 09-119

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]**

#### 1. Statutory Authority

Section PAC 1.03 (19) defines the term “victim” to mean a person against whom a crime has been committed or against a victim’s family member. What is the statutory authority for this definition given that the statutes include a victim’s family member for purposes of protecting a victim’s rights only in certain circumstances? For example, see ss. 304.06 (1) (a) 2., (c) 3., and (d) 1., 304.063 (1) (b) and 2., and 950.02 (4), Stats.

#### 2. Form, Style and Placement in Administrative Code

a. When enumerating a list of factors that must be considered, each subunit should end with a period. The words “and” and “or” are redundant. In s. PAC 1.04 (1), (2), and (3), the department should delete all semicolons and end all subsections with a period. The department should also do this for each of the following:

- (1) Section PAC 1.06 (11) (a).
- (2) Section PAC 1.06 (16) (e) 1., 2., and 3.
- (3) Section PAC 1.08 (1) (a), (b), and (c).
- (4) Section PAC 1.08 (3) (a), (b), and (c).

b. In s. PAC 1.05 (2) (a), the word “Chairperson” should be replaced by the word “chairperson.”

c. When using paragraph titles, either all or none of the paragraphs have a title. In s. PAC 1.05 (2), pars. (b) and (c) have titles, but par. (a) does not. The department should consider either giving par. (a) a title, or removing the other two.

d. Paragraph titles are italicized. Subsection titles are written in small caps. The department should italicize the paragraph titles in s. PAC 1.05 (2) and (3) if it decides to use them (see previous comment), and use small caps for the subsection titles in s. PAC 1.08.

e. In s. PAC 1.09 (2), because the introduction does not grammatically lead into following subunits, it should be renumbered as par. (a) and the remaining paragraphs should be renumbered accordingly. See also sub. (5).

f. In s. PAC 1.09 (6), the word “Court” should be replaced by the word “court.”

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

a. Because the definition of family member has been expanded to include domestic partners, ch. 770, Stats., should also be cited in the statutes interpreted section.

b. Section 302.1135, Stats., is being directly interpreted and does not need to be cited in the related statutes section.

c. In s. PAC 1.02, the notation “Ch.” should be replaced by the notation “chs.”

d. In s. PAC 1.07 (1), the notation “sub.” should be replaced by the notation “s.”

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In the rule preface, the acronym “ERRC” should be inserted after the first use of the term “Earned Release Review Commission” in item C.

b. In the rule preface, it appears that the number “29” in item 6 of the plain language analysis should be replaced by the number “28.”

c. In s. PAC 1.04 (15) and (16), it is unclear whether the definitions “parole grant or release order” and “parole or release eligible” combine two terms for brevity, or are in fact new phrases. As written, they are phrases, but these phrases are not used in ch. PAC 1. For example, in s. PAC 1.06 (16), the term “parole eligible,” is used, not “parole or release eligible.” If the intent is not to create phrases, the department should divide these new definitions apart such that there are four definitions.

d. In s. PAC 1.05 (title), it appears that the phrase “parole or” should be inserted before the phrase “release consideration.” [See also the title to s. PAC 1.06.]

e. Section PAC 1.05 (2) (c) 2. states that when incarceration follows parole revocation and involves the imposition of a new sentence, parole eligibility shall be established at six months. Six months from when? Also, par. (c) 3. refers to the “eligibility date.” How is the eligibility date determined? [See also s. PAC 1.06 (3).]

f. Sections PAC 1.06 (16) (a) and (b) and 1.08 (5) (c) 3. should conclude with periods.

g. In s. PAC 1.08 (3), is an inmate required to include all of the information listed in par. (a) to (d)? If so, the department should rewrite the introduction to state: “An inmate who files a petition for release under this section shall include all of the following....”

h. Section PAC 1.08 (4) (c) refers to the criteria for review under ch. 980, Stats. A more specific cross-reference should be used.

i. In s. PAC 1.08 (5) (c) 1., the second occurrence of the phrase “shall release” should be deleted.

j. In s. PAC 1.09, unless the term begins a sentence, the acronym PMR is consistently used instead of “presumptive mandatory release.” In par. (d), the department should consider replacing presumptive mandatory release with PMR for consistency.