

CHAPTER 53.*

PRISONS; STATE, COUNTY AND MUNICIPAL.

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[53.01 to 55.11 Stats. 1945 renumbered sections 53.01 to 53.43 by 1947 c. 519]

53.01 Names of prisons. The penitentiary at Waupun is named "Wisconsin State Prison." The penitentiary at Taycheedah, formerly known as the Wisconsin industrial home for women and the Wisconsin prison for women, is named "Wisconsin Home for Women." The penitentiary at Green Bay is named "Wisconsin State Reformatory." The institutions named in this section are state prisons. [1947 c. 519]

53.02 Jurisdiction and extent of state prisons; service of process therein. (1) **WISCONSIN STATE PRISON.** For all purposes of discipline and for judicial proceedings, the Wisconsin state prison 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 same. Every activity conducted under the jurisdiction of and by the prison, wherever located, is a precinct of the prison; and each precinct is part of the prison.

(2) **WISCONSIN STATE REFORMATORY.** For all purposes of discipline and for judicial proceedings, the Wisconsin state reformatory 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 same. Every activity conducted under the jurisdiction of and by the reformatory, wherever located, is a precinct of the reformatory; and each precinct is part of the reformatory.

(3) **WISCONSIN HOME FOR WOMEN.** For all purposes of discipline and for judicial proceedings, the Wisconsin home for women 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 home, wherever located, is a precinct of the home; and each precinct is part of the home.

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

(b) Except as provided in paragraph (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. [1947 c. 519]

Comment of Interim Committee, 1947: New 53.02 (1) is derived from old 53.01 (2); (2) is derived from old 54.01 (4); (3) is based on old 54.015 (2); and (4) is derived from 53.01 (3), 54.01 (3) and 54.015 (4). Old 53.01 (3) exempts all officers and employes of the prison from military duty. No military duty to the state is compulsory and hence that provision is omitted. It also exempts them from jury duty, but they are so exempted under 255.02 (1), so that provision is omitted. Old 54.015 (3) is omitted because the transfers have been made and the inmates become subject to the laws and rules of the home upon such transfer. (Bill 35-A)

Note: One who escapes from prison farm, whether located within or without Dodge county, may be prosecuted in courts of Dodge county. 26 Atty. Gen. 259.

***Comment of Interim Committee, 1947:** A number of sections are omitted from this revision of chapters 53, 54 and 55 (and in legal effect repealed) for the following reasons: 53.03 and 53.05 are not needed. 53.06 is consolidated with 46.03 (9) as new 46.066, in the bill revising Ch. 46. 53.14 is covered by the bill revising Ch. 51 which consolidates all provisions for disposing of the bodies of dead inmates of public institutions and makes the same part of Ch. 155, repealing 53.14, 53.16, 53.17 and 53.18, relating to U. S. convicts, are no longer needed. 53.28 authorized the department of public welfare to purchase the Milwaukee county house of correction. The building has since been sold to the United States. 55.11 is omitted but new 59.081 takes its place. (Bill 35-A)

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

(2) They shall each execute the official bond required by section 19.01, the amount of which shall be fixed by the department, with surety or sureties approved by the department. [1947 c. 519]

Comment of Interim Committee, 1947: The oath of office and bond of the warden is required by old 53.02 (2). There is no explicit requirement for an oath or bond from the superintendents at Taycheedah and Green Bay. The Constitution requires an oath of office from all public officials, Art IV, sec. 28. Old 54.015 (4) implies that the Taycheedah superintendent must take the oath and file a bond; "(4) All provisions of chapter 53 in so far as applicable shall apply to the Wisconsin home for women * * *." Old 54.05 (1) may be construed to cover the oath and bond of the superintendent at Green Bay. Under new 53.03 (2) the amount of the bond will be fixed by the department. (Bill 35-A)

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. [1947 c. 519]

Comment of Interim Committee, 1947: New 53.04 is extended to apply expressly to Green Bay and Taycheedah. It is derived from old 53.02 (1), 54.05 (1) and 54.015 (4). This revision omits the provision in old 53.02 (1) that the warden or other officer or employe of the prison shall have no interest in any contract entered into for any purpose connected with prison business. Contracts (in the sense the word was formerly used) are not made by the warden or other officer of the prison. The general statute on the subject of public officers or agents having an interest in public contracts is section 348.28. That general statute governs. (Bill 35-A)

Note: State board of control and wardens of state prison and of Green Bay reformatory have power to grant interviews with prisoners without presence of officer of institution. 27 Atty. Gen. 305.

53.05 Residence of warden and superintendents. The state shall furnish the warden and each superintendent of a state prison a dwelling located conveniently to the prison, where he shall reside. [1947 c. 519]

Comment of Interim Committee, 1947: New 53.05 is from old 53.02 (1), extended to cover Taycheedah and Green Bay. (Bill 35-A)

53.06 Delivery of persons to prisons. The sheriff shall deliver to the proper state prison every person convicted in his county and sentenced to such prison as soon as may be after sentence, together with the certificate of conviction. The warden or superintendent shall deliver to the sheriff a receipt acknowledging receipt of the prisoner, naming him, which receipt the sheriff shall file in the office of the clerk who issued the certificate of conviction. [1947 c. 519]

Comment of Interim Committee, 1947: New 53.06 is derived from old 53.04 and is extended to cover Green Bay and Taycheedah. The contents of a "certificate of conviction" are prescribed by section 359.02 and the form of the certificate is prescribed by 359.03. For sheriff's duties generally, see 59.23, and for his fees, 59.28. 59.23 provides: "The sheriff shall * * * (4) serve or execute according to law all processes, writs, precepts and orders issued or made by lawful authority and to him delivered." 59.28, sheriff's fees, says the sheriff shall receive for "(27) Traveling to serve any criminal process * * * 10 cents per mile * * * and necessary disbursements for board and conveyance of prisoner." There is very little need for old 53.04 and none at all as to the sheriff's compensation. His pay is provided for (covered) by 59.15. Old 53.04 (2) is omitted because inadequate and of doubtful value and uncertain application. (Bill 35-A)

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. [1947 c. 519]

Comment of Interim Committee, 1947: in jail or \$500 fine; sec. 347.05. New 53.07 is restated. The penalty is in effect so worded as to expressly cover Taycheedah and Green Bay prisons. The last sentence is the same. The penalty for failure to aid a sheriff in suppressing a riot is up to one year from old 53.13. (Bill 35-A)

53.08 Humane treatment and punishment. The warden and the superintendent and all prison officers shall uniformly treat the inmates with kindness. There shall be no corporal or other painful and unusual punishment inflicted upon inmates. [1947 c. 519]

Comment of Interim Committee, 1947: 53.08 is restated. * * * It is so worded as to cover Taycheedah and Green Bay prisons. (Bill 35-A)

53.09 Labor and communications. Inmates shall be employed as provided in chapter 56. Communication shall not be allowed between inmates and any person outside the prison except as prescribed by the prison regulations. [1947 c. 519]

Comment of Interim Committee, 1947: 53.09 is restated. It is intended to include Taycheedah and Green Bay. (Bill 35-A)

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. [1947 c. 519]

Comment of Interim Committee, 1947: tended to include Taycheedah and Green Bay. Old (2) is omitted. (Bill 35-A)

53.10 is restated so as to clearly express the present practice of the department. It is in-

53.11 Credit for good conduct; forfeiture for bad. (1) The warden or superintendent shall keep a record of the conduct of each inmate, specifying each infraction of the rules. Each inmate who shall conduct himself in a proper manner and perform all the duties required of him shall be entitled to good time or diminution of sentence according to the following table, prorated for any part of a year: First year, one month; second year, 2 months; third year, 3 months; fourth year, 4 months; fifth year, 5 months; every year thereafter, 6 months.

(2) Any inmate who violates any regulation of the prison or refuses or neglects to perform the duties required of him shall forfeit from any good time previously earned 5 days for the first offense, 10 days for the second offense and 20 days for the third or each subsequent offense. Good time so forfeited shall not be restored. In addition, the warden or superintendent, with the approval of the department, may cancel all or part of such good time.

(3) Whenever any inmate is committed under several convictions with separate consecutive sentences they shall be construed as one continuous sentence for the purpose of computing good time earned or forfeited under this section. All other sentences, whenever imposed, shall be deemed first sentences for purpose of computing good time; but no more good time shall be granted for any one year than is specified in subsection (1), as modified by section 53.12 (1).

(4) An inmate may waive his good time.

(5) The time during which an inmate who escaped is at large shall not be computed as time served.

(6) Allowances for good conduct earned in any institution shall be allowed in the institution to which an inmate may be transferred. [1947 c. 519]

Comment of Interim Committee, 1947: New 53.11 is from old 53.11 and 54.05 and is intended to cover inmates in all 3 prisons. The second sentence of (2) is new, but merely expresses by statute the attorney-general's opinion in 20 Atty. Gen. 1137. (4) is to express in the statute the right of a prisoner to refuse credit for good conduct. The attorney-general has ruled that he has that right; 24 Atty. Gen. 450. Old 54.05 (3) is omitted and the last sentence of (3) is new. This changes the rule for reckoning good time where a person is convicted while he is serving his sentence. (Bill 35-A)

Note: Prisoner out on conditional pardon given into custody of board of control by governor upon rearrest for violating his parole is still entitled to good time he had earned up to time of his rearrest. (1933) 22 Atty. Gen. 13.

Good time earned while serving sentences concurrently results in diminution of time, of which prisoner cannot be deprived. (1935) 24 Atty. Gen. 557.

Prisoner may earn "good time" when he is out on parole, conditional pardon or any other legal form of release. (1936) 25 Atty. Gen. 154.

Warden of state prison, with consent of department of public welfare, may deprive prisoner of all "good time" theretofore earned as punishment for his first or second offense as well as for third and subsequent offenses where in his judgment facts warrant such action. Paroled prisoner may be deprived of good time theretofore earned, as punishment for violation of his parole, at least if his parole is thereupon revoked. (1940) 29 Atty. Gen. 446.

53.12 Credit for diligence; earnings; reward of merit. (1) In addition to the credit for good conduct prescribed in section 53.11, every inmate whose diligence in labor or study surpasses the general average is entitled to a diminution of time at the rate of one day for each 6 days during which he shows such diligence. The diminution shall be made under the rules of the department.

(2) The department may provide by rules for the payment of wages to inmates. The rate of such wages may vary for different prisoners in accordance with the pecuniary value of the work performed, willingness, and good behavior.

(3) If by continued good conduct, diligence or otherwise, an inmate surpasses the general average, the department may provide by rules to compensate him therefor by the allowance of money.

(4) Money accruing under this section remains under the control of the department, to be used for the benefit of the inmate or his family or dependents, under rules prescribed by the department as to time, manner and amount of disbursements; but if he escapes or becomes a fugitive from justice or commits a breach of discipline, the department may declare forfeited all earnings remaining to his credit, and such remainder shall be replaced in the fund from which it came. [1947 c. 519]

Comment of Interim Committee, 1947: 53.12 is restated and is intended to cover all 3 prisons. Variation in the rate of wages is made optional. The provision as to contracts is omitted because prison contracts have been abolished. (Bill 35-A)

53.13 Property of inmates; donations and transportation on discharge. The money and effects (except the clothes) in possession of an inmate when admitted to the prison shall be preserved and shall be restored to him when discharged. When released on discharge or parole he shall be given adequate clothing and \$10 in money, in addition to transportation or the means to procure transportation from the prison to any place in this state. [1947 c. 519]

Comment of Interim Committee, 1947: New 53.13 is from old 53.15. The committee recommends \$10 in place of \$5 on discharge or parole and makes the donation absolute;

likewise the transportation. "Prison" is substituted for "Waupun" in the clause, to extend the statute to and Green Bay. The provision for employment in the prison is omitted. (Bill 35-A)

[53.14 Stats. 1945 repealed by 1947 c. 485]

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. [1947 c. 519]

Comment of Interim Committee, 1947: The section is extended to cover "any state New 53.17 is a restatement of old 54.06. The penal institution." (Bill 35-A) provision for semiannual entries is deleted.

53.18 Transfers of inmates. (1) Inmates of the Wisconsin state reformatory may be transferred by the department to the Wisconsin state prison.

(2) Inmates of the Wisconsin state prison and of the Milwaukee county house of correction (except those convicted of murder in the first or second degree) may be transferred to the reformatory or to the home for women and may be returned to the institution from which they were taken. If any county discontinues its workhouse or 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 may indicate.

(3) Inmates of the Wisconsin school for boys or of the Wisconsin school for girls who have reached the age of 16 years and inmates of other institutions, public or private, who have reached that age and who were lawfully committed thereto and were then subject to commitment to said schools, may also be transferred to the reformatory or to the home for women by the department. The term "inmates" as used in this subsection includes children on parole from the Wisconsin school for boys and the Wisconsin school for girls. The department may return such children at any time to the school or to the county from which they were sent to the school. Any child so transferred to the reformatory or home for women, or the parent, guardian or next friend of any such child may have the action of the department in ordering such transfer reviewed by the court which made the original commitment, on petition to said court and after notice to the department in such manner as the court may direct.

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

(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. [1947 c. 519]

Comment of Interim Committee, 1947: industrial schools is changed to 16 years for New 53.18 restates and broadens old 54.07. both boys and girls. (4) is made general. The provision for approval by the governor. Old (5) has been combined with new (1). is deleted from old 54.07 (1) and (3). The A new (5), relating to transferees, is created. (Bill 35-A)

53.30 Definition of jail. As used in sections 53.30 to 53.43, the word "jail" includes municipal prisons by whatever name they are known. [1947 c. 519]

Comment of Interim Committee, 1947: intended to confine 53.30 to 53.43 to the scope of Ch. 55. 53.30 is intended to indicate that Old Chapter 55 is entitled "County jails and other municipal prisons" and its provisions relate almost entirely to county jails. It is purpose. (Bill 35-A)

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. [1947 c. 519]

Comment of Interim Committee, 1947: in Ch. 59. It is in 59.68 and is omitted here. New 53.31 is from old 55.01. The duties of Temporary detention of persons in the custody of the county board, generally, are in Ch. 59. of the department of public welfare is provided for. (Bill 35-A) Hence the introduction to old 55.01 belongs

53.32 Location of jails restricted. No jail, lockup or temporary place of confinement shall be erected within 300 feet of any public, private or parochial school building or building used regularly or principally for school purposes. [1947 c. 519]

Comment of Interim Committee, 1947: basement of any other building is in 59.68 and is omitted here. The provision limiting that the jail shall not be constructed in the the location is made general. (Bill 35-A)

53.33 Maintenance of prisoners in county jail. The maintenance of persons who have been sentenced to the state penal institutions, 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; but no claim shall be allowed to any sheriff for keeping or boarding any person in the county jail unless he was lawfully detained therein. [1947 c. 519]

Comment of Interim Committee, 1947: New 53.33 is a restatement of old 55.03 without change of meaning. (Bill 35-A)

Cross Reference: 62.24 (2) (e) makes city liable for keep of person confined in county jail for violation of city ordinance.

Note: In absence of any special agreement between county and city or village, expense incidental to transportation of person convicted for violation of municipal ordinance and sentenced to county jail is paid by city or village whose ordinance was violated. 24 Atty. Gen. 65.

53.34 Use of jail of another county. Courts, magistrates and officers of any county having no jail may sentence, commit or deliver any person to the jail of any other county as if such jail existed in their own county; and the sheriff of such other county shall receive and keep the prisoner in all respects as if committed from his county; but the cost of such keep shall be paid by the county from which the prisoner was sentenced, committed or delivered. [1947 c. 519]

Comment of Interim Committee, 1947: New 53.34 restates old 55.04 without change of meaning. See also 359.06. (Bill 35-A)

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. [1947 c. 519]

Comment of Interim Committee, 1947: New 53.35 is a restatement of old 55.05 without change of meaning. (Bill 35-A)

53.36 Segregation of prisoners. All jails shall be provided with suitable wards or buildings 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. [1947 c. 519]

Comment of Interim Committee, 1947: New 53.36 is from old 55.06 without change of meaning. (Bill 35-A)

53.37 Maintenance and sanitation of prisoners; diet; cost of food. (1) 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. He shall furnish each prisoner with clean water, towels and bedding. He 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.

(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 spirituous liquor or wine or cider or beer 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) The county or municipality shall furnish its jail with necessary bedding, clothing, toilet facilities, light and heat for prisoners. [1947 c. 519]

Comment of Interim Committee, 1947: board shall fix the maximum compensation Old 55.07 (except (4)) is renumbered 53.37 for board of prisoners is omitted. (Bill 35-A) and restated. The provision that the county

53.38 Medical care of prisoners. If a prisoner needs medical or hospital care the sheriff or other keeper of the jail shall provide such care and may transfer him to a hospital, 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 section 49.08. [1947 c. 519]

Comment of Interim Committee, 1947: 49.08 by Ch. 535, laws of 1945. The limitation New 53.38 is a restatement of old 55.07 (4). on liability for medical and hospital care of The reference to 49.10 is corrected, as the a prisoner held on body execution or civil provisions of that section were moved to arrest is omitted. * * * (Bill 35-A)

53.39 Freedom of worship; religious ministrations. In so far as practicable, the provisions of section 46.066 shall apply to county jails. [1947 c. 519]

Comment of Interim Committee, 1947: ministrations in county jails, new 46.066 (in Bill New 53.39 replaces old 55.08. Instead of repeating that separate special provision on the furnishing of Bibles and religious ministrations by reference. (Bill 35-A)

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. [1947 c. 519]

Comment of Interim Committee, 1947: prisons. Ten days is substituted for 20 days. New 53.40 is derived from old 55.09. In substance, 53.40 is like 53.10 relating to state (Bill 35-A)

53.41 Jail matrons. Whenever there is a female prisoner in any jail there shall be a matron on duty who is wholly responsible to the sheriff or keeper for the custody, cleanliness, food and care of such prisoner. [1947 c. 519]

Comment of Interim Committee, 1947: 53.41 is a new and needed provision. (Bill 35-A)

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. [1947 c. 519]

Comment of Interim Committee, 1947: 53.42 is a new and needed provision. (Bill 35-A)

53.43 Credit for good conduct. If approved by the committing court, a prisoner sentenced to the county jail obtains a diminution of one-fourth of his term if his conduct, diligence and general attitude merit such diminution. [1947 c. 519]

Comment of Interim Committee, 1947: 53.43 is a new provision. (Bill 35-A)

[54.02 Stats. 1945 renumbered section 359.053 by 1947 c. 519]

[54.03 Stats. 1945 renumbered section 359.051 by 1947 c. 519]

[54.04 Stats. 1945 renumbered section 359.052 by 1947 c. 519]