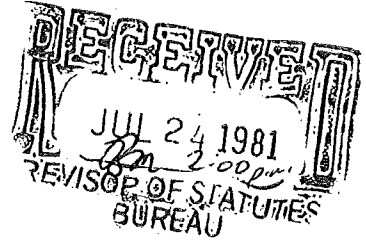


CERTIFICATE

STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

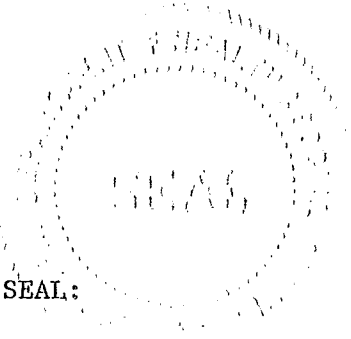


TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Donald E. Percy, Secretary of the Department of Health and Social Services and custodian of the official records of said department do hereby certify that the annexed rules relating to the work release and study release of inmates from adult correctional institutions were duly approved and adopted by this department on July 24, 1981.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the State Office Building, 1 W. Wilson St., in the city of Madison, this 24<sup>th</sup> day of July, A.D. 1981.



SEAL:

Donald E. Percy, Secretary  
Department of Health and Social Services

ORDER OF THE DEPARTMENT OF HEALTH  
AND SOCIAL SERVICES ADOPTING RULES

Relating to rules concerning the work release and study release of inmates from adult correctional institutions.

Analysis prepared by the Department of Health and Social Services:

These rules interpret section 56.065, Wis. Stats., regarding release of inmates from state correctional institutions for the purpose of employment or education.

Pursuant to authority vested in the Department of Health and Social Services by section 56.065(2), Wis. Stats., the Department hereby adopts rules interpreting section 56.065, Wis. Stats., as follows:

Chapter HSS 324 of the Wisconsin Administrative Code is adopted to read:

HSS 324

WORK AND STUDY RELEASE  
FOR ADULT CORRECTIONAL INMATES

- HSS 324.01 PURPOSE
- HSS 324.02 APPLICABILITY
- HSS 324.03 DEFINITIONS
- HSS 324.035 ORGANIZATION OF WORK AND STUDY RELEASE
- HSS 324.04 ELIGIBILITY
- HSS 324.05 APPLICATION AND APPROVAL PROCEDURE
- HSS 324.06 PLACEMENT PROCEDURE
- HSS 324.07 PLACEMENT IN WORK RELEASE
- HSS 324.08 PLACEMENT IN STUDY RELEASE
- HSS 324.09 INMATE FUNDS
- HSS 324.10 TRANSPORTATION
- HSS 324.11 CUSTODY
- HSS 324.12 INMATE CONDUCT ON WORK AND STUDY RELEASE
- HSS 324.13 TERMINATION OF WORK AND STUDY RELEASE
- HSS 324.14 TERMINATION PROCEDURE
- HSS 324.15 HOUSING FACILITIES

HSS 324.01 PURPOSE

The purposes of work and study release are:

- (1) To provide an opportunity for inmates to assume responsibility in employment or educational settings to prepare them for a productive life in free society after release;
- (2) To complement institution education, training, and work programs with community resources not available in an institution;
- (3) To provide inmates with a program activity in which they may demonstrate, through responsible behavior, their readiness for parole;
- (4) To provide an opportunity for inmates to accumulate funds to meet financial obligations that might otherwise inhibit adjustment following release or parole; and
- (5) To fulfill the correctional goals of public protection and reintegration of the inmate into society.

NOTE: Work and study release improve the inmate's chances for successful reassimilation in the community. The inmate is gradually exposed to the responsibilities and experiences of life outside an institution, so the adverse effects of abrupt release from the structured prison environment are avoided.

Work and study release not only offer a period of gradual psychological adjustment, but also may directly remedy some educational or training

deficiencies contributing to criminal conduct. Many offenders lack job skills, making it difficult to obtain employment and, consequently, to meet financial obligations. Studies have shown that in many cases, lack of financial resources contributes to a return to criminal activity after release. Work release provides a job, enabling the inmate to develop skills and accumulate savings. Study release increases the inmate's skills through educational or training programs.

Work release has other direct benefits. An inmate earning wages must pay room and board costs, thereby reducing confinement costs paid by the public. And s. 56.065, Stats., provides a priority schedule for payment of private debts when work release earnings are sufficient.

The work and study release programs substantially conform to the following standards. National Advisory Commission on Criminal Justice Standards and Goals, Corrections, standard 7.1 (1973); American Bar Association, Tentative Draft of Standards Relating to the Legal Status of Prisoners, standard 4.1(a) (1977); American Correctional Association, Manual of Standards for Adult Correctional Institutions, standards 4386-4392 (1977).

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HSS 324.02 APPLICABILITY

This chapter applies to the department of health and social services, division of corrections, and adult inmates in its custody. It interprets s. 56.065, Stats. This chapter is adopted pursuant to the authority of s. 56.065(2), Stats.

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HSS 324.03 DEFINITIONS

- (1) "Classification chief" means the chief of classification or designee of the division of corrections.
- (2) "Division" means the division of corrections, department of health and social services.
- (3) "Housing facility" means a facility other than a state prison that is used for quartering inmates with work or study release privileges. Such a facility may be contracted for under s. 56.065(3), Stats., and may be a county jail or halfway house.
- (4) "MAP" means the mutual agreement program. MAP provides for the coordinated completion of programs by inmates through contracts specifying release dates and dates for the completion of programs.
- (5) "MR" means mandatory release date.
- (6) "PRC" means the program review committee, whose primary duties and composition are set forth under s. HSS 302.18.
- (7) "Study release," as used in this chapter, means a work release program authorized under s. 56.065(2), Stats., for educational purposes in a technical, vocational, or trade school; university, college, sheltered workshop, or training program designed to improve an inmate's skills and ability.

- (8) "Superintendent" means the superintendent of a correctional institution or that person's designee
- (9) "TPD" means the target parole date under a MAP contract.
- (10) "Work release" means a program authorized under s. 56.065(2), Stats., that permits selected inmates to leave the confines of state correctional facilities to participate in employment programs. In this chapter, the term "work release" shall apply only to placements for employment.
- (11) "Work release chief" means the chief of work release or designee of the division of corrections.
- (12) "Work release coordinator" or "coordinator" means the person designated at each institution to perform the duties enumerated in this chapter for work release or study release, or that person's designee.



HSS 324.035 ORGANIZATION OF WORK AND STUDY RELEASE

Placement in work and study release is organized as follows:

- (1) The inmate shall be eligible under s. HSS 324.04.
- (2) The inmate's placement shall be approved unanimously under s. HSS 324.05 by the PRC of the institution where the inmate is confined.
- (3) Placement in work release shall be in accordance with s. HSS 324.07, and placement in study release shall be in accordance with s. HSS 324.08.
- (4) An inmate's financial obligations shall be reported by the inmate and investigated by division personnel, and payments shall be disbursed under s. HSS 324.09.
- (5) Transportation shall be arranged under s. HSS 324.10.
- (6) Inmate conduct on work or study release shall be in accordance with s. HSS 324.12.
- (7) Termination from work release or study release shall be under s. HSS 324.13.

HSS 324.04 ELIGIBILITY OF INMATE

- (1) Inmates shall have a security classification of minimum.
- (2) An inmate shall satisfy the minimum requirements for eligibility under par. (8).
- (3) The following time limits apply for an inmate with a record of escape or attempted escape:
  - (a) An inmate convicted in court or found guilty by an adjustment committee of escape or attempted escape from a state correctional facility is ineligible until one year from the date the judgment is entered or a finding of guilt by an adjustment committee is entered.
  - (b) If an inmate received at a state correctional facility has a concurrent or consecutive sentence for escape from a county jail, he or she is ineligible for one year from the date judgment is entered.
- (4) If the division, under s. HSS 324.13, has removed an inmate from a prior work or study release placement for misconduct other than escape or attempted escape, the inmate is ineligible for work or study release for 6 months from the removal date.

- (5) The following additional eligibility requirements apply to inmates serving sentences on which discretionary or mandatory release parole has been revoked:
- (a) Except as provided in par. (b), a violator with or without a new sentence shall serve 6 months from date of return to a state correctional facility before attaining eligibility regardless of parole board action or credit for time served in a county jail.
  - (b) An exception to par. (a) may be recommended by the PRC for inmates who are within 6 months of mandatory release. The final decision as to eligibility shall be made by the classification chief.
  - (c) An inmate with a new controlling sentence of more than two years shall serve to eligibility under s. HSS 324.04(8) from the date of return to a state correctional facility regardless of parole board action and regardless of any time served in a county jail.
- (6) Probation violators shall serve to eligibility under this chapter from date of confinement in a state correctional facility regardless of all other criteria and regardless of any credit for time served in a county jail.
- (7) An inmate whose conviction is reversed and who is later convicted for either the same crime or one arising out of the same occurrence as the

previous conviction shall receive credit toward eligibility for work and study release for time served on the first conviction.

- (8) Paragraphs (a) and (b) set the minimum requirements for time served before eligibility for work release or study release. These are based on length of sentence and time served at a state correctional institution.

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(a)

WORK RELEASE

<u>Length of Sentence</u>	<u>Minimum Time Served at a State Correctional Institution Before Eligible to Apply</u>
2 years or less	3 months
More than 2 years, less than 4 years	12 months or defer 6 or 12 mo. to TPD--6 mos. to MR--6 mos. to discharge
More than 4 years, less than 5 years	15 months or defer 6 " " " " " " " " " " " " " "
More than 5 years, less than 6 years	18 months or defer 6 " " " " " " " " " " " " " "
More than 6 years, less than 7 years	21 months or defer 6 " " " " " " " " " " " " " "
More than 7 years, less than 8 years	24 months or defer 6 " " " " " " " " " " " " " "
More than 8 years, less than 9 years	27 months or defer 6 " " " " " " " " " " " " " "
More than 9 years, less than 10 years	30 months or defer 6 " " " " " " " " " " " " " "
More than 10 years, less than 15 years	45 months or defer 6 " " " " " " " " " " " " " "
More than 15 years, less than 20 years	60 months or defer 6 " " " " " " " " " " " " " "
More than 20 years, less than 25 years	75 months or defer 6 " " " " " " " " " " " " " "
More than 25 years, less than life	90 months or defer 6 " " " " " " " " " " " " " "

Inmates serving a life sentence are eligible under s. 56.065(1), Stats., after attaining parole eligibility under s. 57.06(1)(a), Stats. They shall have a minimum security classification for at least 6 months and shall have spent at least 6 months in a minimum security institution.

(b)

STUDY RELEASE

<u>Length of Sentence</u>	<u>Minimum Time Served at a State Correctional Facility Before Eligible to Apply</u>
2 years or less	3 months
More than 2 years, less than 3 years	6 months or defer 6 or 12 to TPD--6 mos. to MR--6 mos. to discharge
More than 3 years, less than 5 years	9 months or defer 6 " " " " " " " " " " " "
More than 5 years, less than 6 years	12 months or defer 6 " " " " " " " " " " " "
More than 6 years, less than 7 years	15 months or defer 6 " " " " " " " " " " " "
More than 7 years, less than 8 years	18 months or defer 6 " " " " " " " " " " " "
More than 8 years, less than 9 years	21 months or defer 6 " " " " " " " " " " " "
More than 9 years, less than 10 years	24 months or defer 6 " " " " " " " " " " " "
More than 10 years, less than 15 years	30 months or defer 6 " " " " " " " " " " " "
More than 15 years, less than life	36 months or defer 6 " " " " " " " " " " " "

Inmates serving a life sentence are eligible under s. 56.065(1), Stats., after attaining parole eligibility under s. 57.06(1)(a), Stats. They shall have a minimum security classification for at least six months and shall have spent at least six months at the institution from which placement will be made. Inmates may be considered eligible for study release, provided all other criteria are met, if the beginning of a semester or training program falls within 30 days of an inmate's time served eligibility.

NOTE: HSS 324.04 sets the minimum requirements for eligibility for work and study release. While meeting these requirements does not entitle an inmate to participate in the program, it does entitle an inmate to participate in the application process. The application and approval procedure is under HSS 324.05.

Work and study release placements are not available to everyone who wants them, everyone who is eligible, or even everyone the PRC approves. A work or study release program requires the continued cooperation of the employer or the educational authority who provides the placement. Therefore, HSS 324.04 limits eligibility for placements to inmates most likely to be successful.

Subsection (1) makes a minimum security classification a condition of eligibility. Under HSS 302.12, this is the only classification allowing inmates the freedom of movement outside the institution necessary for participation in work or study release. These inmates are considered minimal escape risks and less likely to commit acts adversely affecting their release. For a discussion of security and classification criteria, see HSS 302.14 and note.

Subsection (3) sets time limits on eligibility for inmates with a record of escape or attempted escape. The time limits in subsection (3) were adopted so inmates who have escaped or attempted to escape are not placed back in the community too soon. The PRC always considers an inmate's record of escape under the criteria of ch. HSS 302, even when an inmate has reached eligibility under subsection (3). This subsection's requirements are relevant only to application, not to ultimate approval.

Subsection (4) makes an inmate removed from a work or study release placement for misconduct ineligible for six months from date of removal. This applies

only if the inmate was removed by the division. If an employer or an educational institution terminated an inmate's placement, the division may again place the inmate in work or study release at any time.

Subsections (5) and (6) prohibit parole, mandatory release, and probation violators from applying for work or study release for the times prescribed. Eligibility is thus limited because confinement to a correctional facility from the community will require assessment and evaluation of the inmate, orientation, and monitoring the inmate's adjustment. Also, it is not sound policy to immediately place back in the community a person who has shown an inability to adjust. The fact that jail time is not credited toward eligibility reflects the view that a period of six months is necessary to observe the inmate before a work or study release decision can be made. McGinnis v. Royster, 410 U.S. 263 (1973).

Subsection (5)(b) is an exception provided for inmates who are within six months of release and consequently will be in the community within a very short time. In some instances, the division might place such a person in a work or study release program if it would contribute to successful reintegration.

Subsection (8) sets minimum requirements for time served at a state correctional institution before eligibility for work or study release. Finding enough inmates eligible and available for a special class is sometimes impossible. Without sufficient numbers, the class cannot be held. The adjustment period of up to 30 days under subsection (8)(b) allows including inmates very close to eligibility to fill a class. If this were not allowed, these inmates might need to wait a full term to participate in the program, or the program might not be offered, thus depriving eligible and approved inmates.



The amount of time that must be served before eligibility is different for work release than for study release. People spend more time on study release, so they should be eligible sooner. Work release, on the other hand, should be close as possible to release from the institution, so eligibility is slightly delayed.

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HSS 324.05 PROCEDURE FOR APPLICATION AND APPROVAL

- (1) An inmate applies for work and study release to the institution social worker or any designated staff member.
- (2) The social worker or designated staff member shall investigate the inmate's eligibility under s. HSS 324.04.
- (3) The inmate must be approved for work or study release by the PRC before any further placement efforts can be undertaken.
- (4) The program review procedure shall be under Chs. HSS 302, Wis. Adm. Code, and HSS 324. Any inconsistencies shall be resolved in favor of ch. HSS 324.
- (5) PRC approval for a work release or study release placement shall be by unanimous vote. If a vote is not unanimous, the case shall be treated in accordance with s. HSS 302.19(7).
- (6) The inmate's physical condition shall be considered in making the decision.
  - (a) If the inmate needs medication, the PRC shall consult with the health services staff and the clinical services staff before approving work or study release.
  - (b) The health services staff and the clinical services staff shall state whether a work or study release placement is appropriate for the inmate and what monitoring, if any, is necessary given

the inmate's medical condition. Such an inmate shall not be placed in a work or study release program unless the necessary monitoring is available at the placement.

- (7) Upon PRC approval, the PRC shall notify the institution work release coordinator.

NOTE: Since approval for work and study release is made by the PRC, ch. HSS 302 must be followed in addition to this chapter. Any inconsistencies are to be resolved in favor of ch. HSS 324 for decisions about work and study release.

Program review decisions must be by a unanimous vote to approve an inmate for work and study release. Although program decisions ordinarily require only a majority vote, unanimity is required in the case of work and study release because the inmate is being placed in the community. This ensures that only those inmates most likely to succeed in the program will be approved.

Successful placements are essential because, if inmates with marginal chances of success were placed and the failure rate increased, employers and educational institutions might no longer participate, thereby reducing the already limited number of placement openings.

Subsection (6) requires the PRC to consult the health services and clinical services staff before approving work or study release for an inmate who needs medication. Practical problems are involved in dispensing medication and monitoring consumption since the placement is away from the institution. But, if the medical problem can be handled in the placement, the need for medication should not prevent the inmate from participating in the work or study release program.

An inmate on medication could present a danger. For example, some medication impairs ability to operate certain machinery. Therefore, this subsection requires the PRC to get an opinion from the health services staff and the clinical services staff about the medical needs and limitations of the inmate.

If the PRC approves, the work release coordinator is notified, and an attempt is made to find an appropriate placement. PRC approval does not guarantee the inmate will be placed.

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HSS 324.06 PLACEMENT PROCEDURE

- (1) Upon PRC approval for the program, the inmate shall meet with the work release coordinator to complete the application process. The application process shall include, in accordance with s. HSS 324.09, information about the inmate's financial obligations. If the application is for study release, the inmate shall apply for benefits as required under s. HSS 324.09(1).
- (2) Upon receiving PRC notification, the institution work release coordinator and appropriate staff shall, under s. HSS 324.09(2), investigate the inmate's financial obligations and attempt to place the inmate in accordance with the requirements of s. HSS 324.07 or s. HSS 324.08.
- (3) The institution work release coordinator shall solicit work and study placements, shall maintain a list of all potential employers and educational facilities, and shall maintain a list of all placement openings.
- (4) Before placement, the work release coordinator shall advise the employers or appropriate school administrators of their responsibilities to the inmates and the program. For placement in a county jail or halfway house, the sheriff or director of the halfway house must consent in advance to accept the inmate. Withdrawal of the consent terminates the placement. Determination of the costs and method of payment for room and board must be arranged prior to placement at the location.

- (5) When a suitable placement is available for an inmate, the work release coordinator shall explain to the inmate the rules of work or study release. The work release coordinator shall inform the inmate of the results of the investigation of the inmate's obligations and shall make recommendations for disbursement under s. 56.065, Stats. The inmate shall sign an agreement to abide by the rules of work release or study release, including financial arrangements. The work release coordinator shall describe on an appropriate form the transportation methods and routes permitted, the places the inmate is authorized to visit, the hours the inmate is authorized to be absent from the institution or housing facility, and the area designated as the immediate confines of the placement site. The inmate shall receive a copy of this form.
- (6) Before an inmate begins a work or study release placement, the work release coordinator shall give the division's bureau of program resources and the institution social worker the following information:
- (a) Date placement is to begin;
  - (b) Site of placement and housing facility, if any;
  - (c) Hours the inmate will be on the placement site;
  - (d) Type of work or study program;
  - (e) Rate of pay or amount of financial aid; and
  - (f) Other information that may be required.
- (7) The work release chief and the division's bureau of adult institutions shall coordinate transportation arrangements between the institution

and the approved housing facility used for the placement. These arrangements are subject to the approval of the classification chief.

NOTE: Section HSS 324.06 is the procedure for placing the inmate following PRC approval. Once a suitable placement is found, the coordinator obtains the necessary documentation confirming acceptance by the employer or school authority or housing facility; explains the duties of principals; explains to the inmate the rules of work release or study release, the financial agreement, and movement restrictions; and forwards required information to the bureau of program resources and the institution social worker.

Placement in work release is subject to the requirements of s. HSS 324.07, and study release is subject to the requirements of s. HSS 324.08.

The financial obligations of the inmate must be investigated (sub. (2)) and a plan for disbursement made. This is required under s. 56.065, Stats., which gives the department the power and responsibility to control and disburse money. Sub. (4) requires the inmate to sign a financial agreement to ensure that the inmate is informed of the disbursement plan. See HSS 324.09.

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HSS 324.07 PLACEMENT IN WORK RELEASE

The following requirements apply to all placements in work release:

- (1) The inmate shall have a confirmed job offer, or the parole agent shall indicate that employment is imminent in cases where a housing facility is utilized.
- (2) Work release placements shall not exceed twelve months. The director of the division's bureau of adult institutions or bureau of community corrections, or their designees, may grant an extension upon the recommendation of the work release chief coordinator if the employer has offered the inmate a job following release and release is imminent.
- (3) Financial compensation shall be comparable to that of other workers employed in similar positions by the same employer.
- (4) If the inmate is to be housed in a housing facility, consent must be obtained from the appropriate authority of the facility.
- (5) No inmate may be placed with a relative or in a private home.
- (6) The placement is not effective until the inmate actually begins working on the job.



NOTE: Section HSS 324.07 states the requirements for work release placement. Subsection (1) requires that a job be available for the inmate. Sub. (2) includes a provision for extension beyond the twelve-month limitation so an inmate or employer will not be inconvenienced when the employer wants the inmate to continue in a job following release, and release is imminent, yet the placement would end before release if the twelve-month rule were followed. To ensure continuity, an extension should be granted in the best interests of the public and the work release program. Having a job will help the inmate following release, making recidivism less likely.

Subsection (2) requires that placements not exceed twelve months, but placements may be for shorter periods of time. In fact, shorter time periods are desirable as they allow more inmates to participate in the program. For example, three inmates could work for four months each in the same twelve-month period that one inmate would use if placed for the whole twelve months.

Subsection (3) requires that financial compensation paid to inmates be comparable to that of non-inmate workers, which is consistent with the purposes discussed in s. HSS 324.01. Inmates are not to be a source of inexpensive labor, though employers may save some money by employing them. Although the compensation is to be comparable, the inmate is unable to use certain fringe benefits. For example, health care is provided, so health insurance payments for a private doctor would not be a benefit. Likewise, vacation time could not be used unless it accrued for the inmate's use after release.

HSS 324.08 PLACEMENT IN STUDY RELEASE

The following requirements apply to all study release placements:

- (1) Before placement, the inmate shall be accepted for enrollment at the school. All financial arrangements shall be agreed upon by the inmate and the institution.
- (2) The PRC shall determine the length of time of the placement and may extend that time period.
- (3) If the inmate is to be housed in a housing facility, the appropriate authority of the housing facility shall consent to the placement.
- (4) Study release placements should normally be for the same length of time as the educational program.

NOTE: Placement of an inmate in the study release program under s. HSS 324.06 shall be in accordance with the requirements of s. HSS 324.08.

Paragraph (b) allows the PRC to grant approval for any length of time. The approval time period should coincide with school terms and the duration of the program in which the inmate is enrolled whenever possible.

HSS 324.09 INMATE FUNDS

- (1) Under s. HSS 324.06(1), during the application process for work or study release, each inmate shall list all financial obligations.

Inmates approved for study release shall apply for all benefits to which they are entitled as a result of placement in an educational or training program.

- (2) Appropriate division personnel shall investigate and determine the following:

- (a) Cost of the inmate's food and clothing in the placement assigned;
- (b) Cost of an educational placement, including but not limited to tuition and books;
- (c) Necessary travel expenses to and from the placement and other incidental expenses;
- (d) Support obligations for the inmate's dependents;
- (e) Reasonable room charges as determined by the department; and
- (f) Financial obligations set by a court judgment and debts acknowledged in writing by the inmate.

- (3) The inmate shall sign an agreement acknowledging the department's authority to disburse funds earned while on work release or funds received for study release in accordance with s.56.065(5), Stats. Refusal to sign shall make an inmate ineligible for participation.

- (4) The institution business manager shall disburse money received as wages or educational benefits in the following order:
- (a) The board including food, and clothing for the inmate plus, if the inmate is on study release, tuition, books, fees, tools, and other supplies; if the inmate is on work release, work related expenses;
  - (b) Necessary travel expense to and from the placement and other incidental expenses of the inmate;
  - (c) Support of the inmate's dependents, if any;
  - (d) A reasonable room charge as determined by the department;
  - (e) After investigation under sub. (2), payment, either in full or proportionately, of the inmate's obligations that were acknowledged by him in writing or that have been reduced to judgment;
  - (f) Wages to the inmates on work or study release until the current canteen limit is reached. Unspent money is to be accumulated in an inmate's account, and the balance is to be paid to the inmate upon discharge. Only inmates who are on work or study release may receive wages from the segregated account under s. HSS 309.50, Wis. Adm. Code.
- (5) Books, tools, supplies, and other items necessary for study release purchased with the inmate's funds remain the inmate's property. If these items are purchased with state funds, they are the state's property.

- (6) The institution business manager shall establish a separate account for each inmate and make disbursements under sub. (4) and s.56.065 (5), Stats. All paychecks from work release and funds received for study release shall be sent to the institution business manager unless the work release coordinator approves other arrangements.

NOTE: HSS s. 324.09 requires the inmate and the division to compile the financial information necessary for compliance with s.56.065, Stats.

Subsection (2) requires the division to investigate inmate obligations so disbursement of wages from work release or benefits from study release can be made in accordance with sub. (4).

Subsection (4)(f) provides that the inmate be paid only the current set canteen limit out of work release wages or study release funds. This gives the inmate the same spending rights as other inmates. Unspent funds up to the limit can be saved for expensive purchases. The disbursement priority is set by s. 56.065(5), Stats., and wages and any leftover balance are paid only when the obligations in sub. (4)(a) through (e) have been satisfied. The requirement that the inmate be paid the maximum allowed for canteen until discharged was adopted so inmates have funds to use for their personal needs while in an institution or housing facility. Since they are not receiving institutional pay, this is desirable. Any amount above that is to be kept segregated and given to the inmate upon release.

HSS 324.10 TRANSPORTATION

- (1) (a) All transportation arrangements between a housing facility and a work or study placement and between an institution and a work or study placement require approval by the superintendent of the institution to which the inmate is assigned. All vehicles transporting inmates must be insured.
- (b) If the inmate is to be housed in a housing facility:
  1. Transportation between that facility and the institution shall be coordinated by the work release chief and the housing facility, subject to approval by the chief of classification.
  2. The manner of transportation between the housing facility and the work release placement shall be agreed upon by the parole agent and the sheriff or director of the halfway house.
- (2) The following means of transportation may be used:
  - (a) Institution vehicles;
  - (b) Public carriers;
  - (c) Approved vehicles driven by members of the public; or
  - (d) Inmate's personal car.
- (3) Inmates on work release shall pay the cost of transportation to and from the work site as provided under s.56.065(5), Stats. If the division provides transportation, it may assess a reasonable charge.

HSS 324.11 CUSTODY

Inmates placed in work or study release remain in the legal custody of the department of health and social services.

NOTE: Since inmates are in the custody of the department at all times, a failure to report to or return from the placement site is an escape under s.946.42(3), Stats.

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HSS 324.12 INMATE CONDUCT ON WORK AND STUDY RELEASE

- (1) The following provisions apply to inmate conduct on work and study release and shall be included as part of the work release and study release agreements:
  - (a) Inmates shall not leave the immediate confines of the placement site or the assigned designated area.
  - (b) Inmates shall not possess or use any form of alcohol, marijuana, narcotics, or drugs except as authorized and directed by a physician.
  - (c) Inmates shall abide by all the rules of the employer or the educational or training facility to which they are assigned.
  - (d) Inmates shall not send or receive personal letters and shall not make or receive personal telephone calls at the placement site unless authorized by the division. Personal visits are not permitted at the placement site.
  - (e) Inmates shall not enter into contracts or agreements without prior approval by the appropriate correctional authority. Prohibited contracts include but are not limited to: purchases of property, time payments, and marriage. Inmates may, however, hire an attorney.
  - (f) The inmate shall not remove any tools, equipment, or shop-built items from the institution or bring any such item into the institution without the superintendent's prior approval.



- (g) Money shall be considered contraband unless authorized in advance by the superintendent for incidental expenses. Unexpended funds shall be returned daily.
  - (h) Inmates shall use only the transportation authorized by the institution.
  - (i) Inmates shall abide by these administrative rules, the specific policies and procedures of the institution to which they are assigned, and the rules of the facility in which they are housed.
  - (j) Failure to report or return to an assigned housing facility, or leaving the confines of such facility without permission, may be referred for prosecution as an escape under s.946.42(3), Stats.
  - (k) An inmate may not remain on work or study release if a medical or psychological problem of the inmate would go untreated.
- (2) The following additional requirements apply only to study release and shall be included in the study release agreement:
- (a) Inmates shall attend all regularly scheduled classes even if the instructor does not require attendance. The coordinator must approve all schedules and schedule changes.
  - (b) Inmates shall maintain passing grades in all courses and a cumulative two point (2.0) grade point average (C average) or better on a four point (4.0) scale. Incompletes may result in termination at the PRC's discretion.

- (c) Unless approved in advance by the superintendent of the institution, inmates shall not enroll in or attend evening courses, courses requiring attendance at events away from the placement site, theater activities, field trips, athletic functions, or social events. The superintendent may require staff escort.
  
  - (d) Unless the inmate has received advance approval from the superintendent, the inmate shall not sign up for additional projects that require fees or the purchase of additional books and materials.
  
  - (e) Books and nonexpendable items shall be used appropriately and not sold or exchanged during placement without approval.
- (3) Violation of this section may result in termination of work or study release under s. HSS 324.13.

NOTE: HSS 324.12 regulates inmate conduct while on work or study release and will be incorporated into any work release agreement or study release agreement the inmate must sign.

Subsection (1) applies to both work and study release, and subsection (2) applies only to study release.

Subsection (1)(a) restricts the inmate to an area designated for the placement under HSS 324.06 (4). This area will be described on a form, and the inmate will receive a copy so that the restrictions are clear.

All the provisions of subsection (1) are intended to encourage the inmate to concentrate on the duties related to the placement. Because opportunities for diversion in the community may be numerous, and because the potential for abuse of work or study privileges may be great, this provision limits the diversions that may lead to misconduct.

Subsection (2) contains additional rules that apply only to study release. The requirement that inmates maintain a passing grade and a cumulative average grade point of 2.0 on a 4.0 scale is higher than that required by many educational institutions for continued enrollment. It is intended to ensure that the study release program does not pay for inmates whose performance is marginal. Since placements are in demand, they should be filled by inmates who will most benefit from them.

Incompletes in courses may indicate problems for some inmates, but may be acceptable in other cases. Therefore, subsection (2)(b) gives the PRC discretion to terminate a program if appropriate.

The approval requirements of subsection (2)(c) are necessary because evening activities, field trips, social events, and athletic events present additional supervision problems. To ensure adequate protection of the public against escape or other misconduct, participation in these functions requires approval and may require a staff escort.

HSS 324.13 TERMINATION OF WORK RELEASE AND STUDY RELEASE

An inmate's work release or study release program may be terminated for the following reasons:

- (1) At the inmate's request, subject to the approval of the PRC.
- (2) Withdrawal of consent to the placement by a person outside of the division of corrections whose consent is a prerequisite of the placement. This person may be a county sheriff, the director of a halfway house or other housing facility, an employer, or the appropriate authority in an educational program.
- (3) Termination by the division of corrections after determining that the inmate has committed one of the following:
  - (a) Violation of a statute;
  - (b) Violation of the rules of the placement site or housing facility;
  - (c) Violation of the administrative rules of the department;
  - (d) Violation of the work or study release agreement; or
  - (e) Violation of any special conditions imposed on the placement.

HSS 324.14 PROCEDURES FOR TERMINATION OF WORK RELEASE AND STUDY RELEASE

- (1) The procedure for termination at the request of a person whose consent is necessary for the placement or at the request of the inmate under s. HSS 324.13 (1) or (2) shall be as follows:
  - (a) The division shall transport the inmate to the institution to which the inmate is assigned as soon as possible if the inmate requests termination or upon oral or written notification by an appropriate authority that the authority no longer consents to the placement.
  - (b) If the notification is given orally, the staff member receiving the oral notification shall document it.
  - (c) Termination under this subsection is not a termination by the division and is therefore not subject to the hearing requirements of sub. (2). However, termination at the inmate's request shall be subject to approval of the PRC.
- (2) If the placement is terminated under s. HSS 324.13 (3), the inmate shall be afforded a due process fact-finding hearing under this subsection and a PRC review at which it may be decided to terminate the status if the inmate is found guilty of the alleged violation at the hearing.

(a) The inmate shall have the right to a due process fact-finding hearing. The purpose of this hearing is to determine whether the alleged violation occurred. The due process fact-finding hearing, hereinafter referred to as the hearing, will be conducted under the disciplinary process, and ss. HSS 303.66 and 303.76 through 303.82, Wis. Adm. Code, shall be followed except as modified as follows:

1. The inmate shall receive the notices under s. HSS 303.76 (2) through (6), Wis. Adm. Code, at least 72 hours in advance of any hearing;
2. The hearing shall be held not less than 72 hours and not more than 14 days after service of notice;
3. A punishment need not be imposed as a result of the hearing;
4. If an inmate who is found guilty at the hearing appeals the decision or punishment to the superintendent, the superintendent shall review all records and forms pertaining to the appeal within 2 working days following the request; and
5. The hearing shall be conducted by staff of the institution to which the inmate was assigned at the time of the alleged infraction.

- (b) If the inmate is found to have committed the violation alleged, the case shall be referred to the PRC of the institution to which the inmate is assigned. The PRC may terminate the work and study release status or take any other action considered appropriate. Ch. 302, Wis. Adm. Code, applies for program review.
- (c) Pending the outcome of the hearing or the PRC review, the division may take any action with reference to the inmate that it considers necessary for protection of the public consistent with administrative rules. However, temporary removal or suspension from the placement pending the hearing shall be permitted only if a staff member finds that if an inmate were to remain on work or study release, one or more of the following would exist, and this finding is written:
1. The inmate will seek to intimidate a witness in a pending investigation or disciplinary action;
  2. He or she will encourage others by example, expressly, or by his or her presence, to defy authority and thereby erode staff's ability to control a particular situation;
  3. It will create a substantial danger to the physical safety of the inmate or another;
  4. It will create a substantial danger that the inmate will try to escape from the custody of the institution;

5. A disciplinary investigation will thereby be inhibited; or
6. A medical or psychological problem of the inmate will go untreated.

(d) When an inmate's work or study release privileges have been suspended under par. (c) pending a hearing, the hearing shall be held not more than 14 days after the suspension. Such a hearing should be expedited if the inmate's absence will lead to a termination of the placement. This period may be lengthened or shortened if the security director approves and the inmate agrees.

(e) An inmate whose work or study privileges have been suspended pending a hearing and who is found not guilty of the alleged violation shall be returned to his or her work or study release status as soon as practicable following such finding.

(f) If an inmate is unable to attend work or school due to a pending hearing or PRC review, the appropriate school official or employer shall be notified.

NOTE: HSS 324.14 is the procedure by which work and study release can be terminated for the reasons listed in HSS 324.13. If the inmate requests the termination, or if a person at the placement whose consent is necessary for the placement makes the request, the inmate will be transported to the institution



to which the inmate is assigned. This should be done as soon as possible to prevent an escape or some other conduct which could result in a more serious conduct charge or violation of the law.

When termination is not initiated by the division, a due process hearing is not required, but since the PRC will review the status, any oral requests or notification to terminate the status must be documented for use by the committee.

If the placement is terminated for one of the reasons listed in s. HSS 324.13 (3), the inmate has the right to a due process fact-finding hearing unless he waives that right. The procedure is essentially identical to the major hearing process under the discipline rule, ch. HSS 303, Wis. Admin. Code, except as noted in sub. (2)(a)(1)- (5). This procedure is in accord with Perrote v. Percy 465 F. Supp. 112 (W.D. Wis. 1979) and the amended judgment of May 13, 1980, number 78-C-27W.

Pending the hearing or PRC review, the inmate removed from placement can be confined for one of the reasons listed in sub. (2)(c), but the reason must be written. Because a placement may be lost if the inmate is not available for an extended period, it is important that a decision as to termination or return to placement be made in a timely fashion. The rule requires a hearing within 14 days unless the inmate agrees to a greater or lesser time.

HSS 324.15 HOUSING FACILITIES


All proposals for housing in county jails, halfway houses, and other community agencies shall be approved by the division of corrections.

10/k

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in section 227.026(1), Wis. Stats.

Dated this 24<sup>th</sup> day of  
July, 1981.

Department of Health and  
Social Services



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Donald E. Percy, Secretary

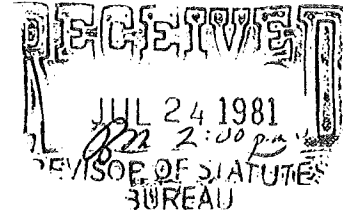


State of Wisconsin \

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE SECRETARY  
1 WEST WILSON STREET  
MADISON, WISCONSIN 53702

July 24, 1981



Mr. Orlan Prestegard  
Revisor of Statutes  
411 West, State Capitol  
Madison, Wisconsin 53702

Dear Mr. Prestegard:

As provided in section 227.023, Wis. Stats., there is hereby submitted a certified copy of HSS 324 relating to the work release and study release of inmates from adult correctional institutions, and a certified copy of HSS 326 relating to the work release and study release of inmates from adult correctional institutions.

These rules are being submitted to the Secretary of State as required by section 227.023, Wis. Stats.

Sincerely,

Donald E. Percy  
SECRETARY

Enclosure