

CR 94-8

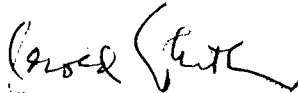
CERTIFICATE

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

I, Gerald Whitburn, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to regulation of county-operated hold-over rooms for youth as shelter care facilities were duly approved and adopted by this Department on August 9, 1994.

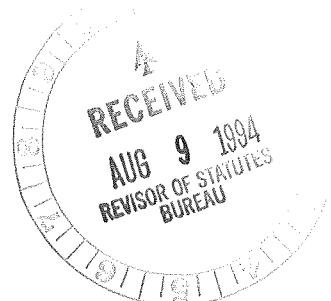
I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

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 9th day of August, 1994.



SEAL:

Gerald Whitburn, Secretary
Department of Health and Social Services



10-1-94

7-20-94

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

To renumber HSS 59.05(1), (3) and (4)(a) to (g) and 59.06(1) to (20); to amend HSS 59.02(11) and (12), 59.04(1)(d)2, (2)(b), (3)(a) and (5)(a) 2 and 3, 59.05(1m), as renumbered, and (3)(b)(intro.), as renumbered, and 59.05 (9) and (12), 59.06 (5) (j) and (k) and (20)(d)(intro.) and 2, as renumbered, and 59.07 (3) (a); to repeal and recreate HSS 59.01(6)(a), 59.03(1)(a)1 and 2 and (3)(a), 59.04(1)(title),(a), (b) and (d) 1 and (6) and 59.07(1); and to create HSS 59.02(4g), (4m) and (6g), 59.03 (Note), 59.04(1)(c)3 and (5m), 59.05(1), (3)(a) and (4)(a) and 59.06(1), (4)(c), (7)(c), (8)(d), (10)(g) and (20)(dm), relating to regulation of hold-over rooms as shelter care facilities.

Analysis Prepared by the Department of Health and Social Services

At least 6 counties operate one and two bed "hold-over" rooms in a public building, perhaps the courthouse, where a child involved with the county court, usually on a delinquency petition, may be placed for a brief period of time pending court action. The alternative to hold-over room stay in some rural counties is for the child to be transported back and forth from a licensed shelter care or secure detention or other facility that may be some distance from the courthouse, perhaps in the next county or beyond.

A hold-over room is a type of shelter care facility, that is, it provides short-term residential care and nonsecure physical custody of children pending court action. However, the Department's rules for shelter care facilities, ch. HSS 59, were developed before there were any hold-over rooms and do not easily accommodate them. With the proliferation of county-operated hold-over rooms in recent years and the absence of regulation of them, although they resemble shelter care facilities, and the awkwardness of trying to regulate them under the current ch. HSS 59 in order to protect the children who are placed in them, the Department decided in the fall of 1993 that it needed to act quickly to take account of this new type of facility and to impose on the administering agency tailored shelter care facility requirements that will not amount to an onerous regulatory burden that discourages use of hold-over rooms but yet will protect the children who are placed in them. Thereupon the Department published emergency rules for operation of hold-over rooms by amending rules for operation of shelter care facilities. The new rules were effective on December 1, 1993. The rules included in this rulemaking order will replace the emergency rules.

This order modifies the Department's rules for licensing shelter care facilities for children to recognize hold-over rooms operated by counties in public buildings as a type of shelter care facility and to include some special provisions for hold-over rooms relating to staffing, training of hold-over room attendants (at least 12 hours of training in specified topics is required before an individual may begin taking care of children), maximum length of time for holding a child in a hold-over room, use of the rooms when unoccupied and fire safety.



In modifying its rules for shelter care facilities to accommodate hold-over rooms, the Department has also strengthened protections for children in all shelter care facilities by requiring signed background verification forms for employees and volunteers, permitting itself to require an employee to have an AODA assessment as a condition for continued employment and adding CPR training to the required first aid training. Another change affecting all shelter care facilities is permitting a shelter care worker to work without having completed a course in first aid if the worker has access to a person on the premises who is readily available and has completed the required training. Finally, volunteers who work with children for less than 10 hours a week are required to have a pre-employment skin test for T.B.

The Department's authority to renumber, amend, repeal and recreate and create these rules is found in s. 48.67, Stats. The rules interpret ss. 48.48(1) and (9m), 48.65 and 48.67, Stats.

SECTION 1. HSS 59.01 (6)(a) is repealed and recreated to read:

HSS 59.01(6)(a) There shall be 4 types of shelter care facilities:

1. Hold-over rooms for one or 2 children;
2. Family shelter care facilities that house from one to 4 children;
3. Small group shelter care facilities that house 5 to 8 children; and
4. Large group shelter care facilities that house 9 to 20 children.

SECTION 2. HSS 59.02 (4g), (4m) and (6g) are created to read:

HSS 59.02 (4g) "Hold-over room" means a nonsecure room in a county government facility, the purpose of which is to provide a safe environment for holding a child to facilitate the child's appearance at a court hearing within 24 hours or over the weekend if the child is placed in the hold-over room on a Friday or on the weekend, or to transport the child to another facility within 24 hours.

(4m) "Hold-over room attendant" means a staff person or volunteer who provides care and supervision of the occupant or occupants of a hold-over room.

(6g) "Nonsecure" means a child is not held or prevented from leaving against his or her will.

SECTION 3. HSS 59.02 (11) and (12) are amended to read:

HSS 59.02 (11) "Shelter care" means short-term, nonsecure residential care and physical custody of children pending court action. "Short-term" means a maximum of 30 days for each episode, with extension for up to another 30 days as provided in s. HSS 59.05 (3), except that

for a hold-over room "short-term" means not longer than 24 hours or, if the placement is made on a Friday or on the weekend, not longer than over the weekend until the following Monday.

(12) "Shelter care worker" means an individual who provides primary care and supervision of children in a shelter care facility on a regular schedule, either on a full-time or part-time basis, but not a hold-over room attendant.

SECTION 4. HSS 59.03 (1) (a) 1 and 2 and (3)(a) are repealed and recreated to read:

HSS 59.03(1)(a)1 a. A county wanting to operate a public shelter care facility, including a hold-over room, shall apply to the department for a license on forms provided by the department. The application shall be signed by the chairperson of the county board of supervisors and the presiding juvenile court judge. A hold-over room license applicant shall be a county department under s. 46.15, 46.22 or 46.23, Stats., or a county sheriff's department, as designated by the chairperson of the county board and the judge of the juvenile court.

b. Except in the case of a hold-over room, 2 or more counties may cooperate to provide shelter care. A joint application shall be signed by the chairperson of the county boards of supervisors and the presiding juvenile court judges for all of the cooperating counties.

2.a. A county may apply to operate more than one family, small group or large group shelter care facility, but a separate application shall be submitted for each facility and each facility shall be licensed separately.

b. A county may apply to operate one or more hold-over rooms in the county under one license.

(3)(a) Each county operating a hold-over room or other shelter care facility shall appoint a superintendent of shelter care. The superintendent of shelter care may be at the same time the unit supervisor of a hold-over room or other public shelter care facility.

SECTION 5. HSS 59.03 (Note) is created to read:

HSS 59.03 Note: For copies of any forms required under this chapter, including license application forms, DCS-64, DCS-384 and JI-03, contact a regional licensing representative of the Department's Division of Community Services, or write Bureau of Regional Operations, P.O. Box 7851, Madison, WI 53707.

SECTION 6. HSS 59.04 (1) (title), (a) and (b) are repealed and recreated to read:

HSS 59.04 (1) (title) QUALIFICATIONS OF SHELTER CARE WORKERS, HOLD-OVER ROOM ATTENDANTS AND RELIEF HELP. (a) Personal qualifications. Shelter care workers, relief help, volunteers and hold-over room attendants shall be responsible, mature individuals of reputable character who exercise sound judgment and display the capacity to provide good care for children.

(b) Health. 1. Every shelter care worker, relief help, volunteer and hold-over room attendant and any person who may be residing in a shelter care facility shall be in good physical and mental health so that the health of the children or the quality and manner of their care will not be adversely affected.

2. If there is reason to believe that the physical or mental health of any shelter care worker, relief help, volunteer or hold-over room attendant or any person who may be residing in a shelter care facility might endanger children in care, the department may require an alcohol and other drug abuse assessment or a physical health or mental health evaluation of the person by a physician or other health care professional as a condition for continued employment or service or residence in the facility. The physician or other health care professional who performs the assessment or evaluation shall submit a written statement to the department that describes the condition of the person and possible effects of that condition on children in care.

3. Before beginning employment or service in a shelter care facility, a person shall receive a health examination covering the areas included in department form DCS 384. This requirement does not apply to a person who will work as a volunteer in contact with children for not more than 10 hours a week or as a hold-over room attendant. A person who will work as a volunteer in contact with children for not more than 10 hours a week or as a hold-over room attendant shall have received a tuberculin skin test without positive findings within 90 days before beginning employment or service.

SECTION 7. HSS 59.04 (1)(c) 3 is created to read:

HSS 59.04 (1)(c) 3. Before a hold-over room attendant may provide care for a resident, the attendant shall complete at least 12 hours of training approved by the department on managing a hold-over room and providing care for residents, to include at least the following:

- a. Suicide prevention.
- b. Adolescent development.
- c. Adolescent behavior.
- d. Child abuse and neglect reporting laws.
- e. Effects of alcohol and drug abuse.
- f. Policies and procedures for operating the hold-over room.
- g. Crisis intervention techniques.

SECTION 8. HSS 59.04 (1)(d) 1 is repealed and recreated to read:

HSS 59.04 (1)(d) 1. Each shelter care worker and hold-over room attendant shall have successfully completed a course in first aid, including cardiopulmonary resuscitation (CPR),

acceptable to the department, unless the shelter care worker or hold-over room attendant has access to a person on the premises who is readily available and has completed a course in first aid, including cardiopulmonary resuscitation (CPR).

SECTION 9. HSS 59.04 (1)(d)2, (2)(b), (3)(a) and (5)(a)2 and 3 are amended to read:

HSS 59.04 (1)(d)2 Each shelter care worker, hold-over room attendant or trained person on the premises under subd. 1 shall update his or her knowledge about first aid by successfully completing a first aid course acceptable to the department at least once in each consecutive 3 year period.

(2)(b) Volunteers, except those working as hold-over room attendants, who are in regular contact with children in shelter care more than 10 hours per week shall meet the all health requirements for shelter care workers.

(3) (a) In family and small group shelter care facilities the unit supervisor shall meet the requirements for shelter care workers under sub.(1). For hold-over rooms, the unit supervisor shall meet the requirements for hold-over room attendants under sub. (1).

(5)(a)2. There shall be at least 2 shelter care workers for each shelter care facility and one hold-over room attendant for each hold-over room in use. The hold-over room attendant shall be of the same sex as the occupant of the hold-over room.

3. There shall be a written and workable plan for contacting another shelter care worker, relief help individual, hold-over room attendant or other responsible adult when ~~emergencies occur~~ an emergency occurs at a time when only one shelter care worker ~~or~~, relief help individual or hold-over room attendant is in the facility.

SECTION 10. HSS 59.04 (5m) is created to read:

HSS 59.04 (5m) PERSONNEL POLICIES. The licensee shall provide written personnel policies and procedures and any updates to them to persons employed as shelter care workers who work more than 10 hours per week. The personnel policies and procedures shall cover salary provisions, fringe benefits such as vacation time, sick leave, overtime, leaves of absence, retirement plan, if any, and insurance coverage, probationary period, if any, staffing schedule, job description defining specific duties, evaluation standards, chain of command, grievance procedures and termination procedures.

SECTION 11. HSS 59.04 (6) is repealed and recreated to read:

HSS 59.04 (6) PERSONNEL FILES. (a) Shelter care workers. A licensee shall maintain a personnel file on each shelter care worker, except relief help employed 10 or less hours per week, that includes the following:

1. Name and address.

2. Date of birth.
3. A statement of the employe's qualifications, including education, training and experience.
4. A report on references, a signed background verification form and criminal record check report from the crime information bureau that meet the requirements of par. (c).
5. Job description.
6. Duties, terms of employment and immediate supervisor.
7. Health record.
8. Training records.
9. Annual and termination evaluations.

(b) Relief help, volunteers and hold-over room attendants. A licensee shall maintain a record on each relief help employed 10 or less hours a week, each volunteer and each hold-over room attendant. The record shall be made available to the department upon request. The record shall include for each relief help, volunteer and hold-over room attendant:

1. Name and address.
2. Date of birth.
3. Health record, if required under s.HSS 59.04(1)(b)2.
4. Dates and hours employed or volunteered.
5. Job description.
6. Training records.
7. A report on references, signed background verification form and criminal record check report from the crime information bureau that meet the requirements of par. (c).

(c) References and background checks. 1. The report on references under pars. (a) 4 and (b) 7 shall include:

- a. Character references from at least 2 persons and references from previous employers.
- b. Documentation of references either by letter or verification in the record of verbal contact, giving dates, individual making contact, individuals contacted and the content.

2. The background verification form under pars. (a) 4 and (b)7 shall be a notarized department background verification form, DCS-64, signed by the shelter care employe, hold-over room attendant or volunteer, stating that the shelter care worker, hold-over room attendant or volunteer does not have a pending criminal charge or conviction relating to the care of children.

3. A state criminal records check on each applicant before allowing that person to work at the shelter care facility. If the person lived in another state, a criminal records check shall be requested from that state.

Note: For a state of Wisconsin criminal records check, obtain the name, sex, race and date of birth of the person about whom you are requesting the check. Send this information in a stamped self-addressed envelope to the Crime Information Bureau, Wisconsin Department of Justice, P.O. Box 2718, Madison, WI 53701-2718. There is a \$2 fee per check for nonprofit or government agency. A non-profit or government agency must specify its tax exempt number. For all other agencies there is a \$10 fee per check.

(d) Availability of file. Any personnel file shall be made available upon request to the department and the employe or volunteer on whom the file is maintained.

SECTION 12. HSS 59.05 (1) is renumbered 59.05(1m) and amended to read:

HSS 59.05(1m) ADMISSION TO SHELTER CARE. ~~Children shall~~ A child may not be received into shelter care, including into a hold-over room, unless they have the child has been found eligible for placement by the juvenile court judge or a court intake worker designated by the judge.

SECTION 13. HSS 59.05(1) is created to read:

HSS 59.05(1) APPLICABILITY. This section applies to all shelter care facilities except that only the provisions of subs. (1m), (3)(a), (4)(a) to (d), (5), (6), (9), (10)(a) and (11) to (14) apply to hold-over rooms.

SECTION 14. HSS 59.05 (3) is renumbered 59.05 (3)(b) and HSS 59.05 (3) (b) (intro.), as renumbered, is amended to read:

HSS 59.05(3)(b)(intro.) A shelter care facility shall may not keep children a child in residence ~~no longer~~ for more than 30 days per episode except:

SECTION 15. HSS 59.05 (3) (a) is created to read:

HSS 59.05(3) TIME LIMITS. (a) 1. A hold-over room may not hold a child for more than 24 hours, except that a hold-over room may hold a child placed in the hold-over room on a Friday afternoon or evening or over the weekend until the court hearing the following Monday provided that the hold-over room immediately notifies the appropriate division of community services licensing office by telephone or fax of the placement and supplies the following information related to the placement:

1. Date and time of child's admission to the hold-over room and date and time of next scheduled court hearing.
2. Name and age of child and reason why the child was taken into custody.
3. Explanation of why a weekend stay in the hold-over room is necessary which may be because of the unavailability of a shelter care facility in a bordering county or in ability to return the child to the parental home or other reason.
4. Names of staff and their work schedules covering the weekend along with indoor and outdoor activities planned for the child during his or her weekend stay.

SECTION 16. HSS 59.05 (4)(a) to (g) are renumbered 59.05 (4)(b) to (h).

SECTION 17. HSS 59.05 (4)(a) is created to read:

HSS 59.05(4)(a) This subsection applies to all shelter care facilities except that only pars. (b), (c) and (d) apply to hold-over rooms.

SECTION 18. HSS 59.05 (9) and (12) are amended to read:

HSS 59.05 (9) RELIGION. Shelter care workers and hold-over room attendants shall make every reasonable effort to make opportunities available to each child in shelter care who wishes it for attendance at religious services compatible with the child's religious heritage or preference.

(12) VISITING. Shelter care workers and hold-over room attendants shall encourage the maintenance of a relationship between children and their parents or relatives or other significant persons. For a shelter care facility except a hold-over room this shall be in accordance with a plan established by the unit supervisor and the child's legal custodian. Visitation with parents shall not be restricted as a form of discipline.

SECTION 19. HSS 59.06 (1) to (20) are renumbered 59.06 (2) to (21) and HSS 59.06 (5) (j) and (k) and (20) (d) (intro.) and 2, as renumbered, are amended to read:

HSS 59.06 (5) (j) No child in shelter care shall be required to share a bedroom with a shelter care worker or a hold-over room attendant.

(k) During sleeping hours a shelter care worker or relief help or, for a hold-over room, a hold-over room attendant, shall be within call of the child or children.

(20)(d)(intro.) ~~The~~ Except for a hold-over room under par. (dm), a shelter care facility shall have a smoke detection system. The smoke detection system shall be an interconnected system of smoke detectors listed by Underwriter's Laboratory or a radio-transmitting smoke detection system which has a centrally mounted alarm horn or alarm horns which, when activated, can be heard throughout the facility. The smoke detection system shall be installed and

regularly tested in accordance with the manufacturer's instructions, and a smoke detector shall be located at each of the following locations in the home facility:

2. At Above the door leading to every enclosed stairway on each floor level;

SECTION 20. HSS 59.06(1), (3)(c), (7) (c), (8)(d), (10) (g) and (20) (dm) are created to read:

HSS 59.06(1) APPLICABILITY. This section applies to all shelter care facilities except that only subs. (2), (4)(c), (5)(b) to (g), (j) and (k), (7) (c), (8)(d), (10)(g), (13) to (18), (19)(a), (20) and (21)(d) apply to hold-over rooms.

(4)(c) A hold-over room licensed for the first time on or after January 1, 1994 shall have at least 60 square feet of living space for one occupant and at least 100 square feet of living space for 2 occupants.

(7)(c) The unit supervisor of a hold-over room shall arrange for nutritious meals for the occupant or occupants held in a hold-over room over a meal period or when the occupant or occupants have not had the most recent meal, and shall provide the occupant or occupants a snack between lunch and supper and at night before the occupant or occupants go to sleep.

(8)(d) A hold-over room shall have bathroom facilities available on the premises that are accessible at any time to a child placed in the hold-over room.

(10)(g) A hold-over room shall have a table. The hold-over room shall also have a chair for each occupant. Where necessary, comfortable sleeping accommodations shall be provided for each occupant.

(20)(dm) A hold-over room shall either meet the requirements under par. (d) for a smoke detection system or have, at minimum, a functioning battery operated smoke detector located in the room and tested at least once a month and a functioning battery operated smoke detector located outside the room but in proximity to the room, also tested at least once a month, to provide early enough detection and adequate warning for exiting.

SECTION 21. HSS 59.07(1) is repealed and recreated to read:

HSS 59.07(1) RECORDS ON CHILDREN IN SHELTER CARE. (a) During the time a child is in a shelter care facility, except a hold-over room, the licensee shall maintain a record on the child on a form provided by the department. The record shall contain the following information and shall be kept current and in the shelter care facility:

1. Child's name, any alias and sex.
2. Child's birth date.
3. Name of person or agency to be notified in an emergency.

4. Placement date.
5. Person, agency or legal custodian responsible for the child.
6. Alleged offense.
7. Name of physician to be called in an emergency.
8. Medical information about the child, including allergies and special care requirements, and medical attention received while in care.
9. Name and address of parent or guardian.
10. Immediate previous living arrangement.
11. Name of school and grade level.
12. Date of release and destination.
13. If applicable, information on weekend stay as required under s. HSS 59.05 (3) (a).

(b) For each child placed in a hold-over room, the hold-over room licensee shall maintain on file a completed copy of Wisconsin department of justice form JI-03, Temporary Physical Custody Request.

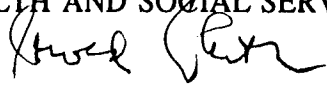
SECTION 22. HSS 59.07 (3) (a) is amended to read:

HSS 59.07 (3) (a) At the request of the department, ~~shelter care workers~~ a shelter care facility shall make available for inspection all records on children received by ~~them~~ it.

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 s. 227.22 (2), Stats.

WISCONSIN DEPARTMENT OF
HEALTH AND SOCIAL SERVICES

DATE: August 9, 1994

By: 
Gerald Whitburn
Secretary

SEAL:

