

CR 86-96

CERTIFICATE

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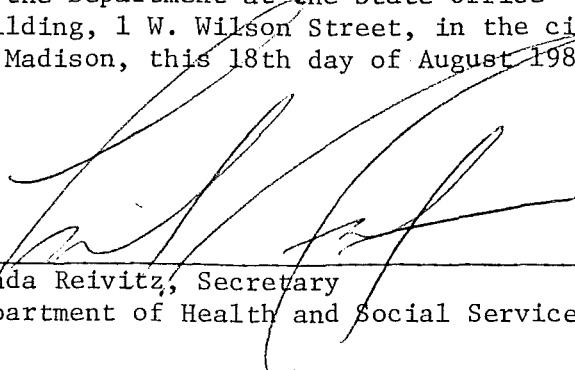
STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Linda Reivitz, 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 establishment of inmate release accounts were duly approved and adopted by this Department on August 18, 1986.

I further certify that this 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 Street, in the city of Madison, this 18th day of August 1986.



SEAL:

Linda Reivitz, Secretary
Department of Health and Social Services

10-1-86

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
AMENDING, REPEALING AND CREATING RULES

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To amend HSS 309.45 (1) and Note; to repeal and recreate HSS 309.49(5); and to create HSS 309.02(9m), 309.465, 309.466 and 309.495, relating to the establishment of inmate release accounts.

Analysis Prepared by the Department of Health and Social Services

The Budget Repair Act, 1985 Wisconsin Act 120, eliminates the clothing and gate money allowances now given to inmates of adult correctional institutions when the inmates are released from the institutions. The change will take place on July 1, 1986. Yet every inmate needs to have some money on release to pay for appropriate clothing and other essentials until he or she begins to earn an income. Some inmates will save what they will need while they are in the institution and some will be sent money by relatives to cover release-related expenses, but for others who do not save on their own or receive help from relatives it is important for their own well-being and for the safety of the public that they be forced to save a modest sum to pay for what they will need on release and immediately following release from the institution.

These proposed rule changes ensure that every inmate released from an adult correctional institution will leave with appropriate clothing and some money to pay for other essential goods and services. The Department is required to establish a release account for every inmate, to deposit a certain percentage of practically any income that an inmate receives into that account after the inmate has paid what is owed on a crime victim and witness assistance surcharge, and to prohibit any disbursement from that account until the inmate is released and even then only with approval of the parole agent.

Pursuant to the authority vested in the Department of Health and Social Services by ss. 46.03(1) and (6) and 227.11(2)(a), Stats., and by s. 149 of 1985 Wisconsin Act 120, the Department hereby amends, repeals and creates rules interpreting ss. 46.064, 46.065, 46.07, and 53.12, Stats., and s. 53.13, Stats., as amended by 1985 Wisconsin Act 120, as follows:

SECTION 1. HSS 309.02(9m) is created to read:

HSS 309.02(9m). "Release account" means an account established for an inmate in which a percentage of the inmate's income is deposited, in accordance with s. HSS 309.466 so that the inmate has sufficient funds when released from the institution to purchase release clothing, out-of-state transportation, and other items and services needed on release.

SECTION 2. HSS 309.45 (1) and Note are amended to read:

HSS 309.45 INMATE FUNDS - PURPOSE. The division shall manage inmate funds and permit and forbid spending to achieve the following objectives:

1) To promote the eventual successful reintegration of inmates into society through a policy designed to ensure that an inmate will have \$500 ~~or more in an institution-controlled account~~ funds available upon release and can manage it them responsibly;

Note: HSS 309.45. The objectives of HSS 309.45-309.52 are to meet the security needs of the institution, encourage responsible money management on the part of the inmate, preserve money for the inmate's use upon release, and to enable the inmate to make purchases while in the institution. These broad objectives may sometimes seem inconsistent. Management of funds in a way that meets all the objectives is difficult. If there is a conflict, the requirement in HSS 309.48(6) that reasons be given for decisions ~~in HSS-309-50(6)~~ is important.

The differences among inmate needs and obligations explain why the objectives are broad. ~~The family~~ Family needs and, therefore, the demand on an inmate's funds vary from person to person. For example, one inmate may have a spouse with no income and several children. They may be receiving aid for dependent children. Another inmate may be single, have no family obligations, and receive money from home. The management of funds in these two cases must be in accordance with the needs of the ~~families~~ family and the inmate.

The objectives set forth in this section are factors to consider in weighing the different demands on and amount of inmate funds. The objectives ~~are not a priority list~~ for management of these funds are not listed in priority order, and one should not be given undue emphasis over the other. Rather, they should all be considered in light of the specific circumstances surrounding each inmate's financial position. ~~For example, sub. (1) states the objective of ensuring that inmates have \$500 in an institution-controlled account upon release. This is not a requirement, but is a goal that should be considered whenever a request for disbursement is made. Requests should be more liberally granted once the \$500 level is exceeded, however.~~

~~Subsections (4) and (5) recognize the desirability of giving inmates the opportunity to control their financial resources. Generally, inmates can make deposits or withdrawals, except where reasons consistent with sub. (1) and (3) justify otherwise. This policy is substantially in accord with the ACA, standard 4369.~~

SECTION 3. HSS 309.465 and 309.466 are created to read:

HSS 309.465. CRIME VICTIM AND WITNESS ASSISTANCE SURCHARGE. For an inmate who committed a crime on or after October 1, 1983, and who has not paid the crime victim and witness assistance surcharge required under s.973.045, Stats., upon transfer to the first permanent placement and in all subsequent placements in correctional institutions, the institution business office shall deduct 25% of all income earned by or received for the benefit of the inmate until the surcharge is paid in full. The business office shall forward the funds to the state treasurer to satisfy the surcharge in accordance with s. 973.045, Stats.

Note: HSS 309.465. HSS 309.465 implements the crime victim and witness assistance surcharge established by s. 973.045, Stats. The statute requires that if an inmate in a state prison has not paid the surcharge, the department is required to assess and collect the amount owed from the inmate's wages or other moneys and transmit the amount collected to the state treasurer.

HSS 309.466 RELEASE ACCOUNT FUNDS. (1) After the crime victim and witness assistance surcharge has been paid in full, as provided for in s. HSS 309.465, and upon transfer of the inmate to the first permanent placement and in all subsequent placements, the institution business office shall deduct 15% of all income earned by or received for the benefit of the inmate, except from work release and study release funds under ch. HSS 324, until \$500 is accumulated, and shall deposit the funds in a release account in the inmate's name.

(2) Release account funds may not be disbursed for any reason until the inmate is released to field supervision, except to purchase adequate clothing for release and for out-of-state release transportation. Following the inmate's release, these funds shall be disbursed in accordance with s. HSS 309.49(5).

(3) An inmate may request that release account funds be deposited in an interest-bearing account established at a bank designated by the division. Deposits shall be made in accordance with division procedures. All interest earned by these funds shall accrue to the inmate and shall be exempt from release account deductions under sub. (1).

(4) An inmate may request that general account funds be transferred to his or her release account up to the release account limit established by the division under sub. (1).

Note: HSS 309.466. HSS 309.466 requires the division to establish a release account for each inmate. It recognizes that a release account will promote inmate savings and ensure that inmates have funds available upon release to help with their transition back into society pursuant to HSS 309.45(1). The deduction will come out of all inmate funds coming into the institution or earned by the inmate at the institution, including hobby income and inmate wages, except income from work release and funds received for study release, but will not start until the crime victim and witness surcharge is paid in full. The specific percentage of the deduction and the total amount that may be deducted will be determined by internal management procedures of the division. The release fund is untouchable for any purpose until release from prison except that when a release date is established an inmate may ask that funds be disbursed to pay for release clothing and arrange for out-of-state transportation. Following release, disbursements are monitored by the inmate's parole agent. Funds will be needed upon release to pay for housing, security deposits, food and transportation until employment is found, especially since allowances for gate money and release clothing are eliminated effective July 1, 1986.

SECTION 4. HSS 309.49(5) is repealed and recreated to read:

HSS 309.49(5) Before releasing an inmate to field supervision, the releasing institution shall inform the parole agent of the balances in the inmate's general account, release account under s. HSS 309.466 and segregated account, if any, under s. HSS 309.50. The agent shall instruct the institution business manager as to where these balances shall be transferred. Following release, the former inmate may use funds formerly held in his or her institution

accounts only with the approval of the agent. When the client is discharged from field supervision, any remaining funds from these accounts shall be paid to the client.

SECTION 5. HSS 309.495 is created to read:

HSS 309.495 TRANSPORTATION FOR INMATES UPON RELEASE. The division shall arrange for the transportation of an inmate released from an institution to the inmate's release placement location in the state, or shall give the inmate the means to procure transportation to that location.

The repeals and rules contained in this order shall take effect on the first day of the month following their publication in the Wisconsin Administrative Register, as provided in s. 227.22(2), Stats.

Department of Health and Social Services

By: _____

Linda Reivitz
Secretary

Dated: August 18, 1986

Seal:



State of Wisconsin

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

1 West Wilson Street, Madison, Wisconsin 53702

Anthony S. Earl
Governor

Linda Reivitz
Secretary

August 18, 1986

Mailing Address:
Post Office Box 7850
Madison, WI 53707

Mr. Orlan Prestegard
Revisor of Statutes
9th Floor - 30 on the Square
Madison, Wisconsin 53702

Dear Mr. Prestegard:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of HSS 309.02(9m), 309.45(1), 309.465, 309.466, 309.49(5) and 309.495, administrative rules relating to the establishment of inmate release accounts.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

These rule changes do not affect small businesses as defined in s. 227.114(1)(a), Stats.

Sincerely,

Linda Reivitz
SECRETARY

Enclosure