

Chapter HSS 328

ADULT FIELD SUPERVISION

<b>I. General</b>		<b>III. Use of force and related matters</b>	
HSS 328.01	Purpose (p. 201)	HSS 328.18	Use of force (p. 225)
HSS 328.02	Applicability (p. 202)	HSS 328.19	Mechanical restraints (p. 227)
HSS 328.03	Definitions (p. 202)	HSS 328.20	Chemical agents and firearms (p. 228)
<b>II. The offender under supervision</b>		HSS 328.21	Search and seizure (p. 228)
HSS 328.04	Field supervision (p. 204)	HSS 328.22	Custody and detention (p. 230)
HSS 328.041	Preparole planning (p. 207)	HSS 328.23	Transporting clients in custody (p. 231)
HSS 328.05	Funds, property, and loans (p. 207)	<b>IV. Matters relating to revocation</b>	
HSS 328.06	Temporary travel (p. 209)	HSS 328.24	Good time forfeiture hearings (p. 232)
HSS 328.07	Financial obligations (p. 211)	HSS 328.25	Tolled time (p. 235)
HSS 328.08	Intrastate transfer (p. 212)	HSS 328.26	Reinstatement (p. 235)
HSS 328.09	Uniform act for out-of-state supervision (p. 212)	<b>V. Records and reports</b>	
HSS 328.10	Extension of probation (p. 216)	HSS 328.27	Presentence investigation report (p. 236)
HSS 328.11	Client complaint process (p. 218)	HSS 328.28	Modified presentence investigation report (p. 237)
HSS 328.12	Purchase of services (p. 220)	HSS 328.29	Sources of information for presentence investigation report (p. 237)
HSS 328.13	Voluntary return to an institution (p. 220)	HSS 328.30	Recordkeeping (p. 238) Appendix (p. 239)
HSS 328.14	Absconding (p. 221)		
HSS 328.15	Ethics, relationship, gifts, and gratuities (p. 222)		
HSS 328.16	Contraband (p. 222)		
HSS 328.17	Discharge (p. 223)		

NOTE

Some sections in this chapter have explanatory material which can be found in the appendix following HSS 328.30.

Subchapter I—General Provisions

**HSS 328.01 Purpose.** The purposes of this chapter are to provide rules for community and facility-based supervision, services, and programs for clients under control in order to assure public safety, promote social reintegration, reduce repetition of crime and carry out the statutory directives under s. 46.001, Stats. The following specific goals and objectives are relevant towards fulfillment of these purposes:

- (1) To supervise and control offenders to the extent necessary to meet public, staff, and offender safety responsibilities;
- (2) To provide opportunities for obtaining education, training, work experience, coping skills, and other programs and services to enable offenders to live constructive lives;
- (3) To provide access to community-based programs for probationers and parolees for whom such programs are desirable and necessary;
- (4) To establish necessary guidelines, procedures, and controls to maintain program, staff, and fiscal accountability and to promote program efficiency and effectiveness;
- (5) To cooperate with other public and private agencies in activities for the purpose of prevention of crime and to provide alternatives to institutionalization; and

(6) To protect the health and rights of all persons involved in the division's programs and activities.

History: Cr. Register, December, 1981, No. 312, eff. 1-1-82.

**HSS 328.02 Applicability.** This chapter applies to the department and all adult clients under its custody and supervision for correctional purposes. It implements ss. 46.001, 46.03, 46.036, 53.11, 53.14, 53.19, 53.31, 57.06(3), 57.072, 57.075, 57.12, 57.13, 57.135, 57.14, 161.47, 972.15, 973.04, 973.06, 973.08, 973.09, 973.10, 973.155, 975.08, 975.10, 975.11, 975.12, Stats., and ss. 54.01, 54.03-54.07, 54.10-54.11, 54.13, 54.15 and 54.16, (1975) Stats.

History: Cr. Register, December, 1981, No. 312, eff. 1-1-82.

**HSS 328.03 Definitions.** In this chapter:

(1) "Absconding" means the failure of a client to make himself or herself available as directed by the agent.

(2) "Administrator" means the administrator of the division or his or her designee.

(3) "Agent" means that employe of the bureau of community corrections, division of corrections, department of health and social services, who may be assigned the responsibilities under this chapter.

(4) "Bureau of community corrections" or "bureau" means the bureau of community corrections, division of corrections, department of health and social services.

(5) "Client" means that person who is committed to the custody of the department.

(6) "Collateral" means a family member, friend, employer, teacher, or any person who has contact with or information about a client.

(7) "Commitment term" means that period of time during which the client is under the custody and supervision of the department.

(8) "Compact administrator" means that person in Wisconsin or in a state other than Wisconsin who has been assigned the responsibilities under this chapter, or his or her designee.

(9) "Compact coordinator" means that employe of the bureau of community corrections, division of corrections, department of health and social services, who has been assigned the responsibilities under this chapter, or his or her designee.

(10) "Compact specialist" means an employe of the bureau of community corrections, division of corrections, department of health and social services, who has been assigned the responsibilities under this chapter, or designees.

(11) "Conditions" means specific regulations imposed on the client by the court or department.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES 211  
HSS 328

(8) The state visited by a client while on authorized travel shall be notified prior to the client's presence in that state.

(9) Authorization to travel to foreign countries shall not be granted to clients.

History: Cr. Register, December, 1981, No. 312, eff. 1-1-82.

**HSS 328.07 Financial obligations.** (1) If in determining restitution to be paid by a probationer, a court orders the department under s. 973.09 (1m) (b), Stats., to document the nature and amount of the crime victim's pecuniary loss, the agent shall ascertain that loss and may recommend an appropriate payment schedule to the court. As used in this subsection, "pecuniary loss" has the meaning prescribed in s. 973.09 (1r) and (8), Stats.

(2) The agent may at any time accept money paid by a probationer pursuant to a court order under s. 973.09 (1m) (a), Stats., and shall transmit that money to the division cashier for deposit in the probationer's account.

(3) The procedures specified under s. HSS 328.05 (5) to (8) and (10) apply to payments under this section.

(4) The division cashier shall disburse money paid by a probationer as soon as possible after it is received, but need not make a disbursement of less than \$10 unless it is for a final payment.

(5) Before disbursing money paid by a probationer, the division cashier shall deduct the surcharge required under s. 973.09 (1) (b) and (1m) (d), Stats., from each payment.

(6) The division cashier shall disburse payments made by the probationer in the following order:

(a) Payment of restitution, and interest on restitution if applicable.

(b) Payment of fines and related payments in the order specified under s. 973.05 (2), Stats.

(c) Payment of court costs.

(d) Payment of attorney fees.

(7) Notwithstanding the disbursement of payments schedule provided for in sub. (6), if a probationer is subject to more than one order under s. 973.09, Stats., and if the financial obligations under any order total \$50 or less, the department may pay the obligations under that order first.

(8) When the department notifies the sentencing court under s. 973.09 (1m) (e) or (3) (b), Stats., that a probationer has not made the payments ordered, the agent may recommend that the court extend the commitment term of the probationer or modify any condition of probation. That recommendation shall be accompanied by a statement of the facts upon which it is based.

History: Cr. Register, December, 1981, No. 312, eff. 1-1-82; r. and recr. Register, October, 1983, No. 334, eff. 11-1-83.

Register, October, 1983, No. 334

**HSS 323.08 Intrastate transfer.** (1) **CRITERIA.** A client may request transfer to another geographical area if transfer is consistent with the goals and objectives of supervision for the client, and the:

(a) Client's family has moved to the area and the transfer is considered advisable to maintain or strengthen familial ties; or

(b) Client has obtained verified residence, employment, or schooling in the area.

(2) **RECOMMENDATION.** An agent may recommend a transfer and, if that agent obtains supervisory approval, shall prepare a transfer summary and recommendation, which should be sent with the client file directly to the designated receiving office.

(3) **INVESTIGATION.** A transfer is authorized only after the receiving agent investigates the transfer request, obtains supervisory approval, and then acknowledges the transfer in writing. Any rejection of the transfer by the receiving agent must have the receiving agent's supervisor's written approval of the reasons for the rejection and shall be provided to the agent in writing and communicated to the client. The agent shall notify the receiving agent as soon as possible of the client's anticipated arrival in the designated area.

(4) **INITIAL MEETING.** The client and new agent shall meet within 10 working days after the receiving agent has been notified of the client's arrival to the new area to discuss the goals and objectives of the client's supervision and confirm an understanding of the rules and conditions of the client's supervision. Any modification of the rules of supervision shall be explained to the client prior to their effective date and the client shall be given a copy of them.

(5) **RETURN.** If the transfer plan is not implemented within 60 days of arrival for reasons other than the client's misconduct, the client may be transferred back to the prior geographical area and agent.

(6) **RECORDS.** Records relevant to a client's transfer shall be maintained in the client's record.

History: Cr. Register, December, 1981, No. 312, eff. 1-1-82.

**HSS 323.09 Uniform act for out-of-state supervision (interstate transfer).** The policy of the division is to cooperate with other jurisdictions which are signatories to the uniform act for out-of-state probationer and parolee supervision to provide for the welfare and protection of clients and of the public with respect to: the cooperative supervision of clients on probation or parole; the return, from one state to another, of clients who have absconded or escaped; and additional measures for the protection of clients and of the public, which 2 or more of the party states may undertake cooperatively. The following provisions interpret the compact:

(1) **WISCONSIN CLIENTS IN OTHER STATES.** An inmate scheduled to be paroled or client may request the assistance of a social worker or agent to help seek out or prepare a sound transfer plan providing for residence, schooling, employment, or training in another state. The agent or social worker shall assist with all reasonable requests and shall counsel the inmate or client about opportunities which may exist in other states. The social worker or agent may suggest that a client seek authorization for

DEPARTMENT OF HEALTH AND SOCIAL SERVICES 241  
HSS 328

This section is in substantial accord with ACA, standard 3132.

See s. HSS 328.07 regarding restitution.

**Note:** HSS 328.06. Provides for authorized out-of-state travel by clients. Only those clients convicted of an offense and eligible for interstate travel under the uniform act for out-of-state parolee supervision may be eligible for travel authorization. This does not apply to nonconviction cases. Clients on temporary travel are subject to return to Wisconsin upon demand.

Authorization is permitted for 2 types of travel. One authorizes a client to leave the state for a maximum of 15 days. Typically, this would be authorized to allow a client to visit relatives during holidays, attend a funeral, or seek educational or vocational opportunities. Another authorizes a client to leave the state for period in excess of 15 days. This type of travel authorization may be granted to include a "blanket permit." A blanket permit is most often used in the border counties of Wisconsin where clients reside in Wisconsin but may be employed or obtaining schooling across the Wisconsin border. It may also be useful to issue such permits to allow clients to shop and go about other routine daily business in border areas. Those clients whose job requires them to be out-of-state routinely, such as an interstate truck driving job, should be issued this type of permit to allow fulfillment of job requirements without undue problems. Special restrictions may be placed on either type of permit governing hours or places of travel.

Subsection (4) requires that authorizations to travel be in writing. They shall include the reasons for the travel and they shall state any additional rules of supervision (see sub. (2) (a)-(d)) effective while the client is out of state. The client must sign the authorization to acknowledge an understanding of the additional terms of supervision to avoid any misunderstanding or unintended infractions of the rules. These additional rules supplement the existing rules and conditions and a violation of them may result in a modification or revocation of the client's supervision.

Subsection (8) requires that a state be notified of a client's presence in it. This is mainly a courtesy gesture for those clients with travel permits of short duration, but for those clients transferring to another state under the uniform act for out-of-state supervision notification and approval is necessary in advance of any travel. See HSS 328.09 and note.

**Note:** HSS 328.08. A number of factors enter into the decision to release an inmate in an institution to supervision, or to place a client under supervision, in a particular geographical area. Chief among those are the inmate's home, opportunities for schooling, employment, training, treatment, and community receptivity to the inmate. A supervision plan is designed to conform to the client's needs and to allow implementation within a particular geographical area. Given the period of time that a client may be under supervision, and the importance of achieving the goals and objectives of supervision, there should be some provision for modification of the plan that includes the opportunity to transfer between geographical areas.

This section provides for transfers of clients as well as transfers of inmates for implementation upon their return to the community when the inmate requests modification of his or her geographical placement.

There may be changes of circumstances that warrant or necessitate a client's transfer to a new area if the goals and objectives of supervision are to be reasonably achieved. Most common are those where the client's family has moved to another area, or where the client has sought and obtained schooling, employment, or training opportunities in another area of benefit to the client that may not be available under present supervision. A transfer may occur, however, only if it is consistent with the goals and objectives of supervision for the client. An agent and the agent's supervisor should balance the benefits to the client offered by the present supervision with those anticipated by a transfer before initiating the transfer process. A transfer should never be used for disciplinary purposes.

The receiving agent may reject a proposed transfer but that agent's supervisor must authorize the rejection in writing. The reasons for the rejection must be provided to the sending or requesting agent in writing and communicated to the client. Again, a client may appeal a rejection under the client complaint process.

Subsection (4) requires the agent and client to meet following the transfer. This contact is necessary to establish a mutual understanding of the rules and conditions of the client's supervision, to restate its goals and objectives, and to avoid misunderstandings and possible unintended infractions of the terms of supervision in the future. This meeting also provides an opportunity for the agent and client to establish a foundation for a personal relationship which, as noted under HSS 328.15, may prove to be an important factor in the client's supervision.

Subsection (5) provides that the client may be returned to the previous area and agent for supervision if the transfer plan cannot be implemented within a set time for reasons other than the client's misconduct. In this event, the previous agent should automatically assume responsibility for the client and the client's supervision.

## HSS 328

Subsection (6) provides for complete and accurate recordkeeping regarding a client's transfer. See ch. HSS 307 for a discussion of the necessity and advantages of such recordkeeping. See s. HSS 328.30 for information regarding a transfer summary.

Note: HSS 328.09. Wisconsin and several other states are parties to the uniform act for out-of-state probationer and parolee supervision. The compact and supplementary provisions are found under ss. 57.13, 57.135, and 57.14, Stats. The parties have agreed to cooperate to provide for the welfare and protection of clients and the public with respect to the areas noted in the introduction to this section. This section interprets the compact so that the goal of providing for the welfare and protection of clients and the public may be achieved.

The compact provides clients the opportunity to live, work, or obtain training outside of the state of their conviction when such an arrangement is consistent with the goals of supervision under this chapter.

Subsection (1) provides the procedures and criteria for transfer of a Wisconsin client to another state. The criteria for transfer are that the client be a resident of, or that the client's family resides in, that other state, or that the client desires to transfer elsewhere, and that the client has plans to obtain employment and training there or that transfer is recommended. The plans should be firmly established prior to transfer, but lack of a verified plan need not necessarily disqualify the client for a transfer. Sub. (1) (a).

If an agent reasonably believes that a client is requesting a transfer to avoid supervision, or that equal opportunities for the client exist in Wisconsin, a transfer should not be recommended. Sub. (1) (b)1. Other states are often reluctant to accept clients with outstanding financial obligations. The general practice in Wisconsin is to require that all obligations are paid in full prior to a transfer. However, circumstances may dictate that a transfer is nonetheless desirable and the procedures under this subsection should be followed. The agent's failure to recommend a transfer is grievable by a client under the client complaint process.

Subsections (1) (i) 1-6 present the important terms of a transfer which must be explained to a client prior to transfer so that misunderstandings and unintended infractions of the terms and rules may be avoided. The provisions for the immediate return of a client to Wisconsin who has absconded or escaped are consistent with the waiver of extradition provisions under the compact.

Subsection (1) (j) provides the procedures to be followed subsequent to an alleged violation of the terms or conditions of supervision by the client. If criminal charges against the client are not pending, an on-site hearing should be held to determine if there is probable cause to believe the client violated the terms or rules and a final revocation hearing may be held in accordance with this chapter upon return of the client to Wisconsin. If criminal charges are pending, the client may be detained in the other state and his or her probation or parole may be revoked later upon verified notice of the conviction.