

## CHAPTER 53

## PRISONS; STATE, COUNTY AND MUNICIPAL

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**53.01 State prisons named and defined.** The penitentiary at Waupun is named "Waupun Correctional Institution". The correctional treatment center at Waupun is named "Dodge Correctional Institution". The penitentiary at Green Bay is named "Green Bay Correctional Institution". The maximum/medium security penitentiary at Milwaukee is named "Menomonee Valley Correctional Institution". The medium/maximum penitentiary at Portage is named "Columbia Correctional Institution". The medium security institution at Oshkosh is named "Oshkosh Correctional Institution". The medium security penitentiary near Fox Lake is named "Fox Lake Correctional Institution". The penitentiary at Taycheedah is named "Taycheedah Correctional Institution". The medium security penitentiary at Plymouth is named "Kettle Moraine Correctional Institution". The resource facility at Oshkosh is named "Wisconsin Resource Center". The institutions named in this section, minimum security correctional institutions authorized under s. 46.045, and state-local shared correctional facilities when established under s. 46.053, are state prisons.

**History:** 1973 c. 90; 1975 c. 39; 1975 c. 189 s. 99 (1); 1975 c. 224, 422; 1977 c. 29; 1977 c. 418 ss. 369, 924 (18) (d); 1979 c. 221; 1981 c. 20; 1983 a. 192, 332, 538; 1985 a. 29.

**53.02 Jurisdiction and extent of state correctional institutions; service of process therein.** (1) **WAUPUN CORRECTIONAL INSTITUTION.** For all purposes of discipline and for judicial proceedings, the Waupun correctional institution and the precincts thereof shall be deemed to be in Dodge county, and the courts of that county shall have jurisdiction of all crimes committed within the county. Every activity conducted under the jurisdiction of and by the institution, wherever located, is a precinct of the prison and each precinct is part of the institution.

(2) **GREEN BAY CORRECTIONAL INSTITUTION.** For all purposes of discipline and for judicial proceedings, the Green Bay correctional institution and the precincts thereof shall be deemed to be in Brown county, and the courts of that county shall have jurisdiction of all crimes committed within the county. Every activity conducted under the jurisdiction of

and by the institution, wherever located, is a precinct of the institution; and each precinct is part of the institution.

(3) **TAYCHEEDAH CORRECTIONAL INSTITUTION.** For all purposes of discipline and for judicial proceedings, the Taycheedah correctional institution and the precincts thereof shall be deemed to be in Fond du Lac county, and the courts of that county shall have jurisdiction of all crimes committed within the same. Every activity conducted under the jurisdiction of and by such correctional institution, wherever located, is a precinct of the correctional institution; and each precinct is part of the correctional institution.

(3m) **CORRECTIONAL INSTITUTION UNDER SECTION 46.05.** For all purposes of discipline and for judicial proceedings, the correctional institutions authorized under s. 46.05 and the precincts thereof shall be deemed to be in a county in which the institution is physically located, and the courts of that county shall have jurisdiction of all crimes committed within the county. Every activity conducted under the jurisdiction of and by the institution, wherever located, is a precinct of the institution; and each precinct is part of the institution.

(3t) **MINNESOTA INSTITUTIONS.** For all purposes of discipline and for judicial proceedings, each Minnesota institution authorized for use under s. 46.051 and the precincts thereof shall be deemed to be in a county in which the institution is physically located, and the courts of that county shall have jurisdiction of any activity, wherever located, conducted by such Minnesota institution.

(4) **FOX LAKE CORRECTIONAL INSTITUTION.** For all purposes of discipline and for judicial proceedings, the Fox Lake correctional institution and the precincts thereof are deemed to be in Dodge county, and the courts of that county shall have jurisdiction of all crimes committed within the county. Every activity conducted under the jurisdiction of and by the Fox Lake correctional institution wherever located is a precinct of the institution.

(4a) **MINIMUM SECURITY CORRECTIONAL INSTITUTIONS.** For all purposes of discipline and judicial proceedings the minimum security correctional institutions and precincts thereof shall be deemed, as to each inmate, to be in the county in which the institution to which the inmate is assigned is

located, and the courts of that county shall have jurisdiction of all crimes committed within the same. Every activity conducted under the jurisdiction of and by the minimum security correctional institutions wherever located is, as to each inmate, a precinct of the institution to which he is assigned.

**(4c) KETTLE MORAIINE CORRECTIONAL INSTITUTION.** For all purposes of discipline and for judicial proceedings, the Kettle Moraine correctional institution and the precincts thereof are deemed to be in Sheboygan county, and the courts of that county shall have jurisdiction of all crimes committed within the same. Every activity conducted under the jurisdiction of and by the Kettle Moraine correctional institution wherever located is a precinct of the institution.

**(4d) DODGE CORRECTIONAL INSTITUTION.** For all purposes of discipline and for judicial proceedings, the Dodge correctional institution and the precincts thereof shall be deemed to be in Dodge county, and the courts of that county shall have jurisdiction of all crimes committed within that county. Every activity conducted under the jurisdiction of and by the Dodge correctional institution, wherever located, is a precinct of the institution; and each precinct is part of the institution.

**(4l) STATE-LOCAL SHARED CORRECTIONAL FACILITIES.** For all purposes of discipline and judicial proceedings, the state-local shared correctional facilities and their precincts shall be deemed, as to each inmate, to be in the county in which the facility to which the inmate is assigned is located, and the courts of that county shall have jurisdiction over all crimes committed within the facility. Every activity conducted under the jurisdiction of and by the state-local shared correctional facility wherever located is, as to each inmate, a precinct of the facility to which he or she is assigned.

**(5) SERVICE OF PROCESS.** (a) Service of process may be made on the warden or superintendent of any prison named in s. 53.01 as upon any other resident of this state.

(b) Except as provided in par. (a), service of process within any such prison on any officer or employe or inmate thereof shall be made by the warden or superintendent or some person appointed by him to serve process.

**History:** 1973 c. 90; 1975 c. 39, 189, 224; 1977 c. 29; 1977 c. 418 ss. 370 to 372, 924 (18) (d); 1979 c. 221; 1981 c. 20; 1983 a. 27, 332; 1985 a. 29.

**53.03 Oath of office; bond.** (1) The wardens and the superintendents of the state prisons shall each take the official oath required by s. 19.01.

(2) They shall each execute the official bond required by s. 19.01, the amount of which shall be fixed by the department, with surety or sureties approved by the department.

**53.04 Duties of warden and superintendents.** The warden or the superintendent of each state prison shall have charge and custody of his prison and all lands, belongings, furniture, implements, stock and provisions and every other species of property within the same or pertaining thereto. He shall enforce the regulations of the department for the administration of the prison and for the government of its officers and the discipline of its inmates.

**53.05 Wisconsin corrections drug abuse treatment program.** (1) The department may designate under s. 46.052 (1) (b) a section of the Winnebago mental health institute as a correctional treatment facility for the treatment of drug abuse of inmates. For administrative purposes only, the facility shall be part of the minimum security correctional institution system. For purposes of discipline and for judicial proceedings, the facility authorized by s. 46.052 (1) (b) and the precincts thereof shall be deemed to be in Winnebago county

and the courts of that county shall have jurisdiction of all crimes committed within the facility. Every activity conducted under the jurisdiction of and by the Wisconsin corrections drug abuse treatment program wherever located is a precinct of the facility. The department shall ensure that the residents at the institution and the residents in the drug abuse treatment program:

(a) Have access to all those facilities which are available at the institution and are necessary for the treatment programs designed by the department.

(b) Are housed on separate wards.

(2) Transfers to a correctional treatment facility for the treatment of drug abuse shall be considered transfers under s. 53.18.

**History:** 1975 c. 39, 224; 1977 c. 418; 1983 a. 27; 1985 a. 29.

**53.055 Transfer of inmates to resource center.** The department may transfer an inmate from a prison, jail or other criminal detention facility to the Wisconsin resource center if there is reason to believe that the inmate is in need of individualized care. The inmate is entitled to a transfer hearing by the department on the transfer to the Wisconsin resource center. Inmates who are admitted for involuntary treatment of mental illness, developmental disabilities, alcoholism or other drug abuse must be admitted under s. 51.37 (5).

**History:** 1981 c. 20.

Rights and responsibilities of counties in prisoner transfers to Wisconsin resource center discussed. 71 Atty. Gen. 170.

**53.06 Delivery of persons to prisons.** The sheriff shall deliver to the reception center designated by the department every person convicted in the county and sentenced to the Wisconsin state prisons as soon as may be after sentence, together with a copy of the judgment of conviction. The warden or superintendent shall deliver to the sheriff a receipt acknowledging receipt of the prisoner, naming the prisoner, which receipt the sheriff shall file in the office of the clerk who issued the copy of the judgment of conviction. When transporting or delivering a client to any of the Wisconsin state prisons the sheriff shall be accompanied by an adult of the same sex as the client. If the sheriff and the client are of the same sex, this requirement shall be deemed satisfied and a third person shall not be required.

**History:** 1975 c. 94; 1975 c. 189 s. 99 (1); 1975 c. 224 s. 146m.

**53.07 Maintenance of order.** The warden or superintendent shall maintain order, enforce obedience, suppress riots and prevent escapes. For such purposes he may command the aid of the officers of the institution and of persons outside of the prison; and any person who fails to obey such command shall be punished by imprisonment in the county jail not more than one year or by a fine not exceeding \$500. The warden or superintendent may adopt proper means to capture escaped inmates.

See note to 166.04, citing 68 Atty. Gen. 104.

Correctional staff have authority of peace officer in pursuing and capturing escaped inmates. 68 Atty. Gen. 352.

**53.08 Humane treatment and punishment.** The wardens and the superintendents and all prison officials shall uniformly treat the inmates with kindness. There shall be no corporal or other painful and unusual punishment inflicted upon inmates.

Lawfully incarcerated persons retain only narrow range of protected liberty interests. *Hewitt v. Helms*, 459 US 460 (1983).

**53.09 Labor and communications.** Inmates shall be employed as provided in ch. 56. Communication shall not be allowed between inmates and any person outside the prison except as prescribed by the prison regulations.

The department may be required to justify a refusal to allow a prisoner to write the Veterans Administration concerning the adequacy of his medical treatment. *State ex rel. Thomas v. State*, 55 W (2d) 343, 198 NW (2d) 675.

Dividing line between publications which may be denied prisoners and those which may not is a matter not of administrative grace but of constitutional right. *Gaugh v. Schmidt*, 369 F Supp. 877.

The state has no legitimate interest in requiring an inmate to sign an authorization form to have incoming and outgoing mail examined and no sanction of any kind may be imposed for refusal to sign it. *Stone v. Schmidt*, 398 F Supp. 768.

**53.095 Delivering articles to inmate.** Any officer or other person who delivers or procures to be delivered or has in his possession with intent to deliver to any inmate confined in a state prison or shall deposit or conceal in or about a prison, or the precincts thereof, or in any vehicle going into the premises belonging to a prison, any article or thing whatever, with intent that any inmate confined therein shall obtain or receive the same, or who receives from any inmate any article or thing whatever with intent to convey the same out of a prison, contrary to the rules or regulations and without the knowledge or permission of the warden or superintendent thereof, shall be imprisoned not more than 2 years or fined not exceeding \$500.

**53.10 Solitary confinement.** For violation of the rules of the prison an inmate may be confined to a solitary cell, under the care and advice of the physician.

See note to Art. I, sec. 7, citing *U.S. v. Gouveia*, 467 US 180 (1984).

**53.11 Mandatory release. (1)** The warden or superintendent shall keep a record of the conduct of each inmate, specifying each infraction of the rules. Except as provided in subs. (1m) and (7), each inmate is entitled to mandatory release on parole by the department. The mandatory release date is established at two-thirds of the sentence. Any calculations under this subsection or sub. (2) (b) resulting in fractions of a day shall be rounded in the inmate's favor to a whole day.

**(1m)** An inmate serving a life term is not entitled to mandatory release. The department may parole the inmate as specified in s. 57.06 (1).

**(2) (a)** Any inmate who violates any regulation of the prison or refuses or neglects to perform required or assigned duties is subject to extension of the mandatory release date as follows: 10 days for the first offense, 20 days for the 2nd offense and 40 days for the 3rd or each subsequent offense.

**(b)** In addition to the sanctions under par. (a), any inmate who is placed in adjustment, program or controlled segregation status shall have his or her mandatory release date extended by a number of days equal to 50% of the number of days spent in segregation status. In administering this paragraph, the department shall use the definition of adjustment, program or controlled segregation status under departmental rules in effect at the time an inmate is placed in that status.

**(c)** No extension under this section may require the inmate to serve more days in prison than provided for under the sentence.

**(3)** All consecutive sentences shall be computed as one continuous sentence.

**(4)** An inmate may waive entitlement to mandatory release if the department agrees to the waiver.

NOTE: 1985 Wis. Act 27, which amended sub. (4), explains the effect of the amendment in sections 2 and 3 of the act.

**(5)** Before a person is released on parole under this section, the department shall so notify the municipal police department and the county sheriff for the area where the person will be residing. The notification requirement does not apply if a municipal department or county sheriff submits to the department a written statement waiving the right to be notified.

**(6)** Any inmate released on parole under sub. (1) or s. 57.06 (1) is subject to all conditions and rules of parole until the expiration of the sentence or until he or she is discharged by the department. Except as provided in ch. 57, releases from prison shall be on the Tuesday or Wednesday preceding the release date. The department may discharge a parolee on or after his or her mandatory release date or after 2 years of supervision.

**(7) (a)** The department may, upon proper notice and hearing, return a parolee released under either sub. (1) or s. 57.06 (1) to prison for a period up to the remainder of the sentence for a violation of the conditions of parole. The remainder of the sentence is the entire sentence, less time served in custody prior to parole. The revocation order shall provide the parolee with credit in accordance with ss. 57.072 and 973.155.

**(b)** A parolee returned to prison for violation of the conditions of parole shall be incarcerated for the entire period of time determined by the department under par. (a), unless paroled earlier under par. (c). The parolee is not subject to mandatory release under sub. (1). The period of time determined under par. (a) may be extended in accordance with sub. (2).

**(c)** The department may subsequently parole, under s. 57.06 (1), a parolee who is returned to prison for violation of a condition of parole.

**(d)** A parolee who is subsequently released either after service of the period of time determined by the department under par. (a) or by a grant of parole under par. (c) is subject to all conditions and rules of parole until expiration of sentence or discharge by the department.

**(8)** The department may promulgate rules under ch. 227 establishing guidelines and criteria for the exercise of discretion under this section.

**(9)** This section applies to persons committing offenses occurring on or after June 1, 1984, or persons filing requests in accordance with 1983 Wisconsin Act 528, section 29 (2) or (3).

History: 1977 c. 266, 353; 1979 c. 221; 1981 c. 266; 1983 a. 66, 528; 1985 a. 27; 1985 a. 332 s. 251 (1)

NOTE: This section is shown as affected by 1983 Wis. Acts 66 and 528. Both acts apply to persons committing offenses occurring on or after June 1, 1984.

The department cannot delegate to a review board the authority to forfeit good time; it cannot affirm the decision of such a board. *State ex rel. Farrell v. Schubert*, 52 W (2d) 351, 190 NW (2d) 529.

Due process requirements in a disciplinary proceeding listed. *Steele v. Gray*, 64 W (2d) 422, 219 NW (2d) 312. Rehearing.

A defendant convicted of a sex crime and committed to the department of health and social services for a mandatory examination not to exceed 60 days to determine whether he is in need of specialized treatment is not entitled to credit therefor against a maximum sentence thereafter imposed. *Mitchell v. State*, 69 W (2d) 695, 230 NW (2d) 884.

Subsequent to the revocation of parole, a mandatory release parolee—or a discretionary parolee whose mandatory release has occurred during his parole—is entitled at the discretionary determination as to how much of his good time will be forfeited to at least those due process procedures presently available to a discretionary parole violator in the same situation. *Putnam v. McCauley*, 70 W (2d) 256, 234 NW (2d) 75.

Both (2a) and (7) (b) require department to exercise discretion on a case by case basis in granting or forfeiting good time, whether "street time" or "non-street time". See note to Art. I, sec. 1, citing *State ex rel. Hauser v. Carballo*, 82 W (2d) 51, 261 NW (2d) 133.

Inmate's procedural rights in disciplinary proceeding discussed. *State ex rel. Meeks v. Gagnon*, 95 W (2d) 115, 289 NW (2d) 357 (Ct. App. 1980).

Due process in disciplinary hearing requires record sufficient for judicial review. Major change in condition of confinement gives rise to minimum due process requirements under *Wolff v. McDonald*, 418 US 539. *State ex rel. Irby v. Israel*, 95 W (2d) 697, 291 NW (2d) 643 (Ct. App. 1980).

The department is not at this time required by law to restore forfeited good time allowances or immediately to release anyone committed under the sex crimes act whose maximum term of commitment including forfeited good time has not expired. 61 Atty. Gen. 77.

A prisoner released on parole is not entitled to an absolute discharge because this was granted other prisoners, in the absence of a showing of an abuse of discretion by the department. *Hansen v. Schmidt*, 329 F Supp. 141.

A prisoner is not entitled to counsel at a hearing at which his good time is forfeited for parole violation. *Sanchez v. Schmidt*, 352 F Supp. 628.

See note to 973.15, citing *Monsour v. Gray*, 375 F Supp. 786.

Prisoner whose parole was revoked on or about May 27, 1970 was entitled to a hearing prior to revocation of his good time credits under (2a). *Sillman v. Schmidt*, 394 F Supp. 1370.

**53.12 Reward of merit.** (1) The department may provide by rule for the payment of money to inmates. The rate may vary for different prisoners in accordance with the pecuniary value of the work performed, willingness, and good behavior. The payment of money to inmates working in the prison industries shall be governed by s. 56.01 (4).

(2) Money accruing under this section remains under the control of the department, to be used for the crime victim and witness assistance surcharge under s. 973.045 (4) and the benefit of the inmate or the inmate's family or dependents, under rules promulgated by the department as to time, manner and amount of disbursements.

**History:** 1975 c. 396; 1983 a. 27, 66, 528; 1985 a. 332 s. 251 (6).

Denying industrial good time to inmates sentenced to life imprisonment does not violate equal protection clause. *Parker v. Percy*, 105 W (2d) 486, 314 NW (2d) 166 (Ct. App. 1981).

**53.13 Preservation of property an inmate brings to prison.** The department shall preserve money and effects, except clothes, in the possession of an inmate when admitted to the prison and, subject to the crime victim and witness assistance surcharge under s. 973.045 (4), shall restore the money and effects to the inmate when discharged.

**History:** 1973 c. 90; 1983 a. 27; 1985 a. 120.

**53.14 Property of deceased inmates, parolees or probationers, disposition.** When an inmate of a prison or a parolee of an institution or a person on probation to the department of health and social services dies leaving an estate of \$150 or less in the trust of the warden, the superintendent or the secretary, such warden, superintendent or secretary shall make effort to determine whether or not such estate is to be probated. If probate proceedings are not commenced within 90 days, the warden, the superintendent or the secretary is authorized and directed to turn over the money or securities in his hands to the nearest of kin as evidenced by the records of the institution and the department.

**53.15 Activities off grounds.** The wardens and superintendents of the state prisons, and all wardens and superintendents of county prisons, jails, camps and houses of correction enumerated in ch. 56, may take inmates away from the institution grounds for rehabilitative and educational activities approved by the department and under such supervision as the superintendent or warden deems necessary. While away from the institution grounds an inmate is deemed to be under the care and control of the institution in which he is an inmate and subject to its rules and discipline.

**History:** 1971 c. 54.

**53.17 Register of inmates.** When any inmate is received into any state penal institution the department shall register the date of admission, the name, age, nativity and nationality and such other facts as may be obtained as to parentage, education and previous history and environments of such inmate. Entries shall be made on the register of the progress made by each inmate and his parole and his condition at the time of parole and the progress made by him while on parole.

**53.18 Transfers of inmates.** (1) Inmates of a prison may be transferred and retransferred to another prison by the department.

(1m) Inmates transferred to the Wisconsin resource center shall be afforded a transfer hearing under s. 53.055.

(2) Inmates of the Milwaukee county house of correction may be transferred to a state prison. If any county discontinues its house of correction, inmates at the time of such

discontinuance may be transferred to the state prison or to the county jail of the county as the commitment indicates.

(3) A prisoner may request the department to transfer him or her to a prison in another state under s. 53.25.

(4) With each person transferred to a state prison from another institution, the warden or superintendent of such other institution shall transmit the original commitment and the institutional record pertaining to such person.

(5) Any person who is legally transferred by the department to a penal institution shall be subject to the same statutes, regulations and discipline as if he had been originally sentenced to that institution, but the transfer shall not change the term of sentence.

(6) Inmates may be transferred under ss. 53.45 and 973.035.

**History:** 1981 c. 20; 1983 a. 332.

**53.185 Transfer to foreign countries under treaty.** If a treaty is in effect between the United States and a foreign country, allowing a convicted person who is a citizen or national of the foreign country to transfer to the foreign country, the governor may commence a transfer of the person if the person requests.

**History:** 1981 c. 29.

**53.19 Temporary detention of inmates.** The department may use any of its facilities for the temporary detention of persons in its custody.

**53.20 Uniforms for correctional officers.** The department shall furnish and, from time to time replace, a standard uniform to be prescribed by the department including items of clothing (not including overcoats), shoulder patches, caps, lapel insignia, and badge to each correctional officer in the department who is required to wear such standard uniform.

**53.21 Vocational education program in auto body repair at the Green Bay correctional institution.** (1) The department may maintain and operate a vocational education program in auto body repair at the Green Bay correctional institution. Notwithstanding s. 56.06, in connection with the vocational education program the institution may receive from licensed automobile dealers and regularly established automobile repair shops vehicles to be repaired, painted or otherwise processed by residents enrolled in the program.

(2) Prices for repairing, painting or otherwise processing vehicles in the program shall be fixed as near as possible to the market value of the labor and materials furnished. Proceeds received from the repairing, painting or other processing of vehicles shall be deposited as provided in s. 20.435 (3) (kk) and shall be available to the institution to purchase materials, supplies and equipment necessary to operate the vocational education program in auto body repair.

**History:** 1975 c. 224; 1977 c. 418; 1979 c. 34 s. 2102 (20) (a); 1981 c. 314 s. 146.

**53.25 Interstate corrections compact.** The following compact, by and between the state of Wisconsin and any other state which has or shall hereafter ratify or legally join in the same, is ratified and approved:

#### INTERSTATE CORRECTIONS COMPACT

(1) **ARTICLE I - PURPOSE AND POLICY.** The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies

in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

**(2) ARTICLE II - DEFINITIONS.** As used in this compact, unless the context clearly requires otherwise:

(a) "Inmate" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution;

(b) "Institution" means any penal or correctional facility, including but not limited to a facility for the mentally ill or mentally defective, in which inmates may lawfully be confined;

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had;

(d) "Sending state" means a state party to this compact in which conviction or court commitment was had;

(e) "State" means a state of the United States, the United States of America, a territory or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico.

**(3) ARTICLE III - CONTRACTS.** (a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Its duration;
2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance;
3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom;
4. Delivery and retaking of inmates;
5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

**(4) ARTICLE IV - PROCEDURES AND RIGHTS.** (a) Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to sub. (3), shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within

the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided, that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of sub. (3).

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have official review of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

(f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

**(5) ARTICLE V - ACTS NOT REVIEWABLE IN RECEIVING STATE; EXTRADITION.** (a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the

sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(b) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

(6) **ARTICLE VI - FEDERAL AID.** Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving state have made contractual provision; provided, that if such program or activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefor.

(7) **ARTICLE VII - ENTRY INTO FORCE.** This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any 2 states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

(8) **ARTICLE VIII - WITHDRAWAL AND TERMINATION.** This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

(9) **ARTICLE IX - OTHER ARRANGEMENTS UNAFFECTED.** Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

(10) **ARTICLE X - CONSTRUCTION AND SEVERABILITY.** The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the

constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

**History:** 1981 c. 20, 390; 1983 a. 189, 538.

**53.26 Corrections compact.** The secretary is responsible for performing all functions necessary or incidental to carrying out the requirements of the interstate corrections compact under s. 53.25. The secretary may delegate and redelegate any of the functions as provided in s. 15.02 (4). A contract involving the transfer of more than 10 prisoners to any one state in any fiscal year may be entered into under s. 53.25 only if the contract is approved by the legislature by law or by the joint committee on finance.

**History:** 1981 c. 20; 1983 a. 27.

**53.27 Contracts for temporary housing for prisoners.** The department may contract with local governments for temporary housing in county jails or the Milwaukee county house of correction for persons sentenced to imprisonment in state prisons.

**History:** 1983 a. 27.

**53.30 Definition of jail.** In ss. 53.30 to 53.43, "jail" includes municipal prisons and rehabilitation facilities established by s. 59.07 (76) by whatever name they are known. In s. 53.37 (1) (a) and (3) (a), "jail" does not include lockup facilities. "Lockup facilities" means those facilities of a temporary place of detention at a police station which are used exclusively to hold persons under arrest until they can be brought before a court, and are not used to hold persons pending trial who have appeared in court or have been committed to imprisonment for nonpayment of fines or forfeitures.

**History:** 1979 c. 34.

**53.31 Use of jails.** The county jail may be used for the detention of persons charged with crime and committed for trial; for the detention of persons committed to secure their attendance as witnesses; to imprison persons committed pursuant to a sentence or held in custody by the sheriff for any cause authorized by law; for the detention of persons sentenced to imprisonment in state penal institutions or the Milwaukee county house of correction, until they are removed to said institutions; for the temporary detention of persons in the custody of the department; and for other detentions authorized by law. The county jail may be used for the temporary placement of persons in the custody of the department.

**History:** 1981 c. 20.

**53.315 Use of county house of correction.** A county house of correction may be used for the detention of any person detained in the county jail but the person shall be separated, if feasible, from the inmates of the house of correction in a manner determined by the department.

**History:** 1977 c. 126.

**53.32 Location of jails restricted.** No jail, lockup or temporary place of confinement shall be erected within 300 feet of any public, private, parochial or vocational, technical and adult education school building or building used regularly or principally for school purposes, except that the distance from a vocational, technical and adult education school may be reduced to 150 feet if the jail proper and the entrance thereto are shielded from the view from the school property. Such distances shall be measured via the shortest distance along the street or highway.

**History:** 1971 c. 154.

**53.33 Maintenance of prisoners in county jail. (1)** The maintenance of persons who have been sentenced to the state penal institutions; persons in the custody of the department, except as provided in sub. (2); persons accused of crime and committed for trial; persons committed for the nonpayment of fines and expenses; and persons sentenced to imprisonment therein, while in the county jail, shall be paid out of the county treasury. No claim may be allowed to any sheriff for keeping or boarding any person in the county jail unless the person was lawfully detained therein.

**(2) (a)** The department shall pay for the maintenance of persons in its custody who are placed in the county jail or other county facility pending disposition of parole or probation revocation proceedings subject to the following conditions:

1. The department shall make payments under this paragraph beginning when an offender is detained in a county jail or other county facility pursuant only to a departmental hold and ending when the revocation process is completed and a final departmental order has been entered.

2. The department shall not pay for persons who have pending criminal charges whether or not a departmental hold has been placed on the person. Payment for maintenance by the department is limited to confinements where an offender is held solely because of conduct which violates the offender's supervision and which would not otherwise constitute a criminal offense.

3. After verification by the department, it shall reimburse the county at a rate of \$30 per person per day subject to the conditions in subs. 1 and 2. If \$400,000 for fiscal year 1985-86 or \$400,000 for fiscal year 1986-87 is insufficient to provide complete reimbursement at that rate, the department shall prorate the payments to counties for that fiscal year.

**(b)** This subsection applies only to probationers or parolees who were placed on that status in connection with a conviction for a felony. This subsection applies only to confinements initiated after July 2, 1983.

**History:** 1983 a. 27; 1985 a. 29.

**53.34 Use of jail of another county.** Courts, judges and officers of any county having no jail and no cooperative agreement under s. 53.44 may sentence, commit or deliver any person to the jail of any other county as if that jail existed in their own county. The sheriff of the other county shall receive and keep the prisoner in all respects as if committed from his or her county. The cost of the keep shall be paid by the county from which the prisoner was sentenced, committed or delivered.

**History:** 1983 a. 110.

**Cross Reference:** See 973.03 (1) for similar provision.

**53.35 Removal of prisoners in emergency.** In an emergency and for the safety of prisoners in any jail, the sheriff or other keeper may remove them to a place of safety and there confine them so long as necessary. If any county jail is destroyed or is insecure for keeping prisoners, the sheriff may remove them to some other county jail, where they shall be received and kept as if committed thereto, but at the expense of the county from which they were removed. An indorsement on the commitment of a prisoner, made by the sheriff in charge of such prisoner, directed to the sheriff of another county, shall be authority for the latter to hold the prisoner.

**53.36 Segregation of prisoners. (1)** All jails shall be provided with suitable wards or buildings or cells in the case of jail extensions under s. 59.68 (7) for the separation of criminals from noncriminals; persons of different sexes; and persons alleged to be mentally ill. All prisoners shall be kept segregated accordingly.

**(2)** Notwithstanding sub. (1), the sheriff, jailer or keeper may permit prisoners of different sexes to participate together in treatment or in educational, vocational, religious or athletic activities or to eat together, under such supervision as the sheriff, jailer or keeper deems necessary.

**History:** 1977 c. 7; 1983 a. 185.

**53.37 Maintenance of jail and care of prisoners. (1) (a)** The sheriff or other keeper of a jail shall constantly keep it clean and in a healthful condition and pay strict attention to the personal cleanliness of the prisoners and shall cause the clothing of each prisoner to be properly laundered. The sheriff or keeper shall furnish each prisoner with clean water, towels and bedding. The sheriff or keeper shall serve each prisoner 3 times daily with enough well-cooked, wholesome food. The county board shall prescribe an adequate diet for the prisoners in the county jail.

**(b)** The keeper of a lockup facility shall constantly keep it clean and in a healthful condition and pay strict attention to the personal cleanliness of the prisoners. The keeper shall serve each prisoner with clean water, towels and food.

**(2)** Neither the sheriff or other keeper of any jail nor any other person shall give, sell or deliver to any prisoner for any cause whatever any alcohol beverages unless a physician certifies in writing that the health of the prisoner requires it, in which case he may be allowed the quantity prescribed.

**(3) (a)** The county or municipality shall furnish its jail with necessary bedding, clothing, toilet facilities, light and heat for prisoners.

**(b)** The owner of a lockup facility shall furnish toilet facilities, light and heat for prisoners.

**(4)** The sheriff or other keeper of a jail may use without compensation the labor of any prisoner sentenced to actual confinement in the county jail or, with the prisoner's consent, any other prisoner in the maintaining of and the housekeeping of the jail, including the property on which it stands. Any prisoner who escapes while working on the grounds outside the jail enclosure shall be punished as provided in s. 946.42.

**History:** 1979 c. 34; 1981 c. 79 s. 17; 1985 a. 167.

**53.375 Restrictions on liquor and dangerous drugs; placement of prisoners. (1)** Any sheriff, jailer or keeper of any prison, jail or house of correction or any other person who does any of the following with respect to a prisoner within the precincts of any prison, jail or house of correction shall be fined not more than \$10,000 or imprisoned not more than 9 months or both:

**(a)** Sells, gives or delivers any intoxicating liquor to the prisoner.

**(b)** Wilfully permits a prisoner to have any controlled substance or intoxicating liquor.

**(c)** Has within his or her possession in the prison, jail or house of correction any intoxicating liquor, with intent to sell, give or deliver the liquor to the prisoner.

**(2)** Any prisoner who uses intoxicating liquor in violation of s. 53.37 (2) shall be fined not more than \$10,000 or imprisoned not more than 9 months or both.

**(3) (a)** Any sheriff, jailer or keeper of any prison, jail or house of correction or any other person who places, keeps together or knowingly permits to be kept together prisoners of different sexes within the precincts of any prison, jail or house of correction shall be fined not more than \$500 or imprisoned not more than 6 months or both.

**(b)** Notwithstanding par. (a), the sheriff, jailer or keeper may permit prisoners of different sexes to participate together in treatment or in educational, vocational, religious or athletic activities or to eat together, under such supervision as the sheriff, jailer or keeper deems necessary.

**(4)** In this section:

(a) "Controlled substance" has the meaning designated for the term in s. 161.01 (4).

(b) "Precinct" means a place where any activity is conducted by the prison, jail or house of correction.

History: 1977 c. 337; 1979 c. 116; 1983 a. 185.

**53.38 Medical care of prisoners.** If a prisoner needs medical or hospital care or is intoxicated or incapacitated by alcohol the sheriff or other keeper of the jail shall provide appropriate care or treatment and may transfer him to a hospital or to an approved treatment facility under s. 51.45 (2) (b) and (c), making provision for the security of the prisoner. The costs of medical and hospital care outside of the jail shall (if the prisoner is unable to pay for it) in the case of persons held under the state criminal laws or for contempt of court, be borne by the county and in the case of persons held under municipal ordinance by the municipality. The governmental unit paying such costs of medical or hospital care may collect the value of the same from him or his estate as provided for in s. 49.08.

History: 1973 c. 198.

See note to 49.02, citing 67 Atty. Gen. 245.

See note to 49.02, citing 69 Atty. Gen. 230.

**53.385 Correctional institution health care.** The standards for delivery of health services in state correctional institutions governed under s. 46.03 (1) shall be based on the essential standards of the American medical association standards for health services in prisons, published in July 1979 and standards for health services in juvenile correctional facilities, published in August 1979.

History: 1979 c. 221; 1983 a. 27.

**53.386 State liability for prisoners and forensic patients.** The liability of the state for medical and dental services furnished to residents housed in prisons identified in s. 53.01 or in Ethan Allen school or Lincoln Hills school or to forensic patients in state institutions for those services which are not provided by employes of the department shall be limited to the amounts payable under ss. 49.43 to 49.47 for similar services. The department may waive any such limit if it determines that needed services cannot be obtained for the applicable amount. No provider of services may bill the resident or patient for the cost of services exceeding the amount of the state's liability under this section.

History: 1985 a. 29.

**53.39 Freedom of worship; religious ministrations.** Insofar as practicable, s. 46.066 shall apply to county jails.

**53.40 Discipline; solitary confinement.** For violating the rules of the jail, an inmate may be kept in solitary confinement, under the care and advice of a physician, but not over 10 days.

Pretrial detainees in jail are entitled to a due process hearing prior to more than slight deprivation of privileges, including loss of any privilege for more than one day. Representation by counsel is not essential. *Inmates of Milwaukee Co. Jail v. Petersen*, 353 F Supp. 1157.

**53.41 Care of prisoners.** Whenever there is a prisoner in any jail there shall be at least one person of the same sex on duty who is wholly responsible to the sheriff or keeper for the custody, cleanliness, food and care of such prisoner.

History: 1975 c. 94.

This section does not conflict with Wisconsin fair employment act. Concept of "bona fide occupational qualification" under Title VII of the 1964 Civil Rights Act discussed. Counties must comply with this section when they can do so without conflict with Title VII. 70 Atty. Gen. 202.

**53.42 Jailer constantly at jail.** There shall be a keeper or custodian or attendant present at every jail while there is a prisoner therein.

**53.43 Good time.** Every inmate of a county jail is eligible to earn good time in the amount of one-fourth of his or her term for good behavior if sentenced to at least 4 days, but fractions of a day shall be ignored. An inmate shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4). An inmate who violates any law or any regulation of the jail, or neglects or refuses to perform any duty lawfully required of him or her, may be deprived by the sheriff of good time under this section, except that the sheriff shall not deprive the inmate of more than 2 days good time for any one offense without the approval of the court.

History: 1977 c. 353.

One confined for civil (remedial) contempt is not eligible to earn good time, but one confined for criminal (punitive) contempt is eligible. 74 Atty. Gen. 96.

**53.44 Cooperation between counties regarding prisoners.** Two or more counties may agree under s. 66.30 for the cooperative establishment and use of the jails and rehabilitation facilities of any of them for the detention or imprisonment of prisoners before, during and after trial and for sharing the expense without reference to s. 53.34. The sheriffs of the counties shall lodge prisoners in any jail or rehabilitation facility authorized by the agreement and shall endorse the commitment, if any, under s. 53.35 in case detention or imprisonment is in the jail or rehabilitation facility of another county. Only jails and rehabilitation facilities approved by the department for the detention of prisoners may be used under the agreement. The sheriff of the county of arrest shall transport the prisoner to and from court and to any other institution whenever necessary.

History: 1975 c. 94; 1983 a. 110.

**53.45 State-local shared correctional facilities. (1)** The department and any county or group of counties may contract for the cooperative establishment and use of state-local shared correctional facilities. Inmates sentenced to the Wisconsin state prisons, a county jail, a county reforestation camp or a county house of correction may be transferred to a shared facility by the department, sheriff or superintendent, respectively, under the agreement covering use of the facility. Any inmate confined in a state-local shared correctional facility shall be deemed to be serving time in the penal institution to which he or she was sentenced and shall be eligible to earn good time credit against his or her sentence as provided under ss. 53.11, 53.12, 53.43, 56.07 and 56.19 for that institution.

(2) Costs of establishment and use of state-local shared correctional facilities shall be borne in accordance with the contract between the department and the cooperating county or counties. The contract shall provide for administration of the facility, establish criteria and a procedure for transfer of inmates to and from the facility and allow for dissolution of the agreement. The contract may exempt inmates at the shared facility from rules governing inmates at other prisons and county correctional facilities and, within statutory authority, establish separate rules for the facility.

(3) Any county jail, reforestation camp established under s. 56.07, county house of correction or rehabilitation facility established under s. 59.07 (76), whether operated by one county or more than one county, may be a state-local shared correctional facility.

(4) The Taycheedah correctional institution may not be used as a state-local shared correctional facility.

History: 1983 a. 332.

NOTE: 1983 Wisconsin Act 332, which created this section, contains a long prefatory note explaining the bill. See 1983 Session Laws.