

## CHAPTER 56

## PRISON LABOR

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**56.01 Prison industries. (1) CREATION.** The department may establish industries for the employment of inmates in the state prisons, for manufacturing articles for the state and its political subdivisions and any tax-supported institution or nonprofit agency and for sale of such articles to other states or political divisions thereof or to the United States, and shall fix the price of all products and services as near the market price as possible. In this section, "manufacturing" includes reprocessing, repairing, salvaging, servicing and storing; and supplies, materials and equipment may be reconditioned for sale under s. 16.72.

**(2) POWERS OF DEPARTMENT.** In the administration of the prison industries program, the department may:

- (a) Submit bids for any state contract;
- (b) Submit bids for any contract or subcontract with a nonprofit organization as defined in s. 108.02 (26);
- (c) Purchase machinery and raw materials;
- (d) Operate a central warehouse and central generating station with the employment of prisoners to supply its institutions;
- (e) Maintain auto shops in connection with auto schools and may receive from licensed automobile dealers and regularly established automobile repair shops vehicles to be repaired, painted or otherwise processed by inmates of the school;
- (f) Lease or purchase land within the state for the employment of prisoners; and
- (g) Construct barracks for the safekeeping of prisoners employed in the prison industries outside the prison proper on prison premises.

**(3) REPORT ON OPERATIONS.** The department shall include in its biennial report to the governor, a detailed statement showing the amount of the various articles produced in the prison industries, the disposition of these arti-

cles, the cost of the material, the machinery installed and the cost thereof and the rates and total amount of wages paid or credited to prisoners pursuant to this section.

**(4) WAGE STANDARDS.** All inmates shall be paid a wage which is based on the productivity of the work the inmates perform. Wages may be established at an hourly rate plus an incentive wage based on productivity and piecework formulas may be created. However, wages shall not be set at a rate such as to cause a deficit on operations.

**(6) VOCATIONAL TRAINING.** In so far as possible, work performed shall be vocationally instructive to the extent that skills taught and used might be valuable to the inmates after release. The department shall make every effort to provide vocational rehabilitation within the prison industries program for those inmates defined as handicapped persons under s. 47.40.

**(8) DISPOSITION OF EARNINGS.** The department has the authority to determine how much, if any, of the earnings of an inmate may be spent and for what purposes they may be spent within the confines of the prison. The department may distribute earnings for the support of the inmate's dependents and for other obligations either acknowledged by the inmate in writing or which have been reduced to judgment that may be satisfied according to law.

**History:** 1975 c. 41 s. 52; 1975 c. 224, 396; 1977 c. 26 ss. 42, 75.

**56.02 Binder twine plant. (1)** The department may maintain and operate at the Waupun correctional institution the necessary buildings, machinery and equipment for the manufacture of binder twine.

**(2)** The price of the twine and cordage manufactured in said plant shall be fixed from time to time by the department. The product of the plant shall be sold at such times and places

and in such manner as the department determines to be for the best interests of the state; but citizens of the state shall be preferred purchasers.

**History:** 1977 c. 418 s. 924 (18) (a)

**56.03 Prison labor on farms and buildings.** The wardens and the superintendents of the state prisons may employ inmates outside the institution's yard in cultivating the farms or in doing any necessary work in the prosecution of the regular business of the institution or of other state institutions or of any other activity of the state or of any political subdivision thereof or in the construction of buildings by the state; and any such inmate who escapes shall be deemed as having escaped from the institution proper.

**56.04 Prison farms.** The board of commissioners of public lands, the department of natural resources and the department may select from the state forest reserves a quantity of land not to exceed 5,000 acres and convert the same into farms for the state prisons.

**56.05 Vocational instruction at prisons.** The department may maintain in the state prisons vocational schools and instruct the inmates in trades and domestic science; and may create such industries as seem to the department for the best interests of the inmates.

**56.06 Prison products; sale.** No goods, excepting farm machinery, farm implements and tools, cordage rope and ply goods, and binder twine, manufactured wholly or in part by inmates in any state, city or county penal institution shall be offered for sale in the open market.

**56.065 Work release plan for prison inmates.** (1) The department of health and social services may grant work release privileges to any person incarcerated within the state prisons, except that no person serving a life sentence may be considered for work release until he has reached parole eligibility as defined in s. 57.06 (1).

(2) The department shall establish rules for the administration of the work release program and shall determine those inmates who may participate in the plan. If any inmate violates the conditions prescribed by the institution, his work release privileges may be withdrawn. Failure to report to or return from the planned employment shall be considered an escape under s. 946.42 (3). The department may approve as work release privileges placement in universities, colleges, technical, vocational or trade

schools or in sheltered workshops or training programs designed to improve the skills and ability of the inmate.

(3) The department shall designate and adapt facilities of the state prisons for the purpose of quartering inmates with work release privileges or it may arrange and contract for other facilities, including portions of county jails for inmates employed in the area. An inmate with work release privileges placed in facilities outside a state prison shall be liable for the cost of his room, board, clothing and other necessary expenses incident to his employment or placement unless other means of payment are approved by the department. No inmate shall be granted work release privileges until such suitable quarters have been provided in the area of accepted or proffered employment, or educational or training placement.

(4) (a) Every inmate gainfully employed under a work release program shall be liable for the cost of his board and clothing, a reasonable room charge as determined by the department, and for any expenses incident to such employment or additional living expenses as circumstances permit, in the judgment of the department, except as provided in sub. (3). When quartered in a prison facility, such costs and expenses shall be fixed by the department.

(b) The wages of inmates gainfully employed shall be collected by the prison responsible for his care. Such wages are not subject to garnishment either in the hands of the employer or the prison during the inmate's term and shall be disbursed only as provided in this section, but for tax purposes they are income of the prisoner.

(5) The salaries or wages of any employed inmates shall be disbursed by the department in the order stated:

(a) The board of the prisoner including food and clothing;

(b) Necessary travel expense to and from work and other incidental expenses of the prisoner;

(c) Support of the prisoner's dependents, if any;

(d) A reasonable room charge as determined by the department;

(e) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment;

(f) The balance, if any, to the prisoner upon his discharge.

**History:** 1981 c. 266 s. 5.

There is no need specifically to spell out in (2) the consequences of an escape where other statutes provide for the situation. *Brown v. State*, 73 W (2d) 703, 245 NW (2d) 670.

Sub. (2) entitles participating prisoner to a hearing prior to transfer to maximum security prison. *Perrote v. Percy*, 444 F Supp. 1288.

Inmate cannot be deprived of liberty interest in continuation of work/study release status without disciplinary due process hearing. *Perrote v. Percy*, 465 F Supp. 112 (1979).

**56.068 Leave for qualified inmates. (1)**

An inmate eligible for confinement in a minimum security institution as established by the department may be allowed by the department to leave confinement for one of the following purposes:

(a) To visit a parent, child, spouse, brother or sister who is seriously ill.

(b) To attend the funeral of a parent, child, spouse, brother or sister.

(c) To contact a prospective employer who has requested an interview.

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

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

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

(5) The department shall promulgate rules to implement this section.

**History:** 1977 c. 312; 1979 c. 154.

**56.07 County reforestation camps. (1)**

Any county may by ordinance designate any county forest project under s. 28.11 to be a county reforestation camp and provide facilities therein for keeping and maintaining prisoners and giving them employment not exceeding 8 hours each day, without compensation unless otherwise determined by the county board, in charge of a superintendent who shall have the powers and duties of a jailer.

(2) When convicted persons are subject to commitment to the county jail, or to the Wisconsin state prisons under s. 52.05 or s. 939.62 (1) (a) for a term not exceeding 2 years, the court may instead commit them for equivalent terms to a reforestation camp authorized under sub. (1).

(3) Each prisoner serving a sentence under s. 52.05 or s. 939.62 shall receive time credits at the rate of one day for each 6 days served. Each prisoner serving such a sentence may be transferred to a state prison upon recommendation of the superintendent and approval of the department. The county board may, pursuant to its

regulations approved by the department, extend to all other prisoners similar time credits, pecuniary earnings and rewards, subject to similar conditions and limitations, as those prescribed by s. 53.12 for prisoners in a state prison. Any inmate who violates any regulation of the camp shall forfeit from 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 superintendent with the approval of the county board committee appointed under s. 28.11 may cancel all or part of such good time.

(5) Any county may contract with an adjoining county having a county reforestation camp, upon such terms and conditions as may be agreed upon, for keeping, maintaining and employing without compensation unless otherwise provided by the contract, convicted persons subject to county jail sentence, and in that event such persons may be committed to such county reforestation camp in the adjoining county.

(6) Any officer who shall receive the commitment of any person to the county reforestation camp shall convey such person thereto as soon as practicable; and shall be entitled to compensation at the rate of 10 cents per mile for each mile actually traveled in such service, going and returning, and in addition 5 cents per mile for the transportation of each prisoner.

(7) If any inmate of a reforestation camp, in the performance of work in connection with the maintenance of the camp, is injured so as to be permanently incapacitated, or to have materially reduced earning power, the inmate may upon discharge be allowed and paid such compensation as the department of industry, labor and human relations finds the inmate entitled to. The inmate shall be compensated on the same basis as if the injury had been covered by ch. 102, except that the total paid to any such inmate shall not exceed \$1,000 and may be paid in instalments. If the inmate is from an adjoining county such county shall pay such compensation. In case of dispute the procedure for hearing, award and appeal shall be as set forth in ss. 102.16 to 102.26.

(8) Sections 53.31 to 53.42 insofar as they relate to persons committed and are not in conflict with this section shall apply to persons committed under this section.

(9) Inmates of a reforestation camp sentenced to such camp for less than one year or in lieu of a county jail sentence shall be subject to the same diminution of time as is provided in s. 53.43.

**History:** 1971 c. 164 s. 85; 1973 c. 198; 1975 c. 147 s. 54; 1975 c. 199, 430; 1977 c. 29; 1977 c. 418 s. 924 (18) (e).

**56.08 "Huber Law"; employment of county jail prisoners. (1)** Any person sentenced to a county jail for crime, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes but whenever the sheriff of the county certifies that facilities are not available, the sentencing court shall be without authority to provide that persons committed for nonpayment of a fine imposed for violation of a municipal or county ordinance may be permitted to serve their alternative jail sentence under the provisions of this section:

(a) Seeking employment or engaging in employment training;

(b) Working at employment;

(c) Conducting any self-employed occupation including housekeeping and attending the needs of the person's family;

(d) Attendance at an educational institution;

or  
(e) Medical treatment.

(2) Unless such privilege is expressly granted by the court, the prisoner is sentenced to ordinary confinement. The prisoner may petition the court for such privilege at the time of sentence or thereafter, and in the discretion of the court may renew his petition. The court may withdraw the privilege at any time by order entered with or without notice.

(3) The sheriff shall endeavor to secure employment or employment training for unemployed prisoners under this section. If a prisoner is employed for wages or salary or receives unemployment compensation or employment training benefits while in custody in the jail, the sheriff shall collect the wages or salary or require the prisoner to turn over his wages, salary or benefits in full when received. The sheriff shall deposit the wages, salary or benefits in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. Such wages or salary are not subject to garnishment in the hands of either the employer or the sheriff during the prisoner's term, and shall be disbursed only as provided in this section; but for tax purposes they are income of the prisoner.

(4) Every prisoner who is gainfully employed or who receives unemployment compensation or employment training benefits while in custody in the jail, shall be liable for charges not to exceed the full per person maintenance and cost of his board in the jail as fixed by the county board after passage of an appropriate county ordinance. If necessarily absent from jail at a meal time he shall at his request be furnished with an adequate nourishing lunch to carry. The

sheriff shall charge his account for such board. If the prisoner is gainfully self-employed he shall pay the sheriff for such board, in default of which his privilege under this section is automatically forfeited. If the jail food is furnished directly by the county, the sheriff shall account for and pay over such board payments to the county treasurer. The county board may, by ordinance, provide that the county furnish or pay for the transportation of prisoners employed or receiving training under this section to and from the place of employment or training.

(5) By order of the court, the wages, salary and unemployment compensation and employment training benefits received by prisoners shall be disbursed by the sheriff for the following purposes, in the order stated:

(a) The board of the prisoner;

(b) Necessary travel expense to and from work and other incidental expenses of the prisoner;

(c) Support of the prisoner's dependents, if any;

(d) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment;

(e) The balance, if any, to the prisoner upon his discharge.

(6) The court may by order authorize the sheriff to whom the prisoner is committed to arrange with another sheriff for the employment or employment training of the prisoner in the other's county, and while so employed or trained to be in the other's custody but in other respects to be and continue subject to the commitment.

(7) (a) If the prisoner was convicted in a municipal court, the circuit court for the county has authority and jurisdiction to make all determinations and orders under this section and s. 53.43 as might otherwise be made by the sentencing court after the prisoner is received at the jail.

(b) If the prisoner was convicted in a court in another county, the circuit court referred to in par. (a) may, at the request or with the concurrence of the committing court, make all determinations and orders under this section and s. 53.43 as might otherwise be made by the sentencing court after the prisoner is received at the jail.

(8) The county board may by resolution direct that functions of the sheriff under sub. (3) or (5), or both, be performed by the county department of social services or public welfare; or, if the board has not so directed, a court of record may order that the prisoner's earnings be collected and disbursed by the clerk of court.

The order shall remain in force until rescinded by the board or the court, whichever made it.

(9) The county department of social services or public welfare shall at the request of the court investigate and report to the court the amount necessary for the support of the prisoner's dependents.

(10) The sheriff may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in sub. (1) for not to exceed 5 days for any breach of discipline or other violation of jail regulations.

(11) In this section "jail" includes a house of correction and "sheriff" includes the superintendent of a house of correction.

(12) In counties having a population of 500,000 or more any person violating the privilege granted under sub. (1) may be transferred by the county jailer to the house of correction for the remainder of the term of the person's sentence.

(13) Any county board may contract with the department for the quartering in the county jail of inmates under s. 56.065.

(14) In counties having a population of 500,000 or more, a prisoner granted the privilege authorized under sub. (1) (a) to (d) shall be committed to the county jail or any other facility for the housing of prisoners as determined by ordinance by the county board.

**History:** 1971 c. 92; 1975 c. 94; 1977 c. 126, 271, 449; 1981 c. 143.

See note to 973.09, citing *Yingling v. State*, 73 W (2d) 438, 243 NW (2d) 420.

Cost of lodging may not be satisfied out of Huber earnings. 61 Atty. Gen. 292.

**56.16 Milwaukee county house of correction.** (1) The county board of any county whose population is 500,000 or more may, pursuant to s. 46.17, establish, relocate and maintain within said county a house of correction for the reformation and employment of persons sentenced to confinement therein.

(2) The expenses of maintaining said house of correction, above all receipts for the labor of persons confined therein and for the support of prisoners therein whose support is not chargeable to said county shall be audited by the county board at its annual meeting, and paid out of the county treasury, and shall be raised, levied and collected as part of the ordinary expenses of said county.

**History:** 1981 c. 314.

**56.17 Administration and management.**

(1) The management of every such house of correction shall be controlled by the county board, pursuant to such regulations and under the direct supervision and control of such officers as the board prescribes. No such regula-

tion shall be finally adopted on the day on which it is first presented to the board for consideration, nor until it has been considered and reported upon by the proper committee of the board. The board may by ordinance place the management of said house under the control of the county board of public welfare provided for by s. 46.21, and in such event said s. 46.21, so far as applicable, shall control. The county board may by ordinance resume control of the management of said house. The county board shall, in accordance with the civil service law, prescribe the number and compensation of all personnel needed for the administration of said house, and fix their duties.

(2) The chief judge of the judicial administrative district and his or her designees, district attorney and sheriff for the county and the mayor and city attorney of its most populous city, shall constitute a board of visitors, who shall investigate the affairs of the house of correction on the first Monday of August in each year, and thereupon report in writing to the county board at its annual meeting, or to the county board of public welfare if the board is in charge of the institution, setting forth its condition, and suggesting such alterations, improvements or other matters respecting the management, discipline and government of the institution as may promote the purposes thereof and the interests of the county.

**History:** 1977 c. 449.

**56.18 Commitments; municipal prisoners; contract with other county.**

(1) Every court of record authorized to commit any person to the county jail upon conviction of any offense, or authorized to sentence any person to imprisonment in the Wisconsin state prisons for any term not exceeding 2 years, may, in lieu of the sentence, commit or sentence the person to the house of correction for an equivalent term, at hard labor. All mittimus and warrants of commitment in those cases shall be directed to the superintendent of the house of correction and shall be the authority of the superintendent for the detention of the person sentenced or committed.

(2) Each village or city in such county shall, at such times as shall be designated by the county board, pay to the county the actual and reasonable costs of maintenance, as determined by ordinance of the county board, of all persons confined in the house of correction for the violation of any of the ordinances of such city or village during the preceding year.

(3) The county may contract with any other county, upon such terms as may be agreed upon by their respective county boards, to receive into the house any person who may be sentenced to

confinement therein by any court of record of such other county; and thereupon, so long as the contract remains in force, every court of record in such other county authorized to commit or sentence any person to the county jail may, in lieu of the sentence or commitment, sentence or commit the person to the house for an equivalent term, at hard labor; and any officer to whom the process of commitment in the case is delivered for execution shall convey the person to the house and deliver the person, with the commitment papers, to the superintendent of the house; and thereafter the person shall be detained and treated by all persons, courts and officers as if sentenced and committed to the house by any court of record in the county in which the house is established.

(4) Whenever it appears that the continued presence of any person convicted of a felony and committed to the house of correction is detrimental to the person, or to other inmates, or to the discipline of the house of correction, the superintendent may immediately return the person to the committing court and the court shall sentence the person to the Wisconsin state prisons for the remainder of the term for which originally sentenced, less any credits for good behavior accumulated under s. 56.19. The person shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4).

(5) Whenever in the opinion of the superintendent of such house and the county physician in charge at the house, an inmate's life is in jeopardy because of injury or disease or that he is suffering from a disease that cannot be advantageously treated at the house, a temporary transfer of such inmate may be made on their order to the Milwaukee county hospital, but notification of such transfer shall in all cases be given to the department and shall be subject to cancellation by it at any time.

**History:** 1977 c. 305, 353, 418, 447.

**56.19 Employment of prisoners; time credits, earnings and rewards.** (1) The superintendent of said house shall place all inmates at such employments, and shall cause all inmates who are minors to be instructed in such branches of useful knowledge, as shall be prescribed by the county board, but no goods manufactured therein shall be offered for sale or sold in the open market, except creative art, literary, musical, handicraft or hobby craft products produced by a prisoner during his leisure.

(2) He may employ such prisoners outside of the institution, for the purpose of cultivating the farm of said institution or in doing any other work necessary to be done in the regular business thereof, or doing work for other county

departments or institutions, or in the construction of public highways within said county. In all such cases he shall detail such force from the house of correction as he may deem necessary to guard such prisoners.

(3) The superintendent shall keep a true record of the conduct of each prisoner, specifying each infraction of the rules of discipline; and at the end of each month shall give a certificate of good conduct to each prisoner against whom no such infraction is recorded, subject to annulment by the department for subsequent misconduct. Upon each such certificate issued to any such prisoner serving sentence for a misdemeanor the prisoner may be credited, at the discretion of the superintendent, with a diminution of the sentence not exceeding 5 days. Each such prisoner serving sentence for a felony shall receive time credits as provided in s. 53.11.

(4) The county board may, pursuant to its regulations approved by the department, extend to such prisoners similar time credits, pecuniary earnings and rewards, subject to similar conditions and limitations, as those prescribed by s. 53.12 for prisoners in the Wisconsin state prisons.

**History:** 1971 c. 36; 1977 c. 418 s. 924 (18) (e).  
Prisoners' due process rights discussed. *Wolff v. McDonnell*, 418 US 539.

**56.20 United States convicts.** The county of Milwaukee may contract with the United States for the keeping and support, within its house of correction, of all prisoners who are sentenced to imprisonment by the courts of the United States within this state, upon such terms as may be agreed upon by the county board and the officers of the United States having authority for that purpose.

**56.21 Compensation to injured prisoners.** (1) If an inmate of a state institution, in the performance of assigned work is injured so as to be permanently incapacitated or to have materially reduced earning power, the inmate may, upon being released from such institution, either upon parole or upon final discharge, be allowed and paid such compensation as the department of industry, labor and human relations finds the inmate entitled to. The inmate shall be compensated on the same basis as if the injury had been covered by ch. 102, except that the total paid to any inmate may not exceed \$10,000 and may be paid in instalments. If the injury results from employment in a prison industry, the payment shall be made from the revolving appropriation for its operation. If there is no revolving appropriation, payment shall be made from the general fund. In case of dispute, the procedure for hearing, award and

appeal shall be as set forth in ss. 102.16 to 102.26.

**(2)** Section 102.29 applies to compensation paid under this section.

**(3)** This section does not apply if the inmate has made a recovery against an officer, employe or agent of the state, arising out of the same incident under s. 895.46. If recovery has already been made under this section at the time that a recovery is made under s. 895.46, the state is entitled to a credit in the amount of the recovery

against any obligation it has under s. 895.46 arising out of the same incident.

**History:** 1975 c. 147 s. 54; 1975 c. 199; 1977 c. 29, 195; 1981 c. 20.

To receive workmen's compensation a prisoner must have been injured in the performance of his assigned work. The rules followed under 102.03 do not apply. *Kopacka v. ILHR* Dept. 49 W (2d) 255, 181 NW (2d) 487.

**56.22 Work on Sundays and holidays.** No prisoner shall be compelled to work on Sunday or a legal holiday, except it be on necessary household work or when necessary to maintain the management or discipline of the institution.