

Chapter HSS 324

**WORK AND STUDY RELEASE
FOR ADULT CORRECTIONAL INMATES**

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Note: Several sections in chapter HSS 324 have explanatory notes. This information can be located in the appendix following the last section of the chapter.

HSS 324.01 Purpose. The purposes of work and study release privileges 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.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81; am. (intro.), Register, February, 1987, No. 374, eff. 3-1-81.

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.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 324.03 Definitions. (1) In this chapter:

(1) "Alternate housing facility" means a facility other than a state prison that is used for quartering inmates with work or study release privileges. An alternate housing facility may be contracted for under s. 56.065(3), Stats., and may be a county jail or halfway house.

(2) "Classification chief" means the division's chief of classification or designee.

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(3) "Division" means the division of corrections, department of health and social services.

(4) "MR" means mandatory release date.

(5) "PRC" means the program review committee, whose primary duties and composition are set forth under s. HSS 302.18.

(6) "Study release" means a work release program authorized under s. 56.065(2), Stats., for educational purposes in a technical, vocational, or trade school, university, a college, a sheltered workshop or a training program designed to improve an inmate's skills and ability.

(7) "Superintendent" means the superintendent of a correctional institution or that person's designee.

(8) "Work or study release status" means a status in which an inmate has been found eligible for work or study release under criteria specified in s. HSS 324.04, has been approved for work or study release by a PRC under s. HSS 324.05, and is available for work or study release placement if a suitable placement is found.

(9) "Work release" means a program authorized under s. 56.065, Stats., that grants to selected inmates the privilege of leaving the confines of state correctional facilities to participate in employment programs. The term "work release" applies only to placements for employment.

(10) "Work release chief" means the division's chief of work release or designee.

(11) "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.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81; r. and reop. Register, February, 1987, No. 374, eff. 3-1-87.

HSS 324.035 Organization of work and study release. Participation in work and study release is organized as follows:

(1) The inmate shall be eligible under s. HSS 324.04.

(2) The inmate's work or study release status shall be approved unanimously under s. HSS 324.05 by the PRC of the state correctional facility where the inmate is assigned.

(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.

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(7) Termination from work release or study release shall be under s. HSS 324.13.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81; am. (intro.) and (2), Register, February, 1987, No. 374, eff. 3-1-87.

HSS 324.04 Eligibility for work or study release status. To be eligible for work or study release status:

(1) An inmate shall have a security classification of minimum as described in s. HSS 302.12 (1) (e). Upon initial assignment of an inmate to a security classification of minimum or upon transfer of an inmate from another state correctional facility, the superintendent of the state correctional facility where the inmate is assigned may observe the inmate in minimum security for 30 days to determine his or her adjustment to minimum security before the inmate becomes eligible for work or study release status. At the end of the 30-day period the superintendent shall inform the PRC of the inmate's adjustment;

(2) An inmate serving a life sentence shall have reached parole eligibility as defined in s. 57.06 (1), Stats.;

(3) An inmate with a record of escape or attempted escape shall be subject to the following additional eligibility requirements:

(a) An inmate convicted in court or found guilty under ch. HSS 303 of escape or attempted escape from a state correctional facility is ineligible for one year from the date the judgment is entered or a finding of guilty under ch. HSS 303 is entered; and

(b) An inmate received at a state correctional facility who has a concurrent or consecutive sentence for escape from a county jail is ineligible for one year from the date judgment is entered;

(4) An inmate whose prior work or study release placement has been terminated under s. HSS 324.13 for misconduct other than escape or attempted escape may be required by the PRC to wait up to 6 months from the date of termination before regaining eligibility;

(5) An inmate serving a sentence following revocation of probation, mandatory release or discretionary parole shall be subject to the following additional eligibility requirements:

(a) Except as provided in par. (b), a violator with or without a new sentence shall serve 6 months from the 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; and

(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.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81; r. and recr. Register, February, 1987, No. 374, eff. 3-1-87.

HSS 324.05 Procedure for application and approval. (1) An inmate may apply for work or study release status to the institution social worker or any designated staff member.

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(2) The social worker or designated staff member shall review the inmate's application and shall report on the inmate's eligibility to the PRC of the state correctional facility where the inmate is assigned.

(3) The inmate shall be approved for work or study release status by the PRC before any further placement efforts can be undertaken.

(4) The program review procedure shall be that which is set forth under s. HSS 302.19 and this chapter. Any inconsistencies shall be resolved in favor of this chapter.

(5) PRC approval for work release or study release status 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 and emotional condition shall be considered in making the decision. 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. The health services staff and the clinical services staff shall state whether a work or study release placement is appropriate for the inmate.

(7) The criteria set forth under ss. HSS 302.14 (1), (2), (4), (5), (7), (9), (11), (12) and (13) and 302.16 (1) and (2) shall be considered in making the decision.

(8) Upon PRC approval, the PRC shall notify the state correctional facility's work release coordinator.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81; am. Register, February, 1987, No. 374, eff. 3-1-87.

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 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

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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 services and the state correctional facility social worker the following information:

- (a) Date placement is to begin;
- (b) Site of placement and alternate 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 to prepare for the placement.

(7) The work release chief and the division's bureau of adult institutions shall coordinate transportation arrangements between the state correctional facility and the approved alternate housing facility used for the placement. These arrangements are subject to the approval of the classification chief.

(8) All proposals for alternate housing facility placements shall be approved by the division.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81; am. (6) and (7), (8) renum. from HSS 324.15 and am., Register, February, 1987, No. 374, eff. 3-1-87.

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 an alternate housing facility is utilized.

(2) Financial compensation shall be comparable to that of other workers employed in similar positions by the same employer.

(3) If the inmate is to be housed in an alternate housing facility, consent shall be obtained from the appropriate authority of the facility.

(4) No inmate may be placed with a relative or in a private home.

(5) The placement is not effective until the inmate actually begins working on the job.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81; am. (1), r. (2), renum. (3) to (6) to be (2) to (6), Register, February, 1987, No. 374, eff. 3-1-87.

HSS 324.08 Placement in study release. The following requirements apply to all study release placements:

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(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 state correctional facility.

(2) The PRC shall determine the length of time of the placement and may extend that time period. Study release placements shall be for the same length of time as the educational program unless there is good cause for a different length of time.

(3) If the inmate is to be housed in an alternate housing facility, consent shall be obtained from the appropriate authority of the housing facility.

(4) The placement is not effective until the first day of scheduled class attendance.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81; am. Register, February, 1987, No. 374, eff. 3-1-87.

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 state correctional facility business manager shall disburse money received as wages or educational benefits in the following order:

- (a) For board including food and clothing for the inmate plus, if the inmate is on study release, tuition, books, fees, tools, and other supplies or, 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) Payment of the crime victim and witness assistance surcharge under s. 973.045(4), Stats.;
- (d) Support of the inmate's dependents, if any;

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- (e) A reasonable room charge as determined by the department;
- (f) After investigation under sub. (2), payment, either in full or proportionately, of the inmate's obligations that were acknowledged by the inmate in writing or that have been reduced to judgment;
- (g) Wages to the inmates on work or study release until the current canteen limit under s. HSS 309.52 (1) (b) is reached. Unspent money shall be deposited in the inmate's general account. Before releasing an inmate to field supervision, the releasing institution shall inform the parole agent of the balances in the inmate's general account under s. HSS 309.55, release account under s. HSS 309.466 and segregated account under s. HSS 309.50. The agent shall instruct the institution business manager as to where these balances shall be transferred and as to disbursement of work or study release funds from general and segregated accounts. Following release, the former inmate may use funds formerly held in general, release and segregated accounts 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. Only inmates who are on work or study release may receive wages from the segregated account under s. HSS 309.50.

(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.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81; am. (4), Register, February, 1987, No. 374, eff. 3-1-87.

HSS 324.10 Transportation. (1) All transportation arrangements between a state correctional facility and a work or study placement require approval by the superintendent of the state correctional facility to which the inmate is assigned. All vehicles transporting inmates shall be insured.

(2) If the inmate is to be housed in an alternate housing facility:

(a) Initial transfer transportation between that alternate housing facility and the state correctional facility shall be coordinated by the work release chief and the alternate housing facility, subject to approval by the chief of classification.

(b) The manner of transportation between the alternate housing facility and the work release placement shall be agreed upon by the parole agent and the sheriff or director of the halfway house.

(3) 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.

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(4) 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.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81; am. Register February, 1987, No. 374, eff. 3-1-87.

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.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

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 may not remove any tools, equipment, or shop-built items from the state correctional facility or bring any such item into the state correctional facility 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 under s. HSS 324.10.

(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 alternate housing facility, or leaving the confines of the alternate housing 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.

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(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 2 point (2.0) grade point average (C average) or better on a 4 point (4.0) scale. Incompletes may result in termination at the PRC's discretion.

(c) Unless approved in advance by the superintendent of the state correctional facility, inmates may 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.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81; am. (1) (f), (h), (j) and (2) (c), Register, February, 1987, No. 374, eff. 3-1-87.

HSS 324.13 Termination of work 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 whose consent is a prerequisite of the placement. This person may be a county sheriff, the director of a halfway house or other alternate 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 alternate 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.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81; am. (2) and (3) (b), Register, February, 1987, No. 374, eff. 3-1-87.

HSS 324.14 Termination procedure. (1) The procedure for termination at the request of a person whose consent is necessary for the placement or

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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 state correctional facility 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 sub. (5) for the purpose of determining whether the alleged violation occurred and a PRC review under sub. (6) at which it may be decided to terminate the work or study release status if the inmate is found guilty of the alleged violation at the hearing.

(3) 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. Temporary removal or suspension from the placement pending the hearing shall be permitted only if a division staff member makes a written finding that, if an inmate were to remain on work or study release, one or more of the following would exist:

(a) The inmate would seek to intimidate a witness in a pending investigation or disciplinary action;

(b) The inmate would 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;

(c) There would be a substantial danger to the physical safety of the inmate or another;

(d) There would be a substantial danger that the inmate would try to escape from the custody of the state correctional facility;

(e) A disciplinary investigation would thereby be inhibited; or

(f) A medical or psychological problem of the inmate would go untreated.

(4) When an inmate's work or study release privileges have been suspended under sub. (3) pending a hearing, the hearing shall be held not more than 14 days after the suspension. The period may be lengthened or shortened if the security director approves and the inmate agrees.

(5) The due process fact-finding hearing shall be conducted in accordance with the procedures under ss. HSS 303.76 to 303.82, modified as follows:

(a) The inmate shall receive the notices under s. HSS 303.76 (1) at least 72 hours in advance of any hearing;

(b) The hearing shall be held not less than 72 hours and not more than 14 days after service of notice;

(c) In accordance with HSS 303.81, with the permission of the hearing officer, the work release coordinator shall interview employers or school officials who have relevant evidence and report to the adjustment committee;

(d) A penalty listed in s. HSS 303.84 need not be imposed as a result of a finding of guilt;

(e) 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

(f) The hearing shall be conducted by staff of the state correctional facility to which the inmate was assigned at the time of the alleged violation.

(6) If the inmate is found to have committed the violation alleged, the case shall be referred to the PRC of the state correctional facility to which the inmate is assigned. The PRC may terminate the inmate's work and study release status or take any other action considered appropriate. PRC review of the inmate's work or study release status shall be conducted in accordance with ss. HSS 302.15 to 302.19.

(7) An inmate whose work or study release placement has been suspended pending a hearing and who is found not guilty of the alleged violation shall be returned to the placement as soon as practicable following the finding.

(8) 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 by the state correctional facility to which the inmate is assigned.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81; am. (1), r. and recr. (2), cr. (3) to (8), Register, February, 1987, No. 374, eff. 3-1-87.

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.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

APPENDIX

Note: HSS 324.01. Work and study release improve the inmate's chances for successful reasimilation 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).

Note: HSS 324.04. 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 PRC approval procedure described s. 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 to inmates most likely to be successful.

Subsection (1) requires an inmate to have a minimum security classification as a condition of eligibility. This is true for inmates incarcerated in institutions which have more than one security level such as Taycheedah Correctional Institution as well as inmates housed in institutions with only one security level. Under HSS 302.12, minimum security 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 classification criteria, see HSS 302.14 and Note.

Subsection (1) allows a superintendent to observe an inmate for 30 days after that inmate has been placed at a minimum security level or transferred from another state correctional facility to determine his or her adjustment to the increased freedoms before the inmate becomes eligible for work or study release.

Subsection (2) states in rule form the requirements of s. 56.065 (1), Stats., namely, that an inmate serving a life sentence must reach his or her parole eligibility date before becoming eligible for work or study release.

Subsection (3) sets time limits on eligibility for inmates with a record of escape or attempted escape. The time limits 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 sub. (3). This subsection's requirements are relevant only to application, not to ultimate approval.

Subsection (4) allows the PRC to determine than an inmate removed from a work or study release placement for misconduct should be ineligible for up to 6 months from date of removal. The ineligibility is not automatic. The PRC should consider the circumstances of individual cases.

Subsection (5) prohibits probation, mandatory release and discretionary parole 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 6 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).

Note: HSS 324.05. 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 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.

Note: HSS 324.06. 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 alternate housing facility; explains the duties of employers and school authorities; 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 services and the state correctional facility 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.

Note: HSS 324.07. 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 12-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 12-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 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.

Note: HSS 324.08. 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.

Subsection (2) 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.

Appendix

Note: HSS 324.09.

Subsection (4) (g) 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 (g) have been satisfied. The requirement that the inmate be paid the maximum allowed for canteen was adopted so inmates have funds to use for their personal needs while in a state correctional facility or alternate housing facility. Since they are not receiving institutional pay, this is desirable. Any amount above that is to be kept segregated. Upon release, the inmate's parole agent is required to supervise the disbursement of funds from all institution accounts including release, general and segregated accounts.

Note: HSS 324.12. 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 sub. (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 sub. (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, sub. (2)(b) gives the PRC discretion to terminate a program if appropriate.

The approval requirements of sub. (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 require approval and may require a staff escort.

Note: HSS 324.14. 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 state correctional facility 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 or she waives that right. The procedure is essentially identical to the major hearing process under the discipline rule, ch. HSS 303, except as noted in sub. (5). This procedure is in accord with *Perrole 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. (3), 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 the decision to terminate the placement or return the inmate to the placement be made in a timely fashion. The rule requires a hearing within 14 days unless the inmate and the security director agree to a greater or lesser period of time.