

1977 Senate Bill 650

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CHAPTER 312, Laws of 1977

AN ACT to amend 946.42 (5) (b); and to create 56.068 of the statutes, relating to leaves for qualified prison inmates and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 56.068 of the statutes is created to read:

56.068 Leave for qualified inmates. (1) An inmate eligible for confinement in a minimum security institution as established by the department may be allowed by the department to leave confinement for one of the following purposes:

- (a) To visit a parent, child, spouse, brother or sister who is seriously ill.
- (b) To attend the funeral of a parent, child, spouse, brother or sister.
- (c) To contact a prospective employer who has requested an interview.

(2) The validity of an inmate's request for leave shall be investigated by an employe of the department, and the proposed conditions of the leave, including date of departure, duration, and date of return, shall be evaluated by the employe. Before an inmate is released on leave, the department shall notify the police chief of any community and the sheriff and district attorney of any county involved.

(3) No inmate may be granted more than 3 leaves per calendar year, and no leave may exceed 3 days unless an extension not to exceed 3 days is granted for cause by the department.

(4) An inmate granted a leave under this section shall be restricted to the confines of this state.

(5) The department shall promulgate rules to implement this section. This subsection does not apply to emergency rules adopted under s. 227.027.

(a) *Role of legislative council.* Prior to any public hearing on a proposed rule under this section, or if no public hearing is required, prior to notification of the standing committees, the department shall submit the proposed rule to the legislative council for review. The legislative council shall act as a clearing house for rule drafting and cooperate with the department and the revisor to:

1. Review the statutory authority under which the department intends to adopt the rule. The legislative council shall notify the department, the joint committee for the review of administrative rules and the appropriate standing committee when the statutory authority is eliminated or significantly changed by repeal, amendment, court decision or for any other reason.

2. Ensure that the procedures for the promulgation of a rule required by this chapter are followed.

3. Review proposed rules for form, style and placement in the administrative code.
4. Review proposed rules to avoid conflict with or duplication of existing rules.
5. Review proposed rules to provide adequate references to relevant statutes, related rules and forms.
6. Streamline and simplify the rule-making process.
7. Review proposed rules for clarity, grammar and punctuation and to ensure plain language.
8. Review proposed rules to determine potential conflicts and to make comparisons with federal regulations.

(b) *Legislative council to assist standing committees.* The legislative council shall work with and assist the appropriate standing committees throughout the rule-making process. The legislative council may issue recommendations concerning any proposed rule which the department submits under this section.

(c) *Notification of standing committees.* The department shall notify appropriate standing committees when proposed rules under this section are in final draft form by submitting a notice to the presiding officer in each house. Each presiding officer shall refer the notice to one standing committee. The department may withdraw a proposed rule by notifying the presiding officer in each house of the legislature of its intention not to promulgate the rule.

(d) *Form of notice.* The notice shall include the proposed rule in a form complying with s. 227.024 (1).

(e) *Standing committee review.* 1. A committee may be convened upon the call of its chairperson or a majority of its members to review a proposed rule. A committee may meet separately or jointly with the other committee to which the notice is referred, direct the department to attend the meeting and hold public hearings to review the proposed rule.

2. The standing committee review period lasts for 30 days after the notice is submitted and if within the 30-day period a standing committee directs the department to meet with it to review the proposed rule, the standing committee review period is extended for 30 days from the date of that request.

3. The department may not promulgate a proposed rule during the standing committee review period unless both committees approve the rule prior to the expiration of that period.

4. Either standing committee may disapprove the proposed rule or part of a proposed rule by taking action in executive session to disapprove the rule within the standing committee review period. If both committees fail to take this action, the proposed rule is not disapproved and the department may promulgate the rule.

(f) *Joint committee for the review of administrative rules.* 1. If either standing committee disapproves a proposed rule or part of a proposed rule, the proposed rule or its part shall be referred to the joint committee for the review of administrative rules.

2. The joint committee review period lasts for 30 days after the proposed rule is referred and the joint committee shall meet and take action in executive session during that period.

3. The department may not promulgate a proposed rule or its part which is disapproved by a standing committee unless the proposed rule is approved by the joint committee for the review of administrative rules or unless a law is properly enacted under subd. 5. The department may promulgate portions of the rule which were not suspended, if the committee disapproved only parts of the rules.

4. The joint committee for the review of administrative rules may reverse the standing committee disapproval by taking action to approve the rule within the joint committee review period. The joint committee may uphold the standing committee disapproval by taking action to disapprove the rule within the joint committee review period. The joint committee may remand the proposed rule to the department for further consideration or public hearings or both.

5. If the joint committee for the review of administrative rules disapproves a proposed rule or portion of the proposed rule, the proposed rule or portion of the proposed rule, may not be promulgated unless a properly enacted law specifically authorizes the adoption of that rule.

SECTION 2. 946.42 (5) (b) of the statutes is amended to read:

946.42 (5) (b) "Custody" includes without limitation actual custody of an institution or of a peace officer or institution guard and constructive custody of prisoners temporarily outside the institution whether for the purpose of work ~~or~~, medical care, a leave granted under s. 56.068 or otherwise. Under s. 56.08 (6) it means, without limitation, that of the sheriff of the county to which the prisoner was transferred after conviction. It does not include the custody of a probationer or parolee by the department of health and social services or a probation or parole officer unless the prisoner is in actual custody after revocation of ~~his~~ probation or parole or to enforce discipline or to prevent ~~him~~ the prisoner from absconding;
